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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–0867; Product Identifier 2019–NM–131–AD; Amendment 39–19886; AD 2020–06–17]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2011–09–06, which applied to all Airbus SAS Model A330–200 Freighter series airplanes; Model A330–200 and –300 series airplanes; and Model A340–200 and –300 series airplanes. AD 2011–09–06 required repetitive inspections and operational checks of the spring function of the emergency exit door slider mechanism, application of corrosion inhibitor, and corrective actions. This AD retains those requirements, with extended repetitive intervals for certain actions, and also requires those actions on additional airplanes; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by report that an escape slide deployment test found a girt bar that was not in a locked position and was detached from the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 14, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 14, 2020.

ADDRESSES: For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material 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 in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0867.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0867; 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 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: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0155, dated July 3, 2019 (''EASA AD 2019–0155'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–200 Freighter series airplanes; Model A330–200, –300, and –900 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–09–06, Amendment 39–16668 (76 FR 22005, April 20, 2011) (''AD 2011–09–06''). AD 2011–09–06 applied to all Airbus SAS Model A330–200 Freighter series airplanes; Model A330–200, and –300 series airplanes; and Model A340–200, and –300 series airplanes. The NPRM published in the **Federal Register** on November 18, 2019 (84 FR 63582). The NPRM was prompted by a report that an escape slide deployment test found a girt bar that was not in a locked position and was detached from the airplane. The NPRM was also prompted by a determination that additional airplanes are affected by the unsafe condition, and that the repetitive interval times can be extended. The NPRM proposed to continue to require repetitive inspections and operational checks, application of corrosion inhibitor, and repair or replacement if necessary, with extended repetitive intervals for the functional check and lubrication of the door girt bar slider of each passenger/crew door and passenger compartment emergency exit. The NPRM also proposed to revise the applicability to include additional airplanes. The FAA is issuing this AD to address this condition, which could result in escape slides detaching from the door after inflation, and which could, during an emergency, prevent a safe evacuation of the cabin and possibly result in injuries.

Comments

The FAA 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.

Request To Clarify Credit for Actions

Delta Air Lines (Delta) requested clarification on credit for actions that were accomplished using Airbus Alert Operators Transmission (AOT) A330–52A3063, dated August 2, 2000, before the effective date of EASA 2010–0135, dated July 5, 2010 (''EASA AD 2010–0135''). Delta noted that EASA AD 2019–0155 specifies credit if Airbus AOT A330–52A3063, dated August 2, 2000, was used before ''July 17, 2010'' (which was incorrectly identified as the effective date of the superseded EASA AD 2010–0135; the correct effective date is July 19, 2010). AD 2011–09–06, with an effective date of May 5, 2011, corresponds to EASA AD 2010–0135. Paragraph (h) of the proposed AD did not provide an exception to use May 5,

2011, as the effective date, and Delta requested confirmation that credit is still provided for use of Airbus AOT A330–52A3063, dated August 2, 2000, before the effective date of EASA AD 2010–0135.

The FAA agrees to clarify when Airbus AOT A330–52A3063, dated August 2, 2000, is acceptable for credit. Although AD 2011–09–06 did not provide any credit for Airbus AOT A330–52A3063, dated August 2, 2000, the FAA has determined that use of that AOT is acceptable up to May 5, 2011. The FAA has added paragraph (h)(4) of this AD to provide an exception to EASA AD 2019–0155 to allow credit for Airbus AOT A330–52A3063, dated August 2, 2000, using the FAA AD 2011–09–06 effective date of May 5, 2011 for the initial inspection only.

Request To Clarify Need for an Alternative Means of Compliance (AMOC)

Delta requested that the FAA clarify whether an alternative means of compliance (AMOC) for previous credits would be required for allowing any repetitive inspections that may have been accomplished before the effective date of EASA AD 2010–0135 using Airbus AOT A330–52A3063, dated August 2, 2000. Delta stated that AD 2002–02–07, Amendment 39–12635 (67 FR 6370, February 12, 2002) (''AD 2002–02–07''), required using Airbus AOT A330–52A3063, dated August 2, 2000, to accomplish the inspection requirements, and then AD 2011–09–06 required Airbus AOT A330–52A3063, Revision 01, dated January 3, 2001. Delta reasoned that given the time span between the effective dates of AD 2002–02–07 and AD 2011–09–06, and because EASA AD 2019–0155 granted credit for only initial inspections, it would be possible that an operator would be doing repetitive inspections using Airbus AOT A330–52A3063, dated August 2, 2000, and would need an AMOC for the repetitive inspections.

The FAA agrees that clarification is needed. ADs 2002–02–07 and 2011–09–06 did not require use of or grant credit for Airbus AOT A330–52A3063, dated August 2, 2000, for any actions. Unless an AMOC has been approved, all inspections, initial and repetitive, required by AD 2002–02–07 and, later, AD 2011–09–06, on U.S.-registered airplanes should have been accomplished using Airbus AOT A330–52A3063, Revision 01, dated January 3, 2001, and would be subject to using Revision 01 for repetitive inspections. However, EASA AD 2019–0155 granted credit for using Airbus AOT A330–52A3063, dated August 2, 2000, before its effective date for initial inspections, and as described in the previous comment, the FAA concurred and is granting credit similar to EASA AD 2019–0155. However, repetitive inspections were and are still required to be done in accordance with Airbus AOT A330–52A3063, Revision 01, dated January 3, 2001. The FAA has not otherwise changed this AD in that regard.

Additional Change to This Final Rule

The FAA has revised paragraph (j) of this AD to specify that AMOCs approved previously for AD 2011–09–06 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0155 that are required by paragraph (g) of this AD. This provision was inadvertently left out of the proposed AD.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule with the changes described previously and minor editorial changes. The FAA has 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.

The FAA also determined that these changes will not increase the economic burden on any operator or increase the scope of this final rule.

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0155 describes procedures for repetitive functional checks and lubrication of the door girt bar slider of each passenger/crew door and passenger compartment emergency exit, and corrective actions (repair or replacement). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 111 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2011–09–06	3 work-hours × $85 per hour = $255.	None	$255	Up to $28,305.
New actions	2 work-hours × $85 per hour = $170.	None	$170	$18,870.

The FAA estimates the following costs to do any necessary on-condition action that would be required based on the results of any required actions. The FAA has 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
1 work-hour × $85 per hour = $85 per girt bar replacement	$2,160	$2,245

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) 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 removing Airworthiness Directive (AD) 2011–09–06, Amendment 39–16668 (76 FR 22005, April 20, 2011), and adding the following new AD:

2020–06–17 Airbus SAS: Amendment 39–19886; Docket No. FAA–2019–0867; Product Identifier 2019–NM–131–AD.

(a) Effective Date

This AD is effective May 14, 2020.

(b) Affected ADs

This AD replaces AD 2011–09–06, Amendment 39–16668 (76 FR 22005, April 20, 2011) (''AD 2011–09–06'').

(c) Applicability

This AD applies to the Airbus SAS Model airplanes identified in paragraphs (c)(1) through (7) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–941 airplanes.

(5) Model A340–211, –212, and –213 airplanes.

(6) Model A340–311, –312, and –313 airplanes.

(7) Model A340–541 and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by a report that an escape slide deployment test found a girt bar that was not in a locked position and was detached from the airplane. This AD was also prompted by a determination that additional airplanes not identified in AD 2011–09–06 are affected by the unsafe condition. The FAA is issuing this AD to address this condition, which could result in slides detaching from the door after inflation, and could, during an emergency, prevent a safe evacuation of the cabin and possibly result in injuries.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0155, dated July 3, 2019 (''EASA AD 2019–0155'').

(h) Exceptions to EASA AD 2019–0155

(1) Where EASA AD 2019–0155 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2019–0155 refers to February 17, 2001, as an effective date, this AD requires using March 19, 2002 (the effective date of AD 2002–02–07, Amendment 39–12635 (67 FR 6370, February 12, 2002)), for all airplanes identified in paragraph (1) of EASA AD 2019–0155, except for Model A330–223F and –243F airplanes. For Model A330–223F and –243F airplanes, use May 5, 2011 (the effective date of AD 2011–09–06).

(3) The ''Remarks'' section of EASA AD 2019–0155 does not apply to this AD.

(4) Where paragraph (4) of EASA AD 2019–0155 refers to ''July 17, 2010'' as an effective date, this AD requires using May 5, 2011 (the effective date of AD 2011–09–06).

Note 1 to paragraph (h)(4): A typographical error in EASA AD 2019–0155 incorrectly identified the effective date of EASA AD 2010–0135 as July 17, 2010; the correct effective date of EASA AD 2010–0135 is July 19, 2010.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2019–0155 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(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) of this AD. Information may be emailed to *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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.

(ii) AMOCs approved previously for AD 2011–09–06 are approved as AMOCs for the corresponding provisions of EASA AD 2019–0155 that are required by paragraph (g) of this AD.

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

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019–0155 that contains RC procedures and tests: Except as required by paragraphs (i) and (j)(2) of this AD, RC 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.

(k) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229.

(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.

(3) The following service information was approved for IBR on May 14, 2020.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0155, dated July 3, 2019.

(ii) [Reserved]

(4) For information about EASA AD 2019–0155, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(5) You may view this material 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0867.

(6) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on April 1, 2020.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–07399 Filed 4–8–20; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AE89

Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting amendments to the margin requirements for uncleared swaps for swap dealers (''SD'') and major swap participants (''MSP'') for which there is no prudential regulator (the ''CFTC Margin Rule''). Specifically, the Commission is adopting an amendment, along with certain conforming, technical changes, to extend the compliance schedule for the posting and collection of initial margin (''IM'') under the CFTC Margin Rule to September 1, 2021, for entities with smaller average daily aggregate notional amounts of swaps and certain other financial products (''Final Rule''). The compliance schedule currently extends from September 1, 2016 to September 1, 2020. The revised compliance schedule mitigates the potential of a market disruption, which could be triggered by the large number of entities that would come into the scope of the IM requirements at the end of the current compliance schedule on September 1, 2020.

DATES: This final rule is effective May 11, 2020.

FOR FURTHER INFORMATION CONTACT: Joshua B. Sterling, Director, 202–418–6056, *jsterling@cftc.gov;* Thomas J. Smith, Deputy Director, 202–418–5495, *tsmith@cftc.gov;* Warren Gorlick, Associate Director, 202–418–5195, *wgorlick@cftc.gov;* Carmen Moncada-Terry, Special Counsel, 202–418–5795, *cmoncada-terry@cftc.gov;* or Rafael Martinez, Senior Financial Risk Analyst, 202–418–5462, *rmartinez@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Section 4s(e) of the Commodity Exchange Act (''CEA'') [1] requires the Commission to adopt rules establishing minimum initial and variation margin requirements for all swaps [2] that are (i) entered into by an SD or MSP for which there is no Prudential Regulator [3] (collectively, ''covered swap entities'' or ''CSEs'') and (ii) not cleared by a registered derivatives clearing organization (''uncleared swaps'').[4] To offset the greater risk to the SD or MSP [5] and the financial system arising from the use of uncleared swaps, these requirements must (i) help ensure the safety and soundness of the SD or MSP and (ii) be appropriate for the risk associated with the uncleared swaps held by the SD or MSP.[6]

The Basel Committee on Banking Supervision (''BCBS'') and the Board of the International Organization of Securities Commissions (''IOSCO'') established an international framework for margin requirements for uncleared derivatives in September 2013 (the ''BCBS/IOSCO framework'').[7] After the establishment of the BCBS/IOSCO framework, the CFTC, on January 6, 2016, consistent with Section 4s(e), promulgated rules requiring CSEs to collect and post initial and variation margin for uncleared swaps,[8] adopting the implementation schedule set forth in the BCBS/IOSCO framework, including the revised implementation schedule adopted on March 18, 2015.[9]

In July 2019, the BCBS and IOSCO further revised the framework to extend the implementation schedule for compliance with IM requirements to September 1, 2021.[10] Shortly after, the

[1] 7 U.S.C. 1 *et seq.*

[2] For the definition of swap, *see* section 1a(47) of the CEA and Commission regulation 1.3. 7 U.S.C. 1a(47) and 17 CFR 1.3. The term ''swap'' includes, among other things, an interest rate swap, commodity swap, credit default swap, and currency swap.

[3] *See* 7 U.S.C. 6s(e)(1)(B). SDs and MSPs for which there is a Prudential Regulator must meet the margin requirements for uncleared swaps established by the applicable Prudential Regulator. 7 U.S.C. 6s(e)(1)(A). *See also* 7 U.S.C. 1a(39) (defining the term ''Prudential Regulator'' to mean the Board of Governors of the Federal Reserve System; the Office of the Comptroller of the Currency; the Federal Deposit Insurance Corporation; the Farm Credit Administration; and the Federal Housing Finance Agency). The definition further specifies the entities for which these agencies act as Prudential Regulators. The Prudential Regulators published final margin requirements in November 2015. *See* Margin and Capital Requirements for Covered Swap Entities, 80 FR 74840 (Nov. 30, 2015) (''Prudential Regulators' Margin Rule'').

[4] *See* 7 U.S.C. 6s(e)(2)(B)(ii). In Commission regulation 23.151, the Commission further defined this statutory language to mean all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that the Commission has exempted from registration as provided under the CEA. 17 CFR 23.151.

[5] For the definitions of SD and MSP, *see* section 1a of the CEA and Commission regulation 1.3. 7 U.S.C. 1a and 17 CFR 1.3.

[6] 7 U.S.C. 6s(e)(3)(A).

[7] *See* BCBS/IOSCO Margin requirements for non-centrally cleared derivatives (September 2013), available at *https://www.bis.org/publ/bcbs261.pdf.*

[8] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016). The CFTC Margin Rule, which became effective April 1, 2016, is codified in part 23 of the Commission's regulations. 17 CFR 23.150—23.159, 23.161. In May 2016, the Commission amended the CFTC Margin Rule to add Commission regulation 23.160, providing rules on its cross border application. Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 FR 34818 (May 31, 2016). 17 CFR 23.160.

[9] *See* BCBS/IOSCO Margin requirements for non-centrally cleared derivatives (March 2015), available at *https://www.bis.org/bcbs/publ/d317.pdf.*

[10] *See* BCBS/IOSCO Margin requirements for non-centrally cleared derivatives (July 2019), available

Commission proposed to amend and similarly extend the compliance schedule for the IM requirements under the CFTC Margin Rule (''Proposal'').[11]

II. Final Rule

The Commission is adopting the Final Rule to amend the CFTC Margin Rule to extend the schedule for compliance with the IM requirements by adding September 1, 2021 as an additional phase-in date, in order to help ensure continued access to the swaps markets for certain entities with relatively smaller levels of swaps trading activities as discussed below and in light of the recent revision to the implementation schedule set forth in the BCBS/IOSCO framework. The Commission received nine comment letters expressing support for the Proposal to extend the CFTC compliance schedule for the IM requirements, noting that the change aligns the CFTC Margin Rule with the BCBS/IOSCO framework and allows market participants to manage resources and mitigate trading disruptions that could arise at the conclusion of the current compliance schedule.[12]

The CFTC Margin Rule requires covered swap entities to post and collect IM with counterparties that are SDs, MSPs, or financial end users with material swap exposure (''MSE'')[13] (''covered counterparties'') in accordance with a compliance schedule set forth in Commission regulation 23.161.[14] The compliance schedule comprises five compliance dates, from September 1, 2016 to September 1, 2020, staggered such that CSEs and covered counterparties, starting with the largest average daily aggregate notional amounts (''AANA'') of uncleared swaps and certain other financial products, and then successively lesser AANA, come into compliance with the IM requirements in a series of five phases.

The fourth compliance date, September 1, 2019, brought within the scope of compliance CSEs and covered counterparties each exceeding $750 billion in AANA. The fifth and last compliance date of September 1, 2020, absent a rule change, will bring into the scope of compliance all remaining CSEs and covered counterparties, including financial end user counterparties with an MSE exceeding $8 billion in AANA. As a result of the large reduction in the compliance threshold from $750 billion to $8 billion at the end of the compliance schedule, a significant number of financial end user counterparties, including relatively small counterparties, will be required to comply with the IM requirements and implement related operational processes. According to the CFTC's Office of the Chief Economist (''OCE''), compared with the first through the fourth phases of compliance, which brought approximately 40 entities into scope, phase 5 could bring approximately 700 entities, as well as 7,000 relationships representing the number of IM agreements that would need to be in place to carry out swap transactions.[15]

As stated in the Proposal, market participants have expressed concerns regarding the onset of phase 5 under the current schedule given the operational complexity associated with IM calculation and third-party segregation of IM collateral.[16] As a large number of counterparties prepare to meet applicable IM deadlines, newly in-scope entities could encounter operational difficulties because a significant number of the entities may engage the same limited number of entities that provide IM required services, involving, among other things, the preparation of IM-related documentation, the approval and implementation of risk-based models for IM calculation, and custodial arrangements. The potential for compliance delays may lead to disruption in the markets, including the possibility that some counterparties could, for a time, be prohibited from entering into uncleared swaps and, therefore, be unable to use swaps to hedge their financial risk. In recognition of these difficulties, BCBS/IOSCO revised its framework to extend the schedule for compliance with the IM requirements and provide an additional phase-in period for smaller counterparties.[17]

The CFTC believes it is appropriate to amend the CFTC Margin Rule consistent with the BCBS/IOSCO framework's revision. In particular, the Commission is adopting the Final Rule to extend the compliance schedule for the IM requirements in order to mitigate the potential for a market disruption that could be brought upon by phase 5 at the end of the current compliance schedule. The Commission's action reflects an effort to undertake coordinated action with international counterparts and the Prudential Regulators[18] to achieve regulatory harmonization with respect to uncleared swaps margin.

In adopting the Final Rule, the Commission has considered the relatively small amount of swap activity of the financial end users that would be subject to the one year extension. The OCE has estimated that the average AANA per entity in phase 5, under the current schedule, would be $54 billion compared to an average $12.71 trillion AANA for each entity in phases 1, 2, and 3 and $1 trillion in phase 4. The OCE has also estimated that the total AANA for entities that would be subject to the one year extension, if adopted, would be approximately three percent of the total AANA across all the phases.[19] Given the relatively small amount of swap activity of the financial end users in the extended compliance

at *https://www.bis.org/bcbs/publ/d475.pdf* (''July 2019 BCBS/IOSCO Margin Framework'').

[11] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 56950 (Oct. 24, 2019).

[12] The Commission received nine relevant comment letters from the Asset Management Group of the Securities Industry and Financial Markets Association, Blackrock, Inc., the Futures Industry Association, the eleven Federal Home Loan Banks, the Global Foreign Exchange Division of the Global Financial Markets Association, the International Swaps and Derivatives Association, Inc., the Institute of International Bankers jointly with the Securities Industry and Financial Markets Association, the Managed Funds Association, and State Street Corporation. Some of these comment letters, in addition to a letter from the American Council of Life Insurers, addressed issues outside the scope the Proposal. The Commission will monitor these issues as well as any additional issues that may be raised in the future concerning the implementation and operation of the CFTC Margin Rule, and act upon them as appropriate.

[13] Commission regulation 23.151 provides that MSE for an entity means that the entity and its margin affiliates have an average daily aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for June, July or August of the previous calendar year that exceeds $8 billion, where such amount is calculated only for business days. A company is a ''margin affiliate'' of another company if: (i) Either company consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards; (ii) both companies are consolidated with a third company on a financial statement prepared in accordance with such principles or standards; or (iii) for a company that is not subject to such principles or standards, if consolidation as described in paragraph (1) or (2) of this definition would have occurred if such principles or standards had applied. 17 CFR 23.151.

[14] *See* 17 CFR 23.161.

[15] *See* Richard Haynes, Madison Lau, & Bruce Tuckman, *Initial Margin Phase 5* (Oct. 24, 2018), available at *https://www.cftc.gov/sites/default/files/About/Economic%20Analysis/Initial%20Margin%20Phase%205%20v5_ada.pdf* (''OCE Initial Margin Phase 5 Study'').

[16] *See, e.g.,* Letter from the Securities Industry and Financial Markets Association (''SIFMA''), the American Bankers Association (''ABA''), the Global Foreign Exchange Division of the Global Financial Markets Association (''GFXD''), and the Institute of International Bankers (''IIB'') (April 5, 2019); Letter from the Managed Funds Association (June 20, 2019).

[17] *See* July 2019 BCBS/IOSCO Margin Framework.

[18] The Prudential Regulators recently issued a notice of proposed rulemaking to, among other things, revise their rules consistent with the revised BCBS/IOSCO framework. *See* Margin and Capital Requirements for Covered Swap Entities, 84 FR 59970 (Nov. 7, 2019).

[19] *See* OCE Initial Margin Phase 5 Study at 4–5.

date group, the Commission believes the Final Rule will have a relatively minor impact on the systemic risk mitigating effects of the IM requirements during the extension period.

As proposed, the Final Rule amends Commission regulation 23.161(a) by adding a sixth phase of compliance for certain smaller entities that are currently subject to phase 5. The Final Rule requires compliance by September 1, 2020, for CSEs and covered counterparties with an AANA ranging from $50 billion up to $750 billion. The compliance date for all other remaining CSEs and covered counterparties, including financial end user counterparties exceeding an MSE of $8 billion in AANA, is extended to September 1, 2021.

In addition, the Commission is adopting non-substantive, conforming technical changes to Commission regulation 23.161(a).[20] The Commission is amending Commission regulation 23.161(a) to replace, where applicable, between an entity or a margin affiliate only one time with between the entity and a margin affiliate only one time. This change conforms the CFTC Margin Rule to the rule text of the Prudential Regulators' Margin Rule, promoting harmonization between both regulators.

The Commission is also amending Commission regulation 23.161(a) to replace, where applicable, shall not count a swap or a security-based swap that is exempt pursuant to § 23.150(b) with shall not count a swap that is exempt pursuant to § 23.150(b). This change removes the term ''security-based swap'' from certain parts of Commission regulation 23.161(a). The change is necessary because, due to a transcription error, the current rule text incorrectly indicates that Commission regulation 23.150(b) exempts security-based swaps from the CFTC Margin Rule even though such provision only applies to swaps. Notwithstanding this technical change that eliminates the reference to Commission regulation 23.150(b) with respect to security-based swaps, Commission regulation 23.161(a) will continue to exclude any security-based swap, for purposes of the calculation of the various thresholds set forth in Commission regulation 23.161(a), that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934, as is the case under the current rule text.

[20] The adopted changes include revisions to text in Commission regulation 23.161(a) relating to compliance dates that have already passed.

III. Related Matters

A. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[21] imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information, as defined by the PRA. The Commission may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number. The Final Rule, as adopted, contains no requirements subject to the PRA.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires agencies, in promulgating regulations, to consider whether the regulations they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a flexibility analysis regarding the economic impact on those entities.[22] In the Proposal, the Commission certified that the Proposal would not have a significant economic impact on a substantial number of small entities. The Commission requested comments with respect to the RFA and received no comments.

As discussed in the Proposal, the Final Rule only affects SDs and MSPs that are subject to the CFTC Margin Rule and their covered counterparties, all of which are required to be eligible contract participants (''ECPs'').[23] The Commission has previously determined that SDs, MSPs, and ECPs are not small entities for purposes of the RFA.[24] Therefore, the Commission believes that the Final Rule will not have a significant economic impact on a substantial number of small entities, as defined in the RFA.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that this Final Rule will not have a significant economic impact on a substantial number of small entities.

C. Cost-Benefit Considerations

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA. Section 15(a) further specifies that the costs and benefits shall be evaluated in light of the following five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) considerations. Further, the Commission has considered the extraterritorial reach of the Final Rule and notes where this reach may be especially relevant.

This Final Rule extends the compliance schedule for the CFTC Margin Rule and introduces an additional compliance date for smaller counterparties.[25] The revised compliance schedule requires CSEs and covered counterparties, with an AANA ranging from $50 billion up to $750 billion, to exchange IM in phase 5. All remaining CSEs and covered counterparties, including financial end user counterparties exceeding an MSE of $8 billion in AANA, will come into scope in the additional sixth phase beginning September 1, 2021.

As discussed in the Proposal, the Commission believes that as a result of the large number of counterparties that would be required to comply with the IM requirements for the first time at the end of the current compliance schedule, market disruption may arise. The markets may be strained given counterparties' demand for resources and services to meet the September 2020 deadline and operationalize the exchange of IM, involving, among other things, counterparty onboarding, approval and implementation of risk-based models for the calculation of IM, and documentation associated with the exchange of IM.

The baseline against which the benefits and costs associated with the Final Rule are compared is the uncleared swaps markets as they exist today, including the impact of the current compliance schedule and the implementation of phase 5 on September 1, 2020. With this as the baseline, the following are the benefits and costs of the Final Rule.

The Commission sought comment on all aspects of the cost and benefit

[21] 44 U.S.C. 3501 *et seq.*

[22] 5 U.S.C. 601 *et seq.*

[23] Each counterparty to an uncleared swap must be an ECP, as the term is defined in section 1a(18) of the CEA, 7 U.S.C. 1a(18) and Commission regulation 1.3, 17 CFR 1.3. *See* 7 U.S.C. 2(e).

[24] *See* Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012) (SDs and MSPs) and Opting Out of Segregation, 66 FR 20740, 20743 (April 25, 2001) (ECPs).

[25] The Commission is also adopting conforming technical changes to Commission regulation 23.161(a). Given the non-substantive nature of these changes, there are no costs or benefits to be considered.

considerations in the Proposal but received no substantive comments.

1. Benefits

As described above, the Final Rule extends the compliance schedule for the IM requirements for certain smaller entities to September 1, 2021. The Final Rule is intended to alleviate the potential congestion and possible market disruption resulting from the large number of counterparties that would come into scope under the current compliance schedule and the strain on the uncleared swaps markets resulting from the increased demand for limited resources and services to set up operations to comply with the IM requirements, including counterparty onboarding, adoption and implementation of risk-based models to calculate IM, and documentation associated with the exchange of IM.

The Final Rule prioritizes applicable IM compliance deadlines in order to focus on certain financial end users, SDs, and MSPs that engage in greater swap trading activity and that may significantly contribute to systemic risk in the financial markets, while providing a 12-month delay for smaller counterparties, whose swap trading may not pose the same level of risk, to prepare for their eventual compliance with the IM requirements. The Final Rule therefore promotes a smooth and orderly transition into IM compliance.

The Final Rule amends the CFTC Margin Rule consistent with the revised BCBS/IOSCO margin framework and the Prudential Regulators' proposed rulemaking to amend the IM compliance schedule.[26] The Final Rule promotes harmonization with international and domestic margin regulatory requirements and reduces the potential for regulatory arbitrage.

2. Costs

The Final Rule extends the time frame for compliance with the IM requirements for the smallest CSEs and covered counterparties in terms of notional amount, including SDs and MSPs and financial end users that exceed an MSE of $8 billion, by an additional 12 months. Uncleared swaps entered into during this period with the smallest covered counterparties may be treated as legacy swaps exempt from the IM requirements. In the Commission's view, the contagion risk associated with these potentially uncollateralized legacy swaps is a lesser concern because the legacy swap portfolios will be entered into with counterparties that engage in lower levels of notional trading.

The Final Rule also delays the implementation of IM by smaller CSEs. There may not be as much IM posted to protect the financial system as would otherwise be the case. As such, the severity of any financial contagion that might occur may potentially increase.

3. Section 15(a) Considerations

In light of the foregoing, the CFTC has evaluated the costs and benefits of the Final Rule pursuant to the five considerations identified in section 15(a) of the CEA as follows:

(a) Protection of Market Participants and the Public

The Final Rule will protect market participants and the public against the potential disruption that may be caused by the large number of counterparties that would come into scope of the IM requirements at the end of the current compliance schedule.

Under the revised compliance schedule, fewer counterparties will come into scope in phase 5 and many smaller counterparties will be able to defer compliance until the sixth and last compliance date on September 1, 2021. As such, the demand for resources and services to achieve operational readiness will be reduced, mitigating the potential strain on the uncleared swaps markets.

Also, the Final Rule will appropriately prioritize IM compliance requirements for counterparties and CSEs that have greater swap trading activity, while giving more time to smaller counterparties to come into compliance with the IM requirements.

Inasmuch as this Final Rule delays the implementation of IM for the smallest CSEs, there may not be as much IM posted to protect the financial system as would otherwise be the case. Consequently, the severity of any financial contagion that might occur may potentially increase, especially among the smallest CSEs.

(b) Efficiency, Competitiveness, and Financial Integrity of Markets

The Final Rule will make the uncleared swaps markets more streamlined by facilitating counterparties' transition into compliance with the IM requirements. Counterparties will have additional time to document their swap relationships and set up adequate processes to operationalize the exchange of IM. As such, the Final Rule will promote fairer competition among counterparties in the uncleared swaps markets, as it will remove the potential incentive of CSEs to prioritize arrangements with larger counterparties to the detriment of smaller counterparties and will help maintain the current state of market efficiency.

By preventing the market disruption that could be brought upon by the large number of counterparties that would come into scope at the end of the current compliance schedule, the Final Rule promotes the financial integrity of the markets, reducing the probability of congestion resulting from the heightened demand for limited financial infrastructure resources. On the other hand, there will be less IM posted overall, making uncleared swaps markets more susceptible to financial contagion where the default of one counterparty could lead to subsequent defaults of other counterparties potentially harming market integrity.

(c) Price Discovery

The Final Rule will not harm price discovery and might help preserve it. In the absence of the Final Rule, counterparties, in particular smaller counterparties, could be discouraged from entering or even foreclosed from entering the uncleared swaps markets because they may not be able to secure resources and services in a timely manner to operationalize the exchange of IM. These counterparties thus could be shut out from the uncleared swaps markets, potentially reducing liquidity and harming price discovery.

(d) Sound Risk Management

The Final Rule will stave off the potential market disruption that could result from the large number of counterparties that would come into the scope of the IM requirements at the end of the current compliance schedule. The extended compliance schedule will alleviate the potential congestion in establishing the financial infrastructure to post IM between in scope entities and will give counterparties time to prepare for the exchange of IM and to establish operational processes tailored to their uncleared swaps and associated risks. The additional compliance time may also improve risk management practices because there might be some parties who may prefer to enter into cleared swaps rather than install otherwise required financial infrastructure in a short time frame, choosing to enter into swaps that are more standardized but that do not match their risk management needs as well.

The Commission acknowledges that the Final Rule extends the time frame for compliance with the IM requirements for the smallest CSEs and covered counterparties by an additional 12 months. Uncleared swaps entered into during this period by these entities

[26] *See supra,* n. 18.

may be treated as legacy swaps and will not be subject to the IM requirements. As a result, lesser amounts of margin will be collected to mitigate the risk of uncleared swaps, which may increase the possibility of systemic risk. Nevertheless, the risk associated with these potentially uncollateralized legacy swaps is a lesser concern because the legacy swap portfolios will be entered into with counterparties that engage in lower levels of notional trading.

(e) Other Public Interest Considerations

The Final Rule amends the CFTC Margin Rule consistent with the revised BCBS/IOSCO margin framework and the Prudential Regulators' proposed rulemaking to amend the IM compliance schedule, promoting harmonization with international and domestic margin regulatory requirements and reducing the potential for regulatory arbitrage.

D. Antitrust Laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b) of the CEA), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[27]

The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. Further, the Commission believes that allowing parties more time to come into compliance with the CFTC Margin Rule by splitting the last compliance phase into two phases will preserve competition by encouraging more participation in the uncleared swaps markets. The Commission requested comments on whether the Proposal implicated any other specific public interest to be protected by the antitrust laws and received no comments.

The Commission has considered this Final Rule to determine whether it is anticompetitive and has identified no anticompetitive effects. The Commission requested comments on whether the Proposal was anticompetitive and, if it is, what the anticompetitive effects are, and received no comments.

Because the Commission has determined that the Final Rule is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the CEA.

[27] 7 U.S.C. 19(b).

List of Subjects in 17 CFR Part 23

Capital and margin requirements, Major swap participants, Swap dealers, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 23 as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b-1,6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21.

Section 23.160 also issued under 7 U.S.C. 2(i); Sec. 721(b), Pub. L. 111–203, 124 Stat. 1641 (2010).

■ 2. Amend § 23.161 by:

■ a. Revising paragraphs (a)(1)(iii), (a)(3)(iii), (a)(4)(iii), (a)(5)(iii), and (a)(6); and

■ b. Adding paragraph (a)(7).

The addition and revisions read as follows.

§ 23.161 Compliance dates.

(a) * * *

(1) * * *

(iii) In calculating the amounts in paragraphs (a)(1)(i) and (ii) of this section, an entity shall count the average daily notional amount of an uncleared swap, an uncleared security-based swap, a foreign-exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time and shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)).

* * * * *

(3) * * *

(iii) In calculating the amounts in paragraphs (a)(3)(i) and (ii) of this section, an entity shall count the average daily notional amount of an uncleared swap, an uncleared security-based swap, a foreign-exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time and shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)).

(4) * * *

(iii) In calculating the amounts in paragraphs (a)(4)(i) and (ii) of this section, an entity shall count the average daily notional amount of an uncleared swap, an uncleared security-based swap, a foreign-exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time and shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)).

(5) * * *

(iii) In calculating the amounts in paragraphs (a)(5)(i) and (ii) of this section, an entity shall count the average daily notional amount of an uncleared swap, an uncleared security-based swap, a foreign-exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time and shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–10(e)).

(6) September 1, 2020 for the requirements in § 23.152 for initial margin for any uncleared swaps where both—

(i) The covered swap entity combined with all its margin affiliates; and

(ii) Its counterparty combined with all its margin affiliates have an average daily aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps in March, April, and May 2020 that exceeds $50 billion, where such amounts are calculated only for business days; and where

(iii) In calculating the amounts in paragraphs (a)(6)(i) and (ii) of this section, an entity shall count the average daily notional amount of an uncleared swap, an uncleared security-based swap, a foreign exchange forward, or a foreign exchange swap between the entity and a margin affiliate only one time and shall not count a swap that is exempt pursuant to § 23.150(b) or a security-based swap that is exempt pursuant to section 15F(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78o.10(e)).

(7) September 1, 2021 for the requirements in § 23.152 for initial margin for any other covered swap entity with respect to uncleared swaps entered into with any other counterparty.

* * * * *

Issued in Washington, DC, on March 25, 2020, by the Commission.

Robert Sidman,

Deputy Secretary of the Commission.

Note: The following appendices will not appear in the Code of Federal Regulations.

Appendices to Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Commission Voting Summary and Commissioners' Statements

Appendix 1—Commission Voting Summary

On this matter, Chairman Tarbert and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

Appendix 2—Statement of Commissioner Rostin Behnam

I vote to approve the Commodity Futures Trading Commission's (the ''Commission'' or ''CFTC'') decision today to extend the compliance schedule for the posting and collection of initial margin (''IM'') by swap dealers (''SDs'') and major swap participants (''MSPs'') for which there is no prudential regulator (collectively, ''covered swap entities'') under the CFTC Margin Rule, 17 CFR 23.160, which implements section 4s(e) of the Commodity Exchange Act (''CEA'').[1] As a seminal part of the policy response following the 2008 financial crisis, Section 731 of the Dodd-Frank Wall Street Reform and Consumer Protection Act[2] added section 4s(e) requiring the adoption of rules establishing minimum initial and variation margin requirements for all uncleared swaps entered by covered swaps entities.

Among many universal commitments established by global leaders in the 2009 G20 Communique,[3] margin requirements for uncleared swaps remain a critical component of financial reform, specifically within the global derivatives markets. As we learned during the financial crisis, margin provides confidence in times of market stress and volatility by ensuring that collateral is available to offset counterparty losses.

Right now, we are collectively enduring uncertainty as a result of Covid-19. As financial leaders are taking action and providing responses intended to address market stress, our progress is being tested as we operate within the new realities of communication and the work environment. We cannot hesitate in our efforts to preserve market interests and protect customers and market participants in a timely, decisive manner. It remains critically important that we ensure market continuity, transparency, and resiliency as we work towards normalcy.

Today's amendments align implementation of the CFTC Margin Rule with the framework issued by the Basel Committee on Banking Supervision (''BCBS'') and the International Organization of Securities Commissions (''IOSCO'').[4] The amendments represent a cohesive, data-driven effort by the staffs of the CFTC, the Prudential Regulators—who have proposed similar amendments to the margin implementation schedule for SDs and MSPs subject to their regulations[5]—and international counterparts through the BCBS/IOSCO Working Group on Margining Requirements (''WGMR'') towards regulatory harmonization with respect to margin for uncleared swaps.

Implementing the margin requirements for uncleared swaps is a challenge we have faced collectively.[6] As global harmonization is a key hallmark of the 2009 G20 reforms, ensuring we remain vigilant to risks and responsive to real-world concerns articulated by market participants as we work together towards these feats of regulatory engineering will serve us all well into the future. I commend the work of the our CFTC staff in demonstrating its analytical expertise in both validating the need for the sixth phase of compliance for certain smaller entities, and analyzing the risks of requiring such entities to remain in phase 5.

The extension of the compliance schedule for initial margin requirements for an additional year will accommodate roughly 700 entities and 7,000 relationships. While that may seem monumental, the CFTC's Office of Chief Economist estimates that these relationships represent a relatively small amount of swap activity; approximately three percent of the total average daily aggregate notional amounts of uncleared swaps and certain other financial products across all the compliance phases.[7]

I believe it is important to highlight that today's amendments seek to address transition risks by mitigating potential market disruptions due largely to limitations of service providers and related operational burdens associated with those approximately 7,000 relationships. It remains my expectation that the large number of covered entities who will now fall into the sixth phase of compliance will work diligently over the next year and a half and that with the additional time and a clear demand for services, market participants and the entities they engage will focus resources on compliance.

To the extent commenters identified additional and potentially significant implementation challenges, I appreciate CFTC staff's ongoing commitment to monitoring these and other issues as they evolve. Our open engagement and willingness to address appropriate concerns is a hallmark of our agency, and I believe it is one our greatest strengths. We should continue to maintain our high standards as we move forward in any additional targeted, strategic modifications to the CFTC Margin Rules and others.

Appendix 3—Concurring Statement of Commissioner Dan M. Berkovitz

I concur with issuing the final rule to extend by one year the initial swap margin compliance deadline for financial entities with smaller swap portfolios.

As I noted in my statement when this rule was proposed, generally I am not sympathetic to requests to extend compliance deadlines when a long lead-in period has been provided. The compliance date for swap margin rule compliance was set more than four years ago. However, this deadline extension will benefit hundreds of entities with smaller swap portfolios while having only a limited impact on the systemic risk mitigation benefits of the initial margin requirements.

Importantly, the final rule does not change variation margin requirements that are already effective. The extension in the final rule only applies to the initial margin requirement, which covers estimated potential future exposures.

Furthermore, the final rule only extends the deadline for financial end users that have average daily aggregate notional amounts (''AANA'') less than $50 billion. A CFTC Office of the Chief Economist (''OCE'') analysis indicates that around 700 entities with 7,000 swap arrangements that need to be modified would be included in this group. The final rule provides more time to these smaller users of swaps, which will help maintain the hedging capabilities of these market participants while they negotiate and establish the necessary margining agreements.

The OCE analysis also provides data on the muted impact of the final rule on systemic risk mitigation. The total estimated AANA for entities that can use the extension is approximately three percent of the total AANA of entities subject to the margin rules. In my view, this data is critical to supporting a one year extension as it indicates the likely effect on systemic risk mitigation will be quite limited.

Also, other United States and foreign regulators are adopting similar extensions. The prudential banking regulators in the United States have adopted a margin rule deadline extension proposal that is substantively the same as the CFTC final rule. At this time there is no reason to believe the prudential regulators will not adopt their proposal.

Finally, the current financial market turmoil resulting from the global coronavirus pandemic makes issuance of this relief to these smaller financial end users particularly timely.

[1] 7 U.S.C. 1 *et seq.*

[2] The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 section 731, 124 Stat. 1376, 1704–5 (2010).

[3] G20, *Leaders' Statement, The Pittsburgh Summit* (Sept. 24–25, 2009), *available at http://www.g20.utoronto.ca/2009/2009communique0925.html.*

[4] *See* BCBS and IOSCO ''Margin requirements for non-centrally cleared derivatives,'' (July 2019), *https://www.bis.org/bcbs/publ/d475.pdf.*

[5] *See* Margin and Capital Requirements for covered swap entities, 84 FR 59970 (Nov. 7, 2019).

[6] *See* Rostin Behnam, Our Collective Strength, Remarks of CFTC Commissioner Rostin Behnam at the 2018 ISDA Annual Japan Conference, Shangri-La Hotel, Tokyo (Oct. 26, 2018), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam11;* Rostin Behnam, Sowing the Seeds of Success in 2020, Remarks of CFTC Commissioner Rostin Behnam at the ISDA 34th Annual General Meeting, Grand Hyatt Hong Kong, Hong Kong (Apr. 9, 2019), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam13.*

[7] *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 84 FR 56950, 56952 (proposed Oct. 24, 2019); Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants at II.

Accordingly, I concur in adopting the final rule.

[FR Doc. 2020–06625 Filed 4–8–20; 8:45 am]

BILLING CODE 6351–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 240, and 249

[Release No. 34–88365A; File No. S7–06–19]

RIN 3235–AM41

Accelerated Filer and Large Accelerated Filer Definitions; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: The Securities and Exchange Commission published a document in the **Federal Register** of March 26, 2020 (85 FR 17178) adopting amendments to the accelerated filer and large accelerated filer definitions. There was a typographical error in an example provided in the Supplementary Information section of that document.

DATES: Effective April 9, 2020.

FOR FURTHER INFORMATION CONTACT: John Fieldsend, Special Counsel, in the Division of Corporation Finance, at (202) 551–3430, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION:

In FR Doc. 2020–05546, on page 17193 in the **Federal Register** of Thursday, March 26, 2020, the following corrections are made:

Corrections

In the first column on page 17193, in the eighth line from the bottom of the second paragraph, the date ''2020'' is corrected to read ''2021''. Also, in the first column on page 17193, in the sixth line from the bottom of the second paragraph, the date ''2019'' is corrected to read ''2020''.

Dated: March 30, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–06926 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 501, 510, 535, 536, 539, 541, 542, 544, 546, 547, 548, 549, 560, 561, 566, 576, 583, 584, 588, 592, 594, 597, and 598

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing this final rule to adjust certain civil monetary penalties for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This rule is effective April 9, 2020.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

Section 4 of the Federal Civil Penalties Inflation Adjustment Act (1990 Pub. L. 101–410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–373) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74, 129 Stat. 599, 28 U.S.C. 2461 note) (collectively, the FCPIA Act), requires each federal agency with statutory authority to assess civil monetary penalties (CMPs) to adjust CMPs annually for inflation according to a formula described in section 5 of the FCPIA Act. One purpose of the FCPIA Act is to ensure that CMPs continue to maintain their deterrent effect through periodic cost-of-living based adjustments.

OFAC has adjusted its CMPs four times since the Federal Civil Penalties Inflation Adjustment Act Improvements Act went into effect on November 2, 2015: An initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016), and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017), March 19, 2018 (83 FR 11876, March 19, 2018), and June 14, 2019 (84 FR 27714, June 14, 2019).

Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the FCPIA Act. Under the FCPIA Act and the Office of Management and Budget guidance required by the FCPIA Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (''CPI–U'') for the October preceding the date of the adjustment and the prior year's October CPI–U. As set forth in Office of Management and Budget Memorandum M–20–05 of December 16, 2019, the adjustment multiplier for 2020 is 1.01764. In order to complete the 2020 annual adjustment, each current CMP is multiplied by the 2020 adjustment multiplier. Under the FCPIA Act, any increase in CMP must be rounded to the nearest multiple of $1.

New Penalty Amounts

OFAC imposes CMPs pursuant to the penalty authority in five statutes: the Trading With the Enemy Act (50 U.S.C. 4301–4341, at 4315) (TWEA); the International Emergency Economic Powers Act (50 U.S.C. 1701–1706, at 1705) (IEEPA); the Antiterrorism and Effective Death Penalty Act of 1996 (Pub. L. 104–132, 110 Stat. 1212–1319, at 1250; 18 U.S.C. 2339B) (AEDPA); the Foreign Narcotics Kingpin Designation Act (Pub. L. 106–120, 113 Stat. 1626–1636, at 1632; 21 U.S.C. 1901–1908, at 1906) (FNKDA); and the Clean Diamond Trade Act (Pub. L. 108–19, 117 Stat. 631–637, at 634; 19 U.S.C. 3901–3913, at 3907) (CDTA).

The table below summarizes the existing and new maximum CMP amounts.

Statute	Existing maximum CMP amount	Maximum CMP amount effective April 9, 2020
TWEA	$89,170	$90,743
IEEPA	302,584	307,922
AEDPA	79,874	81,283

Statute	Existing maximum CMP amount	Maximum CMP amount effective April 9, 2020
FNKDA	1,503,470	1,529,991
CDTA	13,669	13,910

In addition to updating these maximum CMP amounts, OFAC is also updating two references to one-half the IEEPA maximum CMP from $151,292 to $153,961.

Finally, OFAC is making the following technical changes in the authorities sections of the parts of 31 CFR chapter V that are being amended by this rule: (i) In the authorities sections of 31 CFR parts 501 and 542, OFAC is correcting a typographic error and is changing certain hyphens to en dashes; (ii) in the authorities sections of 31 CFR parts 510, 560, 561, and 583, OFAC is adding CFR Compilation citations for more recently issued Presidential documents listed in those authorities sections and is changing certain hyphens to en dashes; and (iii) in the authorities sections of 31 CFR parts 535, 536, 539, 541, 544, 546, 547, 548, 549, 566, 576, 584, 588, 592, 594, and 598, OFAC is changing certain hyphens to en dashes.

Public Participation

The FCPIA Act expressly exempts this final rule from the notice and comment requirements of the Administrative Procedure Act, by directing agencies to adjust CMPs for inflation ''notwithstanding section 553 of title 5, United States Code'' (Pub. L. 114–74, 129 Stat. 599; 28 U.S.C. 2461 note). As such, this final rule is being issued without prior public notice or opportunity for public comment, with an effective date of April 9, 2020.

Because the amended regulations involve a foreign affairs function, the provisions of Executive Order 13771 are inapplicable.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Parts 501, 510, 535, 536, 539, 541, 542, 544, 546, 547, 548, 549, 560, 561, 566, 576, 583, 584, 588, 592, 594, 597, and 598

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR chapter V as follows:

PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

■ 1. The authority citation for part 501 is revised to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. 4301–4341; Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551).

Subpart D—Trading With the Enemy Act (TWEA) Penalties

§ 501.701 [Amended]

■ 2. In § 501.701(a)(3), remove ''$89,170'' and add in its place ''$90,743''.

■ 3. Amend appendix A to part 501 as follows:

■ a. In paragraph V.B.2.a.i., remove ''$151,292'' and add in its place ''$153,961'' and remove ''$302,584'' and add in its place ''$307,922''.

■ b. In paragraph V.B.2.a.ii., remove ''$302,584'' in all three locations where it appears and add in its place in all three locations ''$307,922''.

■ c. In paragraph V.B.2.a.v., remove ''$302,584'' and add in its place ''$307,922'', remove ''$89,170'' and add in its place ''$90,743'', remove ''$1,503,470'' and add in its place ''$1,529,991'', remove ''$79,874'' and add in its place ''$81,283'', and remove ''$13,669'' and add in its place ''$13,910''.

■ d. Revise paragraph V.B.2.a.vi.

The revision reads as follows:

Appendix A to Part 501—Economic Sanctions Enforcement Guidelines

* * * * *

V. * * *

B. * * *

2. * * *

a. * * *

vi. The following matrix represents the base amount of the proposed civil penalty for each category of violation:

BASE PENALTY MATRIX

Voluntary Self-Disclosure	Egregious Case: NO	Egregious Case: YES
YES	(1) One-Half of Transaction Value (capped at lesser of $153,961 or one-half of the applicable statutory maximum per violation)	(3) One-Half of Applicable Statutory Maximum
NO	(2) Applicable Schedule Amount (capped at lesser of $307,922 or the applicable statutory maximum per violation)	(4) Applicable Statutory Maximum

* * * * *

PART 510—NORTH KOREA SANCTIONS REGULATIONS

■ 4. The authority citation for part 510 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–122, 130 Stat. 93 (22 U.S.C. 9201–9255); Pub. L. 115–44, 131 Stat 886 (22 U.S.C. 9201 note); E.O. 13466, 73 FR 36787, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, 3 CFR, 2010 Comp., p. 242; E.O. 13570, 76 FR 22291, 3 CFR, 2011 Comp., p. 233; E.O. 13687, 80 FR 819, 3 CFR, 2015 Comp., p. 259; E.O. 13722, 81 FR 14943, 3 CFR, 2016 Comp., p. 446; E.O. 13810, 82 FR 44705, 3 CFR, 2017 Comp., p. 379.

Subpart G—Penalties

§ 510.701 [Amended]

■ 5. In § 510.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

■ 6. The authority citation for part 535 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 112; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR, 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

Subpart G—Penalties

§ 535.701 [Amended]

■ 7. In § 535.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 536—NARCOTICS TRAFFICKING SANCTIONS REGULATIONS

■ 8. The authority citation for part 536 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

Subpart G—Penalties

§ 536.701 [Amended]

■ 9. In § 536.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 539—WEAPONS OF MASS DESTRUCTION TRADE CONTROL REGULATIONS

■ 10. The authority citation for part 539 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 2751–2799aa-2; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200.

Subpart G—Penalties

§ 539.701 [Amended]

■ 11. In § 539.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 541—ZIMBABWE SANCTIONS REGULATIONS

■ 12. The authority citation for part 541 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C.

1705 note); E.O. 13288, 68 FR 11457, 3 CFR, 2003 Comp., p. 186; E.O. 13391, 70 FR 71201, 3 CFR, 2005 Comp., p. 206; E.O. 13469, 73 FR 43841, 3 CFR, 2008 Comp., p. 1025.

Subpart G—Penalties

§ 541.701 [Amended]

■ 13. In § 541.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 542—SYRIAN SANCTIONS REGULATIONS

■ 14. The authority citation for part 542 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 18 U.S.C. 2332d; 22 U.S.C. 287c; 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; E.O. 13399, 71 FR 25059, 3 CFR, 2006 Comp., p. 218; E.O. 13460, 73 FR 8991, 3 CFR 2008 Comp., p. 181; E.O. 13572, 76 FR 24787, 3 CFR 2011 Comp., p. 236; E.O. 13573, 76 FR 29143, 3 CFR 2011 Comp., p. 241; E.O. 13582, 76 FR 52209, 3 CFR 2011 Comp., p. 264; E.O. 13606, 77 FR 24571, 3 CFR 2012 Comp., p. 243.

Subpart G—Penalties

§ 542.701 [Amended]

■ 15. In § 542.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 544—WEAPONS OF MASS DESTRUCTION PROLIFERATORS SANCTIONS REGULATIONS

■ 16. The authority citation for part 544 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13382, 70 FR 38567, 3 CFR, 2005 Comp., p. 170.

Subpart G—Penalties

§ 544.701 [Amended]

■ 17. In § 544.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 546—DARFUR SANCTIONS REGULATIONS

■ 18. The authority citation for part 546 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220.

Subpart G—Penalties

§ 546.701 [Amended]

■ 19. In § 546.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 547—DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS REGULATIONS

■ 20. The authority citation for part 547 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13413, 71 FR 64105, 3 CFR, 2006 Comp., p. 247; E.O. 13671, 79 FR 39949, 3 CFR, 2015 Comp., p. 280.

Subpart G—Penalties

§ 547.701 [Amended]

■ 21. In § 547.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 548—BELARUS SANCTIONS REGULATIONS

■ 22. The authority citation for part 548 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13405, 71 FR 35485; 3 CFR, 2007 Comp., p. 231.

Subpart G—Penalties

§ 548.701 [Amended]

■ 23. In § 548.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 549—LEBANON SANCTIONS REGULATIONS

■ 24. The authority citation for part 549 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13441, 72 FR 43499, 3 CFR, 2008 Comp., p. 232.

Subpart G—Penalties

§ 549.701 [Amended]

■ 25. In § 549.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 560—IRANIAN TRANSACTIONS AND SANCTIONS REGULATIONS

■ 26. The authority citation for part 560 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13846, 83 FR 38939, 3 CFR, 2018 Comp., p. 854.

Subpart G—Penalties

§ 560.701 [Amended]

■ 27. In § 560.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

■ 28. The authority citation for part 561 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, 3 CFR, 2010 Comp., p. 253; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13846, 83 FR 38939, 3 CFR, 2018 Comp., p. 854; E.O. 13871, 84 FR 20761.

Subpart G—Penalties

§ 561.701 [Amended]

■ 29. In § 561.701(a)(4), remove ''$302,584'' and add in its place ''$307,922''.

PART 566—HIZBALLAH FINANCIAL SANCTIONS REGULATIONS

■ 30. The authority citation for part 566 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–102, 129 Stat. 2205 (50 U.S.C. 1701 note); Pub. L. 115–272, 132 Stat. 4144 (50 U.S.C. 1701 note).

Subpart G—Penalties

§ 566.701 [Amended]

■ 31. In § 566.701(b), remove ''$302,584'' and add in its place ''$307,922''.

PART 576—IRAQ STABILIZATION AND INSURGENCY SANCTIONS REGULATIONS

■ 32. The authority citation for part 576 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13303, 68 FR 31931, 3 CFR, 2003 Comp., p. 227; E.O. 13315, 68 FR 52315, 3 CFR, 2003 Comp., p. 252; E.O. 13350, 69 FR 46055, 3 CFR, 2004 Comp., p. 196; E.O. 13364, 69 FR 70177, 3 CFR, 2004 Comp., p. 236; E.O. 13438, 72 FR 39719, 3 CFR, 2007 Comp., p. 224; E.O. 13668, 79 FR 31019, 3 CFR, 2014 Comp., p. 248.

Subpart G—Penalties

§ 576.701 [Amended]

■ 33. In § 576.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 583—GLOBAL MAGNITSKY SANCTIONS REGULATIONS

■ 34. The authority citation for part 583 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–328, Title XII, Subtitle F, 130 Stat. 2533 (22 U.S.C. 2656 note); E.O. 13818, 82 FR 60839, 3 CFR, 2017 Comp., p. 399.

§ 583.701 [Amended]

■ 35. In § 583.701(c), remove ''$302,584'' and add in its place ''$307,922''.

PART 584—MAGNITSKY ACT SANCTIONS REGULATIONS

■ 36. The authority citation for part 584 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 112–208, 126 Stat. 1502 (22 U.S.C. 5811 note).

§ 584.701 [Amended]

■ 37. In § 584.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 588—WESTERN BALKANS STABILIZATION REGULATIONS

■ 38. The authority citation for part 588 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13219, 66 FR 34777, 3 CFR, 2001 Comp., p. 778; E.O. 13304, 68 FR 32315, 3 CFR, 2004 Comp. p. 229.

Subpart G—Penalties

§ 588.701 [Amended]

■ 39. In § 588.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 592—ROUGH DIAMONDS CONTROL REGULATIONS

■ 40. The authority citation for part 592 is revised to read as follows:

Authority: 3 U.S.C. 301; 19 U.S.C. 3901–3913; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); E.O. 13312, 68 FR 45151, 3 CFR, 2003 Comp., p. 246.

Subpart F—Penalties

§ 592.601 [Amended]

■ 41. In § 592.601(a)(2), remove ''$13,669'' and add in its place ''$13,910''.

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 42. The authority citation for part 594 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 115–44, 131 Stat 886 (22 U.S.C. 9401 *et seq.*); E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13268, 67 FR 44751, 3 CFR 2002 Comp., p. 240; E.O. 13284, 68 FR 4075, 3 CFR, 2003 Comp., p. 161; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159; Pub. L. 115–348, 132 Stat. 5055 (50 U.S.C. 1701 note); Pub. L. 115–272, 132 Stat. 4144 (50 U.S.C. 1701 note).

Subpart G—Penalties

§ 594.701 [Amended]

■ 43. In § 594.701(a)(2), remove ''$302,584'' and add in its place ''$307,922''.

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

■ 44. The authority citation for part 597 continues to read as follows:

Authority: 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart G—Penalties

§ 597.701 [Amended]

■ 45. In § 597.701(b)(3), remove ''$79,874'' and add in its place ''$81,283''.

PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS

■ 46. The authority citation for part 598 is revised to read as follows:

Authority: 3 U.S.C. 301; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note).

Subpart G—Penalties

§ 598.701 [Amended]

■ 47. In § 598.701(a)(4), remove ''$1,503,470'' and add in its place ''$1,529,991''.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–07509 Filed 4–8–20; 8:45 am]

BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0203; FRL–10007–16–Region 4]

Air Plan Approvals; TN; Prevention of Significant Deterioration Infrastructure Requirements for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving portions of the Tennessee infrastructure State Implementation Plan (SIP) submission for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS) provided to EPA on September 13, 2018. Whenever EPA promulgates a new or revised NAAQS, the Clean Air Act (CAA or Act) requires that states adopt and submit a SIP submission to establish that the state's SIP meets infrastructure requirements for the implementation, maintenance, and enforcement of each such NAAQS. Specifically, EPA is taking final action to conditionally approve the portions of the Tennessee infrastructure SIP submission related to the prevention of significant deterioration (PSD) infrastructure

elements for the 2015 8-hour ozone NAAQS.

DATES: This rule will be effective May 11, 2020.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2019–0203. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nacosta C. Ward of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Ward can be reached by telephone at (404) 562–9140 or via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On October 1, 2015, EPA promulgated revised primary and secondary NAAQS for ozone, revising the 8-hour ozone standards from 0.075 parts per million (ppm) to a new more protective level of 0.070 ppm. *See* 80 FR 65292 (October 26, 2015). Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP revisions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. This particular type of SIP is commonly referred to as an ''infrastructure SIP.'' States were required to submit such SIP revisions for the 2015 8-hour ozone NAAQS to EPA no later than October 1, 2018.[1]

As explained in a notice of proposed rulemaking (NPRM) published February 11, 2020 (85 FR 7692), Tennessee cites to Tennessee Air Pollution Control Regulations (TAPCR) 1200–03–09–.01(4) ''Prevention of Significant Deterioration of Air Quality'' to demonstrate that its SIP meets the PSD-related infrastructure requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3),[2] and 110(a)(2)(J). Each of these requirements are met if the State's SIP includes a PSD program that meets current federal requirements, however, Tennessee's SIP-approved PSD program does not contain or reference the most recent version of 40 CFR part 51, appendix W, *Guideline on Air Quality Models.*[3] Therefore, on November 15, 2019, TDEC submitted a commitment letter to EPA requesting conditional approval of the PSD-related program requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3) and 110(a)(2)(J) of the aforementioned infrastructure SIP submission. In its commitment letter, Tennessee commits to satisfy the PSD program requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) for the 2015 8-hour ozone NAAQS by revising their PSD regulations to reflect the most recent version of appendix W and submitting SIP revisions containing these revised rules within one year of final conditional approval.

If Tennessee meets its commitment to submit the SIP revision(s) within one year of the final conditional approval, the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3) and 110(a)(2)(J) of the conditionally approved infrastructure SIP submissions will remain a part of the SIP until EPA takes final action approving or disapproving the new SIP revision(s). However, if the State fails to submit these revisions within the one-year timeframe, the conditional approval will automatically become a disapproval one year from EPA's final conditional approval and EPA will provide notification of the disapproval of these requirements. If the conditional approval is converted to a disapproval, the final disapproval triggers the FIP requirement under CAA section 110(c).

In the NPRM published on February 11, 2020 (85 FR 7692), EPA proposed to conditionally approve Tennessee's SIP submission provided on September 13, 2018, for the applicable PSD-related infrastructure SIP requirements of the 2015 8-hour ozone NAAQS. The NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the NPRM were due on or before March 12, 2020, no adverse comments were received.

II. Final Action

EPA is taking final action to conditionally approve the portions of Tennessee's September 13, 2018, 2015 8-hour ozone infrastructure SIP submission that address the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J). All other outstanding applicable infrastructure requirements for this SIP submission have been or will be addressed in separate rulemakings.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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. This action merely approves state law as meeting Federal requirements and do 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.*);

[1] In infrastructure SIP submissions, states generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2).

[2] Section 110(a)(2)(D)(i)(II) contains a provision that prohibits emissions activity in one state interfering with measures required to prevent significant deterioration of air quality in another state, which is commonly referred to as ''prong 3.''

[3] EPA approved the most recent version of appendix W on January 17, 2017, at 82 FR 5182.

• 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 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 8, 2020. 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, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 17, 2020.

Mary S. Walker,

Regional Administrator, Region 4.

40 CFR part 52 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 RR—Tennessee

■ 2. Amend § 52.2219 by designating the text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2219 Conditional approval.

(a) * * *

(b) Tennessee submitted a letter to EPA on November 15, 2019, with a commitment to address the State Implementation Plan deficiencies regarding the PSD-related requirements of CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) (Prong 3), and 110(a)(2)(J) for the 2015 8-hour ozone NAAQS. EPA conditionally approved these portions of Tennessee's September 13, 2018, infrastructure SIP submission in an action published in the **Federal Register** on April 9, 2020. If Tennessee fails to meet its commitment by April 9, 2021, the conditional approval will become a disapproval on that date and EPA will issue a notification to that effect.

[FR Doc. 2020–06586 Filed 4–8–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA–HQ–OPPT–2018–0321; FRL–10006–39]

RIN 2070–AK33

Chemical Data Reporting; Extension of the 2020 Submission Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) regulations by extending the submission deadline for 2020 reports from September 30, 2020, to November 30, 2020. This is a one-time extension for the 2020 submission period only. The CDR regulations require manufacturers (including importers) of certain chemical substances included on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on the manufacturing, processing, and use of the chemical substances.

DATES: This final rule is effective April 9, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0321, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Susan Sharkey, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8789; email address: *sharkey.susan@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (including import) chemical substances listed on the TSCA Inventory. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include but are not limited to:

- Chemical manufacturers (including importers) (NAICS codes 325 and 324110, *e.g.,* chemical manufacturing and processing and petroleum refineries).
- Chemical users and processors who may manufacture a byproduct chemical substance (NAICS codes 22, 322, 331, and 3344, *e.g.,* utilities, paper manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing).

B. What action is the Agency taking?

The 2020 CDR submission period is from June 1 to September 30, 2020 (40 CFR 711.20). EPA is issuing this amendment to extend the deadline for 2020 CDR submission reports until November 30, 2020. This is a one-time extension: subsequent submission periods (recurring every four years, next in 2024) are not being amended.

The Agency is taking this action to provide additional time for the regulated community to familiarize themselves with the changes to the CDR reporting requirements as a result of the CDR Revisions Final Rule (FRL–10006–56) that published elsewhere in this **Federal Register** and to allow time for reporters to familiarize themselves with an updated public version of the reporting tool. EPA believes it is appropriate to extend the reporting period to allow the regulated community additional time to submit their reports. With respect to the timing of this action, the need for the Agency to extend the deadline arose, in part, as a result of the time needed to develop a final rule (the CDR Revisions Final Rule (FRL–10006–56) that published elsewhere in this **Federal Register**) while addressing public comments received, to incorporate broader Agency policy decisions relevant to data reporting, and to carry out interagency review of the CDR Revisions Final Rule.

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

The CDR rule was issued pursuant to the authority of TSCA section 8(a), 15 U.S.C. 2607(a). In addition, under section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), an agency may issue a final rule without a prior proposal if it finds that notice and public participatory procedures are impracticable, unnecessary, or contrary to the public interest. In this case, the Agency finds that normal notice and public process rulemaking is impracticable and unnecessary because this is just an extension of the reporting period. Given that the current reporting deadline is September 30, 2020, it is impracticable to follow notice and comment procedures to extend that deadline because the typical notice and comment rulemaking process would not allow a rule to be finalized before the current reporting deadline, and is unnecessary because extending the deadline is an administrative rulemaking.

This action does not alter the substantive CDR reporting requirements in any way. The Agency also believes the one-time extension will not result in a significant delay in the processing and availability of CDR information to potential users. Further, this action is consistent with the public interest because it is designed to facilitate compliance with the CDR rule and to ensure that the 2020 collection includes accurate data on chemical manufacturing, processing, and use in the United States. Finally, any impact on the regulated community is expected to be beneficial given that the one-time extension provides additional time to submit accurate CDR reports to EPA.

Similarly, under APA section 553(d), 5 U.S.C. 553(d), an agency may make a rule immediately effective ''for good cause found and published with the rule.'' For the reasons discussed in this unit, EPA believes that there is ''good cause'' to make this amendment effective upon publication in the **Federal Register**.

II. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is classified as a final rule because it makes an amendment to the Code of Federal Regulations (CFR). The amendment to the CFR is necessary to allow for a one-time extension to the 2020 CDR reporting period. This action does not impose any new requirements or amend substantive requirements. As such, this action is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

This action does not contain any new or revised information collections subject to OMB approval under the PRA, 44 U.S.C. 3501 *et seq.* Information collection activities contained in CDR are already approved by the Office of Management and Budget (OMB) under OMB Control No. 2070–0162 (EPA ICR No. 1884).

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA, 5 U.S.C. 601 *et seq.* The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice and comment requirements under the APA because the Agency has invoked the APA ''good cause'' exemption.

D. Unfunded Mandates Reform Act (UMRA)

This action will not impose any enforceable duty or contain any unfunded mandate as described under Title II of UMRA, 2 U.S.C. 1531–1538 *et seq.*

E. Executive Order 13132: Federalism

This action will not have federalism impacts as defined in Executive Order 13132 (64 FR 43255, August 10, 1999) because this action will not have substantial direct effects on States, on the relationship between the Federal Government and States, or on the distribution of power and responsibilities between the Federal Government and States.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action will not have tribal implications as defined in Executive Order 13175 (65 FR 67249, November 9, 2000) because this action will not have substantial direct effects on tribal governments, 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.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined under Executive Order 12866, and it does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898 (59 FR 7629, February 16, 1994).

III. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in Unit I.C., including the basis for that finding.

List of Subjects in 40 CFR Part 711

Environmental protection, Chemicals, Confidential Business Information (CBI), Hazardous materials, Importer, Manufacturer, Reporting and recordkeeping requirements.

Dated: March 17, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR chapter I is amended as follows:

PART 711—[AMENDED]

■ 1. The authority citation for part 711 continues to read as follows:

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

■ 2. In § 711.20, revise the third sentence to read as follows.

§ 711.20 When to report.

* * * The 2020 CDR submission period is from June 1, 2020, to November 30, 2020. Subsequent recurring submission periods are from June 1 to September 30 at 4-year intervals, beginning in 2024. * * *

[FR Doc. 2020–06074 Filed 4–8–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 18–213 and 20–89; FCC 20–44; FRS 16647]

Promoting Telehealth for Low-Income Consumers; COVID–19 Telehealth Program

AGENCY: Federal Communications Commission.

ACTION: Final order; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) establishes two programs: The COVID–19 Telehealth Program designed to distribute a $200 million appropriation from Congress under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, to help health care providers provide connected care services to patients at their homes or mobile locations in response to the novel Coronavirus 2019 disease (COVID–19) pandemic, and the Connected Care Pilot Program (Pilot Program) designed to make available up to $100 million over three years to examine how the Universal Service Fund can help support the trend towards connected care services to consumers, particularly for low-income Americans and veterans.

DATES: The Report and Order is effective May 11, 2020, except for the information collections requiring Office of Management and Budget (OMB) approval. The Commission received OMB approval of the COVID–19 Telehealth Program information collection requirements on April 6, 2020, and those requirements are effective April 9, 2020. The Pilot Program requirements will not become effective until approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date of OMB approval of the Pilot Program requirements.

FOR FURTHER INFORMATION CONTACT: Please email *EmergencyTelehealthSupport@fcc.gov* with questions related to the COVID–19 Telehealth Program, and *ConnCarePltProg@fcc.gov* with questions related to the Pilot Program.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Promoting Telehealth for Low-Income Consumers; COVID–19 Telehealth Program, Report and Order (R&O), in WC Docket Nos. 18–213 and 20–89; FCC 20–44, adopted March 31, 2020 and released April 2, 2020. Due to the COVID–19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-20-44A1.pdf.*

I. Introduction

1. The novel Coronavirus disease 2019 (COVID–19) pandemic and associated respiratory illness have spread throughout the United States in recent weeks. In response to this pandemic, many health care providers are expanding existing telehealth services and implementing new telehealth services, and the demand for connected care services provided directly to patients in their homes or their mobile locations is skyrocketing. As a result, many health care providers are facing new challenges in technical infrastructure and experiencing staffing issues. In response to the outbreak, on March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (*CARES*), Act into law, Public Law 116–136, 134 Stat. 281 (2020), providing, among a panoply of other actions, $200 million to the FCC to support health care providers in the fight against the ongoing pandemic.

2. In the R&O, to effectuate Congress' intent in enacting the *CARES* Act, the Commission establishes a $200 million emergency *COVID–19 Telehealth Program* to implement the CARES Act and ensure access to connected care services and devices in response to the ongoing COVID–19 pandemic and surge

in demand for connected care services. The support provided through the *COVID–19 Telehealth Program* will help eligible health care providers purchase telecommunications services, information services, and devices necessary to provide critical connected care services, whether for treatment of coronavirus or other health conditions during the coronavirus pandemic. The *COVID–19 Telehealth Program* is funded through a $200 million appropriation signed into law as part of the CARES Act, and the program will not rely on Universal Service Fund (USF or Fund) support. The Commission also establishes a longer-term Connected Care Pilot Program (*Pilot Program*) within the Universal Service Fund that will make available up to $100 million over three years to examine how the Fund can help support the trend towards connected care services, particularly for low-income Americans and veterans. The *Pilot Program* will help defray eligible health care providers' costs of providing connected care services, with a particular emphasis on supporting these services for eligible low-income Americans and veterans. The Commission expects that the *Pilot Program* will benefit many low-income and veteran patients who are responding to a wide variety of health challenges such as diabetes management, opioid dependency, high-risk pregnancies, pediatric heart disease, mental health conditions, and cancer. The Commission also expects that the *Pilot Program* will provide meaningful data that will help to better understand how universal service funds can support health care provider and patient use of connected care services, and how supporting health care provider and patient use of connected care services can improve health outcomes and reduce health care costs. The Commission anticipates that the data and information collected through the *Pilot Program* could also have the ancillary benefit of aiding policy makers and legislators in the consideration of broader reforms—such as statutory changes or updates to rules administered by other agencies—that could support this trend towards connected care.

II. COVID–19 Telehealth Program

3. The *COVID–19 Telehealth Program* is one piece of a comprehensive approach to reducing barriers to telehealth services for health care providers and their patients throughout the country in response to the COVID–19 pandemic. Working in step with other federal efforts to provide relief related to the COVID–19 pandemic, the *COVID–19 Telehealth Program* will be open to eligible health care providers, whether located in rural or non-rural areas, and will provide eligible health care providers support to purchase telecommunications, information services, and connected devices to provide connected care services in response to the coronavirus pandemic. The *COVID–19 Telehealth Program* will only fund monitoring devices (*e.g.,* pulse-ox, BP monitoring devices), that are themselves connected. The *COVID–19 Telehealth Program* will not fund unconnected devices that patients can use at home and then share the results with their medical professional remotely.

4. The *COVID–19 Telehealth Program* will provide selected applicants full funding for eligible services and devices. The *COVID–19 Telehealth Program* has a congressionally appropriated $200 million budget, and these funds will be available until they are expended or until the current pandemic has ended. In order to ensure as many applicants as possible receive available funding, the Commission does not anticipate awarding more than $1 million to any single applicant. The Commission will award support to eligible applicants based on the estimated costs of the supported services and connected devices they intend to purchase, as described in each health care provider's respective application. However, in order to give each health care provider maximum flexibility to respond to changing circumstances during the pandemic, the Commission does not require applicants to purchase only the services and connected devices identified in their applications. They may rather use awarded support to purchase any necessary eligible services and connected devices. In addition, applicants that have exhausted initially awarded funding may request additional support.

5. *Application, Evaluation, and Selection Process.* Because of the urgency attendant in combating the COVID–19 outbreak, the Commission establishes a streamlined application process for the *COVID–19 Telehealth Program,* separate from the longer application process adopted for the broader *Pilot Program.* The Commission directs the Wireline Competition Bureau (Bureau) to review the applications, in consultation with the FCC's Connect2Health Task Force and its medical and public health experts, and announce selected participants and funding amounts for each selected applicant as rapidly as possible on a rolling basis, and continue reviewing additional applications and selecting participants until it has committed all *COVID–19 Telehealth Program* funding or the current pandemic has ended. In reviewing applications, the Commission has a strong interest in targeting funding towards areas that have been hardest hit by COVID–19. In addition, given the public health emergency and widespread scope of the coronavirus pandemic, unlike the broader *Pilot Program,* the Commission will not target *COVID–19 Telehealth Program* funding toward specific medical conditions, patient populations, or geographic areas. However, the Commission strongly encourages selected applicants to target the funding they receive through the *COVID–19 Telehealth Program* to high-risk and vulnerable patients to the extent practicable. The Commission recognizes that some health care providers may have been under pre-existing strain (*e.g.,* large underserved or low-income patient population; health care provider shortages; rural hospital closures; limited broadband access and/or internet adoption) and encourage applicants to document such factors in their applications. While health care providers may use the *COVID–19 Telehealth Program* to treat patients that have COVID–19, the program is not limited to treating those types of patients as long as program funds are used ''to prevent, prepare for, and respond to coronavirus.'' For instance, treating other types of conditions or patient groups through the Commission's *COVID–19 Telehealth Program* could free up resources, including physical space and equipment in a brick-and-mortar health care facility, allow health care providers to remotely treat patients with other conditions who could risk contracting coronavirus by visiting a health care facility, and could reduce health care professionals' unnecessary exposure to coronavirus. The Commission will also consider as part of a health care provider's application a showing that telemedicine directly aids in the prevention of pandemic spread by facilitating social distancing and similar measures in the community. Connected devices and services like patient-reported outcome platforms funded through the *COVID–19 Telehealth Program* must be integral to patient care.

6. *Eligible Health Care Providers.* Consistent with the 1996 Act and the CARES Act, the Commission limits the program to nonprofit and public eligible health care providers that fall within the categories of health care providers in section 254(h)(7)(B) of the 1996 Act: (1)

Post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; (2) community health centers or health centers providing health care to migrants; (3) local health departments or agencies; (4) community mental health centers; (5) not-for-profit hospitals; (6) rural health clinics; (7) skilled nursing facilities; or (8) consortia of health care providers consisting of one or more entities falling into the first seven categories. The Commission has more than two decades of experience administering its RHC Program for these types of health care providers, and limiting the *COVID–19 Telehealth Program* to public and nonprofit health care providers that fall within these statutory categories is in the public interest because it will facilitate the administration of the program and ensure that funding is targeted to health care providers that are likely to be most in need of funding to respond to this pandemic while helping ensure that funding is used for its intended purposes.

7. Interested health care providers that do not already have an eligibility determination can obtain one by filing an FCC Form 460 with the Universal Service Administrative Company (USAC). The Commission directs USAC to review and process eligibility forms for health care providers interested in participating in the *COVID–19 Telehealth Program* as expeditiously as possible. Health care providers that are interested in the *COVID–19 Telehealth Program,* but do not yet have an eligibility determination from USAC, can still submit applications for the *COVID–19 Telehealth Program* while their FCC Form 460 is pending.

8. *Application Process.* To be considered for participation in the *COVID–19 Telehealth Program,* interested eligible health care providers must submit applications that, at a minimum, contain the information detailed in the following.

- Names, addresses, county, and health care provider numbers (if available), for health care providers seeking funding through the *COVID–19 Telehealth Program* application and the lead health care provider for applications involving multiple health care providers.
- Contact information for the individual that will be responsible for the application (telephone number, mailing address, and email address).
- Description of the anticipated connected care services to be provided, the conditions to be treated, and the goals and objectives. This should include a brief description of how COVID–19 has impacted your area, your patient population, and the approximate number of patients that could be treated by the health care provider's connected care services during the COVID–19 pandemic. If you intend to use the *COVID–19 Telehealth Program* funding to treat patients without COVID–19, describe how this would free up your resources that will be used to treat COVID–19 and/or how this would otherwise prevent, prepare for, or respond to the disease by, for example, facilitating social distancing.
- Description of the estimated number of patients to be treated.
- Description of the telecommunications services, information services, or ''devices necessary to enable the provision of telehealth services'' requested, the total amount of funding requested, as well as the total monthly amount of funding requested for each eligible item. If requesting funding for devices, description of all types of devices for which funding is requested, how the devices are integral to patient care, and whether the devices are for patient use or for the health care provider's use. As noted in the document, monitoring devices (*e.g.* pulse-ox, BP monitoring devices) will only be funded if they are themselves connected.
- Supporting documentation for the costs indicated in their application, such as a vendor or service provider quote, invoice, or similar information.
- A timeline for deployment of the proposed service(s) and a summary of the factors the applicant intends to track that can help measure the real impact of supported services and devices.

9. Additionally, *COVID–19 Telehealth Program* applicants will also be required, at the time of submission of their application, to certify, among other things, that they will comply with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy and reimbursement laws and regulations, and applicable medical licensing laws and regulations, as waived or modified in connection with the COVID–19 pandemic, as well as all applicable *COVID–19 Telehealth Program* requirements and procedures, including the requirement to retain records to demonstrate compliance with the *COVID–19 Telehealth Program* requirements and procedures for three years following the last date of service, subject to audit. Health care providers that participate in the *COVID–19 Telehealth Program* must also comply with all applicable federal and state laws, including the False Claims Act, the Anti-Kickback Statute, and the Civil Monetary Penalties Law, as waived or modified in connection with the COVID–19 pandemic. Further, applicants will also be required to certify that they are not already receiving or expecting to receive other federal or state funding for the exact same services or devices for which they are requesting support under the *COVID–19 Telehealth Program.*

10. The Wireline Bureau will issue a public notice announcing the date when COVID–19 Telehealth Program applications will be accepted and instructions for filing applications with the Commission. This date will be after April 9, 2020. Applicants will be required to complete each section of the application and make the required certifications at the end of the application. Applicants may request that any materials or information submitted to the Commission in its application be withheld from public inspection pursuant to the procedures set forth in section 0.459 of the Commission's rules.

11. *Instructions for Filing Applications. COVID–19 Telehealth Program* applications must reference WC Docket No. 20–89, and must be filed electronically consistent with the instructions provided in a subsequent public notice. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Applicants must also send a courtesy copy of their application via email to *EmergencyTelehealthSupport@fcc.gov.*

12. *Evaluation of Applications and Selection Process.* The Bureau, in consultation with the FCC's Connect2Health Task Force, will evaluate the *COVID–19 Telehealth Program* applications and will select participants based on applicants' responses to the criteria listed in the document. The Commission's goal is to select applications that target areas that have been hardest hit by COVID–19 and where the support will have the most impact on addressing the health care needs. In selecting applicants, the Commission directs the Bureau to consider the funding sought by each applicant compared to the total *COVID–19 Telehealth Program* budget. This does not mean that the Bureau will evaluate applications based solely on requested funding, but the Bureau will seek to select as many applicants as reasonably possible within the *COVID–19 Telehealth Program's* limited budget. Upon selection, the Bureau will provide additional guidance to program participants, as necessary, to facilitate the implementation of the *COVID–19 Telehealth Program.* Applicants who are selected for the *COVID–19 Telehealth*

Program may later submit applications to participate in the broader *Pilot Program* but may not request funding for the same exact services from both programs at the same time.

13. *Requesting Funding, Invoicing, and Disbursements.* The Commission directs the Bureau and the Office of the Managing Director (OMD) to develop processes for selected applicants to submit invoices and receive reimbursements for services and devices supported through the *COVID–19 Telehealth Program,* and any necessary subsequent filings. The Commission also directs OMD and the Bureau to include in the application forms or subsequent filings by program participants any information necessary to satisfy the Commission's oversight responsibilities and/or agency specific/government-wide reporting obligations associated with the $200 million appropriation by Congress. After receiving the eligible services and/or equipment, health care provider will submit invoicing forms on a monthly basis and supporting documentation to the Commission to receive reimbursement for the cost of the eligible services and/or devices they have received from their applicable service providers or vendors under the *COVID–19 Telehealth Program.* The Bureau and OMD shall develop a process for reviewing the monthly invoicing forms and supporting documentation and for issuing disbursements directly to the participating health care providers rather than to the applicable service providers or vendors. *COVID–19 Telehealth Program* health care provider participants will be required to make certifications as part of the invoicing form submission to ensure that *COVID–19 Telehealth Program* funds are used for their intended purpose.

14. The *COVID–19 Telehealth Program* will not provide funding for health care provider administrative costs associated with participating in the *COVID–19 Telehealth Program* (*e.g.,* costs associated with completing *COVID–19 Telehealth Program* applications and other submissions) or other miscellaneous expenses (*e.g.,* doctor and staff time spent on the *COVID–19 Telehealth Program* and outreach). The Commission emphasizes that *COVID–19 Telehealth Program* funds may only be used for services and devices covered under the *CARES* Act. The costs of ineligible items must not be included in the reimbursement requests for the *COVID–19 Telehealth Program.* To guard against potential waste, fraud, and abuse, the Commission makes clear that participating health care providers are prohibited from selling, reselling, or transferring services or devices funded through the *COVID–19 Telehealth Program* in consideration for money or any other thing of value.

15. *Procurement for COVID–19 Telehealth Program-Supported Services and Equipment, and Document Retention.* The *COVID–19 Telehealth Program* is funded through a congressional appropriation and not the USF. Given the immediate need to award and disburse the *COVID–19 Telehealth Program* funding to health care providers, the Commission will not require *COVID–19 Telehealth Program* participants to conduct a competitive bidding process to solicit and select eligible services or devices, or otherwise comply with the competitive bidding requirements that apply to the RHC Program and the broader *Pilot Program.* The Commission finds that, in light of the coronavirus pandemic and ongoing community efforts to slow its spread, requiring *COVID–19 Telehealth Program* participants to seek competitive bids prior to requesting funding would cause unnecessary delays and pose an unreasonable burden on health care providers during this unprecedented time. The Commission also finds that it would not be in the public interest during this national health crisis to prohibit participating health care providers from receiving gifts or things of value from service providers valued at over $20, including, but not limited to devices, equipment, free upgrades or other items.

16. While the Commission will not require health care providers to conduct a competitive procurement process to receive *COVID–19 Telehealth Program* funding, the Commission strongly encourages applicants to purchase cost-effective eligible services and devices to the extent practicable during this time. The Commission also emphasizes that health care providers and service providers must comply with the requirements applicable to the *COVID–19 Telehealth Program.* To help guard against potential waste, fraud, and abuse, participants in the *COVID–19 Telehealth Program* must maintain records related to their participation in the *COVID–19 Telehealth Program* to demonstrate their compliance with the program requirements for at least three years from the last date of service under the program and must present that information to the Commission or its delegates upon request. Health care providers participating in the *COVID–19 Telehealth Program* may also be subject to compliance audits in order to ensure compliance with the rules and requirements for the *COVID–19 Telehealth Program* and must provide documentation related to their participation in the *COVID–19 Telehealth Program* in connection with any such audit.

17. *Outreach for COVID–19 Telehealth Program.* Upon release of the R&O, in order to ensure that health care providers are aware of available funding under the *COVID–19 Telehealth Program,* the Commission will, to the extent possible, coordinate with other federal agencies to distribute information about the program to the health care community. The Commission also directs the Bureau to coordinate with the FCC's Connect2Health Task Force and USAC as necessary to promote and announce the *COVID–19 Telehealth Program* to interested stakeholders including service providers and health care providers. The Commission is committed to addressing the needs of health care providers as demand for connected care services increases to address the coronavirus pandemic. Such coordination and outreach will improve the overall efficacy of the *COVID–19 Telehealth Program.*

18. *Post-Program Feedback.* Within six months after the conclusion of the *COVID–19 Telehealth Program, COVID–19 Telehealth Program* participants should provide a report to the Commission in a format to be determined by the Bureau on the effectiveness of the *COVID–19 Telehealth Program* funding on health outcomes, patient treatment, health care facility administration, and any other relevant aspects of the pandemic. Such information could include feedback on the application and invoicing processes, in what ways funding was helpful in providing or expending telehealth services, including anonymized patient accounts, how funding promoted innovation and improved health outcomes, and other areas for improvement. Specific information about how to provide feedback and associated deadlines will be provided to *COVID–19 Telehealth Program* participants at a later time. This information will assist efforts to respond to pandemics and other national emergencies in the future.

III. Connected Care Pilot Program

19. The *Pilot Program* will make available up to $100 million over a three-year funding period, separate from the budgets of the existing universal service programs, to cover 85% of the eligible costs of broadband connectivity, network equipment, and information services necessary to provide connected care services to the intended patient

population. All eligible nonprofit and public health care providers that fall within the statutory categories under section 254(h)(7)(B), regardless of whether they are non-rural or rural, can apply for the *Pilot Program.* Eligible health care providers must first submit applications to the Commission, and after review, the Commission will announce the selected projects and provide further information on additional requirements for the *Pilot Program.*

20. For purposes of the *Pilot Program,* the Commission considers ''connected care'' as a subset of telehealth that uses broadband internet access service-enabled technologies to deliver directly to patients' remote medical, diagnostic, and treatment-related services outside of traditional brick and mortar medical facilities—specifically to patients at their mobile location or residence. For purposes of the *Pilot Program,* the Commission also defines ''telehealth'' as the broad range of health care-related applications that depend upon broadband connectivity, including telemedicine; exchange of electronic health records; collection of data through Health Information Exchanges and other entities; exchange of large image files (*e.g.,* X-ray, MRIs, and CAT scans); and the use of real-time and delayed video conferencing for a wide range of telemedicine, consultation, training, and other health care purposes. Connected care services can be provided by doctors, nurses, or other health care professionals. Health care providers will have the flexibility to identify the medical conditions to be treated through their proposed pilot projects, and whether to treat a single medical condition or multiple medical conditions. For purposes of the *Pilot Program,* the Commission uses the U.S. Department of Health and Human Services' definition of ''medical condition'' to identify the types of health conditions that can be treated through the Pilot—''any condition, whether physical or mental, including but not limited to any condition resulting from illness, injury (whether or not the injury is accidental), pregnancy, or congenital malformation.''

21. In reviewing applications, the Commission is interested in targeting limited *Pilot Program* funding towards pilot projects that are primarily focused on treating public health epidemics, opioid dependency, mental health conditions, high-risk pregnancy, or chronic or recurring conditions that typically require at least several months to treat, including, but not limited to, diabetes, cancer, kidney disease, heart disease, and stroke recovery. Focusing *Pilot Program* funding on these conditions identified best ensures that limited *Pilot Program* resources are targeted to populations that are most in need. Moreover, targeting these types of health conditions, which impact large segments of the population, and often require several months or more of treatment, or are public health crises will provide more meaningful data to track progress towards the *Pilot Program* goals of helping health care providers to improve health outcomes and reduce costs, and will also promote the efficient, fiscally responsible use of universal service funds.

22. *Budget Number of Pilot Projects and Support Amount Per Project, Funding Duration, and Discount Level.* The *Pilot Program* will make available up to $100 million over three years for selected pilot projects. Targeting this amount of funding for qualifying eligible services and equipment under the *Pilot Program* is sufficient to obtain meaningful data and ensure significant interest from a wide range of participants. Funding the *Pilot Program* in this manner will not significantly increase the contributions burden on consumers and will not impact the budgets of, or disbursements for, the other existing universal service programs.

23. To secure the funds for the *Pilot Program,* the Commission directs USAC to separately collect funds for the *Pilot Program* each quarter beginning with the demand filing for the fourth quarter of 2020. USAC should collect necessary funds up to the amount of the budget over the entire three-year period in order to minimize any impact on the contribution factor. The Commission anticipates the collection schedule would increase the quarterly contribution factor by approximately 0.11%. Moreover, by starting the collection before selecting the pilot projects, USAC will have funding on hand as soon as the pilot projects begin to seek support. Requests for funding may vary year to year and therefore *Pilot Program* funding may not be distributed evenly each year. While anticipating significant participation in the *Pilot Program,* total amount disbursed will depend upon those funds ultimately committed by USAC, invoiced, and disbursed. Unused collected *Pilot Program* funds will be carried forward to subsequent quarters over the duration of the *Pilot Program* for use by pilot projects and need not be returned to offset future collections. Any unused funds that remain at the end of the *Pilot Program* will be used to reduce collections for the ongoing universal service programs.

24. *Discount Level.* The *Pilot Program* will provide universal service support for 85% of the cost of eligible services and equipment. This support amount will allow for funding of a sufficient number of pilot projects to provide meaningful data and provide substantial financial incentive for health care providers to participate in the *Pilot Program.* Consistent with the Commission's existing rules for the Healthcare Connect Fund Program, health care providers must contribute their portion of the eligible costs from eligible sources (*e.g.,* the applicant, eligible health care provider, participating patients, or state, federal, or Tribal funding or grants) and cannot use ineligible sources (*e.g.,* direct payments from vendors or service providers) to pay their share of the requested services.

25. *Number of Pilot Projects and Support Amount Per Project.* Based on the record, the Commission declines to set a limit on the number of pilot projects selected for the *Pilot Program* or the amount of support requested per pilot project. Setting a fixed number of pilot projects or a fixed amount per-project will artificially limit the number of pilot projects to be funded even before pilot project proposals are submitted and evaluated, and will not provide enough flexibility to select a diverse group of pilot projects. The Commission does not anticipate allocating all of the *Pilot Program* funds on one or two large projects. In reviewing pilot project applications, the Commission will be mindful of the reasonableness of the estimated total support amount indicated in each application, looking specifically at the proportion to the total *Pilot Program* budget and individual project size, to provide sufficient funding to enough projects to generate meaningful data.

26. *Duration.* The *Pilot Program* will provide selected pilot projects support for a three-year funding period with separate transition periods of up to six months before and after the three-year funding period. Specifically, selected pilot participants will have up to six months from the date of their initial funding commitment letter from USAC to organize and start their pilot projects (including, but not limited to procuring eligible services or network equipment), and up to six months after the funding end date on their final funding commitment letters to wind down their pilot projects and complete any necessary administrative tasks. Providing a ramp up period of up to six months will allow sufficient time for health care providers to implement pilot project plans and begin offering

connected care services. Extending the *Pilot Program* for too long risks stale data, and therefore providing selected pilot projects up to six months to ramp and up to six months to wind down to ensure a reasonable timeframe to obtain meaningful, current data. There may be unforeseen circumstances that arise when implementing or operating the pilot projects, and therefore the Bureau is delegated authority to grant limited extensions of deadlines in order to ensure the successful operation of the *Pilot Program.*

27. *Eligible Health Care Providers, Patients, and Service Providers.* The Commission establishes the *Pilot Program* pursuant to the legal authority under section 254(h)(2)(A), which directs the Commission to establish competitively neutral rules to enhance, to the extent technically feasible and economically reasonable, access to ''advanced telecommunications and information services'' for public and nonprofit health care providers. Accordingly, for purposes of the *Pilot Program,* the Commission limits participation to the statutorily-enumerated categories of ''health care provider.'' Eligible nonprofit or public health care providers include: (1) Post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools; (2) community health centers or health centers providing health care to migrants; (3) local health departments or agencies; (4) community mental health centers; (5) not-for-profit hospitals; (6) rural health clinics; (7) skilled nursing facilities; or (8) consortia of health care providers consisting of one or more entities falling into the first seven categories.

28. To promote diversity among pilot projects, and to maximize the data collected, *Pilot Program* support will be available to health care providers located in both rural and non-rural areas. Section 254(h)(2)(A) does not limit the provision of universal service support to health care providers in rural areas. Consistent with the record, the Commission believes that the *Pilot Program* should target vulnerable and medically underserved patients regardless of whether these patients or their health care providers are located in a rural or non-rural area.

29. In selecting pilot projects, the Commission has a strong preference for health care providers that have either (1) experience with providing telehealth or connected care services to patients (*e.g.,* remote patient monitoring, store-and-forward imaging, or video conferencing) beyond using electronic health records, or (2) a partnership with another health care provider, government agency, or designated telehealth resource center with such experience that will work with the health care provider to implement its proposed pilot project. These types of health care providers are more likely to submit pilot projects that can be successfully implemented within the three-year period and better enable the Commission to collect meaningful data on the impact of the *Pilot Program.* At the same time, this approach also provides a path for eligible health care providers that lack telehealth experience, many of which may serve high percentages of veterans and low-income patient populations, to participate in the *Pilot Program.*

30. *Targeted Patient Populations.* The Commission has a strong preference for pilot projects that can demonstrate that they will primarily benefit veterans or low-income individuals. Veteran and low-income patients are more likely to have complex, high-cost health care needs, reside in areas with physician shortages, and may not have mobile or residential internet access for connected care services. Therefore, emphasizing pilot projects that will primarily benefit low-income patients or veterans is appropriate as it will expand connected care services to individuals who are less likely to have access to these innovative services without universal service support. Participating patients may only participate in one pilot project and cannot participate in multiple pilot projects as part of the *Pilot Program.*

31. The Commission also concludes that health care providers are in the best position to identify patients for their pilot projects. To the extent a selected pilot project asserts that it will primarily benefit low-income or veteran patients, the pilot project must maintain adequate documentation of the numbers of participating veterans or low-income patients served through that pilot project compared to other patients served. For purposes of the *Pilot Program,* health care providers can determine whether a patient is considered low-income by determining whether (1) the patient is eligible for Medicaid or (2) the patient's household income is at or below 135% of the U.S. Department of Health and Human Services Federal Poverty Guidelines. Using these two criteria to identify low-income patients for purposes of the *Pilot Program* will allow a large number of low-income Americans to participate in the *Pilot Program,* including many residents of medically underserved rural areas. In addition, using these criteria will facilitate efficient program administration, minimize the potential for waste, fraud, and abuse, while still appropriately targeting the population of patients that the Commission intends to primarily benefit from connected care services through the *Pilot Program.*

32. Health care providers may determine whether a patient qualifies as a veteran for purposes of the *Pilot Program* by confirming that the patient qualifies for health care through the VA. The Commission declines to apply an income limit to veterans. While certain veterans who are eligible for health care through the VA undergo means testing when enrolling for VA health care, other veterans (*e.g.,* those with service-connected disabilities) may not be required to undergo means testing. The Commission believes that veterans, regardless of income level, who are eligible for health care through the VA are an important population to include in the *Pilot Program.* As reported in the Bureau's *Veterans Broadband Report* to Congress (May 1, 2019), a significant number of veterans suffer from a disability, reside in rural areas, and/or are older than the general population, and therefore would stand to benefit from connected care services. While the Commission declines to adopt an income criterion for veterans, the expectation is that pilot projects focused on serving veterans will primarily focus on veteran populations that are more likely to experience issues accessing health care.

33. *Service Providers.* Eligible health care providers that participate in the *Pilot Program* can receive support for qualifying broadband service from any broadband provider, regardless of whether that provider is designated as an eligible telecommunications carrier (ETC). Section 254(c)(3) makes clear that, in addition to the supported services included in the definition of universal service in section 254(c), ''the Commission may designate additional services for such support mechanisms for . . . health care providers for the purposes of subsection (h).'' Section 254(h)(2)(A) in turn directs the Commission ''to enhance to the extent technically feasible and economically reasonable, access to advanced telecommunications services and information services'' for health care providers and does not by its language require that such services be provided by ETCs. The Commission has previously explained that language in section 254(e) limiting universal service reimbursements to ETCs does not apply to services supported under section 254(h)(2)(A). Moreover, allowing non-ETCs to provide broadband service through the *Pilot Program* will incent participation among a diverse range of both health care providers and service

providers while promoting flexibility, competition, and innovation.

34. *Eligible Services and Equipment.* The *Pilot Program* will fund 85% of the qualifying costs incurred by eligible health care providers. These costs include: (1) Patient broadband internet access services, (2) health care provider broadband data connections, (3) other connected care information services, and (4) certain network equipment.

35. *Patient Broadband internet Access Service.* Funding health care provider purchases of broadband internet access service for participating patients to receive connected care services will help expand connected care services to many Americans, particularly low-income and veteran patients. Many low-income consumers and veterans do not have broadband internet access service at all, while other low-income consumers and veterans may not have broadband internet access service that is sufficient to receive connected care services. Aside from the VA's tablet loan program, which serves a limited number of veterans, it appears that no other federal program provides health care providers funding dedicated to purchase patient broadband internet access service for connected care services. Some health care providers are already addressing this gap by funding patient broadband internet access service for certain low-income or vulnerable patients who lack broadband service at home.

36. The *Pilot Program* will provide funding for participating health care providers to purchase mobile or fixed broadband internet access service for participating patients who do not already have broadband internet access service or who lack sufficient broadband internet access service necessary to participate in the specific pilot project. Insufficient broadband for connected care services could include subscriptions to low-bandwidth connections, low usage allowances, or other inadequate service levels—all of which negatively impact patients' and health care providers' ability to use telehealth services. For the *Pilot Program,* funding these services will expand health care providers' digital footprints for purposes of providing connected care services, and allow health care providers to serve more patients through the *Pilot Program* and thus enhance health care providers' access to advanced telecommunications and information services.

37. To ensure that funding for patient broadband internet access service is targeted appropriately, the Commission will require *Pilot Program* applicants seeking support for patient broadband internet access service to identify the estimated number of patient broadband connections that the health care provider intends to purchase for purposes of providing connected care services to patients who lack broadband service or have insufficient broadband services. A health care provider seeking funding for patient broadband internet access service must also explain in its application how it plans to assess whether a patient lacks broadband service or has insufficient broadband internet access service for the proposed connected care service based on speed, technology (*e.g.,* fixed or mobile broadband), or other appropriate service characteristics. It is appropriate under section 254(h)(2)(A) to fund the whole patient broadband connection as long as it is ''primarily'' used for activities that are integral, immediate, and proximate to the provision of connected care services to participating patients. In contrast to broadband connectivity for a single health care provider facility, it would not be ''technically feasible and economically reasonable,'' for health care providers to track, monitor, and cost-allocate non-connected care uses of the supported patient broadband connections.

38. *Health Care Provider Broadband Data Connections.* The *Pilot Program* will also provide support for eligible, participating health care providers to purchase the broadband data connections needed to provide connected care services under the *Pilot Program.* While many eligible health care providers may already have the broadband connectivity necessary to participate in the *Pilot Program,* other eligible health care providers may require new or additional broadband data connections to participate in the *Pilot Program.* Providing funding for health care provider broadband data connections in this latter situation will incentivize health care provider participation, which, in turn, will aid in the ability to collect meaningful data. Moreover, requiring *Pilot Program* applicants that require broadband data connections in order to provide connected care services to seek support for those connections through the Healthcare Connect Fund would produce duplicative application requirements with minimal benefit to either program. The Commission expects that funding health care provider connectivity under these circumstances will not subsume the budget for the *Pilot Program* given the broad participation in the existing Healthcare Connect Fund Program which provides funding for health care provider broadband connectivity.

39. To avoid duplicate funding and to stretch limited *Pilot Program* funds, eligible health care providers participating in the *Pilot Program* may not request or receive funding for broadband data connections for which they already receive funding through the Healthcare Connect Fund Program or other federal programs, and similarly may not request or receive funding for broadband data connections through the Healthcare Connect Fund Program or other federal programs for which they have already received funding through the *Pilot Program.* In addition, the *Pilot Program* will not fund broadband connections between health care providers as these connections are already eligible for funding through the Healthcare Connect Fund Program, and the Commission does not believe that funding connections between health care providers is necessary for the *Pilot Program* given the focus on supporting the provision of connected care services to participating patients in their homes or mobile locations.

40. *Other Connected Care Information Services.* The *Pilot Program* will also provide support for information services other than broadband connectivity that eligible, participating health care providers use for connected care as part of the *Pilot Program.* Health care providers incur significant costs to provide connected care services, including, but not limited to, the costs of services (other than broadband) for connected care, and that many of these costs typically are not reimbursable through health care payors, which can present an obstacle to connected care services. Funding information services for health care providers' use for connected care through the *Pilot Program,* therefore, could enhance health care providers' access to such information services and encourage innovation in the way health care providers provide connected care services to their patients. The Commission also believes funding these information services will encourage broader participation in the *Pilot Program.* The Commission, however, will not fund the costs associated with medical professional review of data or images transmitted or stored through such services, or services which have a primary purpose other than capturing, transmitting and storing data to facilitate connected care. These costs fall outside the scope of the Commission's statutory authority under Section 254(h)(2)(A). Mobile applications will only be funded to the extent that they are part of a qualifying

information service. Eligible health care providers that seek *Pilot Program* support for an information service should include in their application a thorough description of the service, including a description of the primary function/s of the service, and whether and how it facilitates the capturing, transmission (including video visits), and storage of data for connected care.

41. *Network Equipment. The Pilot Program* will provide funding to eligible, participating health care providers for necessary network equipment for broadband connectivity funded through the *Pilot Program* for connected care services. This funding can only be used for network equipment that is necessary to make *Pilot Program* funded broadband services for connected care services functional, or to operate, manage, or control such services, and must not be used for purposes other than providing connected care services under the *Pilot Program.* Health care providers seeking funding for qualifying network equipment for other health care uses may apply for such funding under the Healthcare Connect Fund Program. Further, to avoid duplicate funding issues, eligible health care providers participating in the *Pilot Program* may not request and receive funding for network equipment for which they already applied or received funding through the Healthcare Connect Fund Program or another federal program, and similarly may not request and receive through the Healthcare Connect Fund Program or another federal program funding for network equipment for which the health care provider receives funding through the *Pilot Program.* Moreover, consistent with § 54.9 of the Commission's rules, the *Pilot Program* will prohibit health care providers from using universal service funds to purchase equipment or services for use through the *Pilot Program* that are produced or provided by a company that the Commission has identified as posing a national security threat to the integrity of communications networks or the communications supply chain.

42. *End-User Devices and Medical Equipment.* Consistent with the Commission's long-standing approach to implementing its universal service programs, the *Pilot Program* will not fund end-user devices or medical equipment. The Commission has consistently declined to fund equipment unless it is ''necessary'' for the transmission function of the service. Additionally, providing limited *Pilot Program* funding to end-user devices and medical equipment costs may not be economically reasonable because it could significantly reduce the *Pilot Program* funding available for the costs directly associated with providing connected care services, and would limit the number of pilot projects the Commission can select. The record indicates that some selected pilot projects may be able to obtain grant funding and other funding for end-user devices or medical equipment where needed to participate in the *Pilot Program.* The Commission therefore encourages eligible health care providers to explore available grant and other funding opportunities, potential partnerships and other avenues that could help them obtain end-user and medical devices necessary to participate in the *Pilot Program.*

43. *Administrative Expenses and Other Miscellaneous Expenses.* Consistent with the RHC Program and the RHC Pilot Program, the *Pilot Program* will not provide funding for health care provider administrative costs associated with participating in the *Pilot Program* (*e.g.,* costs associated with completing *Pilot Program* applications and other submissions) or other miscellaneous expenses (*e.g.,* doctor and staff time spent on the *Pilot Program* and outreach). This is also consistent with the U.S. Department of Agriculture's Distance Learning and Telemedicine grant program. Section 254 focuses on the availability of and access to ''services.'' Funding administrative or miscellaneous expenses associated with participating in the *Pilot Program* would not fulfill this statutory focus. Allocating scarce *Pilot Program* funding to administrative costs would significantly reduce the *Pilot Program* funding available for the costs directly associated with providing connected care services. Additionally, if the Commission was to provide direct support for administrative expenses, it would necessitate additional application requirements, guidelines, and other administrative controls to protect such funding from waste, fraud, and abuse. This would increase the administrative burden on USAC and on applicants as well.

44. *Application and Evaluation Process.* To participate in the *Pilot Program,* a prospective health care provider must first obtain an eligibility determination from USAC by submitting an FCC Form 460 (Eligibility and Registration Form) along with supporting documentation to USAC to verify its eligibility to participate in the *Pilot Program.* After confirming its eligibility for the *Pilot Program,* the applicant must submit its pilot project proposal to the Commission describing its proposed pilot project and providing information that will facilitate the evaluation and eventual selection of high-quality pilot projects in order to participate in the *Pilot Program.* Specifically, the applicant must show how its proposed pilot project meets the criteria outlined in the following. The Commission expects each applicant to present a clear research and evaluation strategy for meeting the health care needs of participating patients through the use of connected care services and how the proposed pilot project will accomplish these objectives. Successful applicants will be able to demonstrate that they have a viable strategic plan for delivering innovative connected care services directly to patients while leveraging existing resources or telehealth programs within their state or region. The Commission will give greater consideration to applications that propose to provide connected care services to a significant number of low-income or veteran patients in a given state or region. An application that intends to provide connected care services to only a *de minimis* number of low-income or veteran patients will not be selected.

45. To be eligible for participation in the *Pilot Program,* interested parties should submit applications that, at a minimum, contain the following required information:

- Names and addresses of all health care providers that will participate in the proposed pilot project and the lead health care provider for proposals involving multiple health care providers.
- Contact information for the individual that will be responsible for the management and operation of the proposed pilot project (telephone number, mailing address, and email address).
- Health care provider number(s) and type(s) (*e.g.,* not-for-profit hospital, community mental health center, community health center, rural health clinic), for each health care provider included in proposal.
- Description of each participating health care provider's previous experience with providing telehealth services (other than electronic health records) or experience and name of a partnering health care provider or organization.
- Description of the plan for implementing and operating the pilot project, including how the pilot project intends to recruit patients, estimated amount of ramp-up time necessary for the pilot project (not to exceed six months), plans to obtain any necessary end-user devices (*e.g.,* tablets, smartphones) and medical devices for

the connected care services that the pilot project will provide, and to what extent the pilot project can be self-sustaining once established.

• Description of the connected care services the proposed pilot project will provide, the conditions to be treated, the health care provider's experience with treating those conditions, the goals and objectives of the proposed pilot project (including the health care provider's anticipated goals with respect to reaching new or additional patients, and improved patient health outcomes), expected health care benefits to the patients, health care provider, or the health care industry that will result from the proposed pilot project, and how the pilot project will achieve each of the goals of the *Pilot Program.*

• Documentation of the participating health care provider(s)'s financial health (*e.g.,* recent audited balance sheets and income statements that are no more than two years old).

• Description of the estimated number of patients to be treated.

• Description of any commitments from community partners, including physicians, hospitals, health systems, and home health/community providers to the success of the proposed pilot project.

• Description of the anticipated level of broadband service required for the proposed pilot project, including the necessary speeds, the technologies to be used (*e.g.,* mobile or fixed broadband) and any other relevant service characteristics (*e.g.,* LTE service).

• Description of the estimated number of patient broadband connections that the health care provider intends to purchase for purposes of providing connected care services to patients who lack broadband service or have insufficient broadband services. This description must include an explanation of how the health care provider plans to assess whether a patient lacks broadband service or has insufficient broadband internet access service for the indicated connected care service based on speed, technology or data cap limitations.

• If seeking support for an information service used to provide connected care, other than broadband connectivity, used to provide connected care, a description of the service, including a description of the primary function/s of the service, and whether it facilitates the capturing, transmission, and storage of data for connected care.

• Estimated total project costs, including costs eligible for support through the *Pilot Program* and costs not eligible for *Pilot Program* support but still necessary to implement the proposed pilot project. This entry must include the total estimated eligible funding (85%) to be requested from the *Pilot Program* per year over the three-year funding period.

• A list of anticipated sources of financial support for the pilot project costs not covered by the *Pilot Program.*

• Description of the metrics for the proposed pilot project that are relevant to the *Pilot Program* goals and how the participating providers will collect those metrics. Examples of the types of metrics the Commission is interested in include: reductions in potential emergency room or urgent care visits; decreases in hospital admissions or readmissions; condition-specific outcomes, such as reductions in premature births or acute incidents among suffers of a chronic illness, and patient satisfaction as to with their overall health status.

• Description of how the health care provider intends to collect, track, and store, the required *Pilot Program* data.

Further, to facilitate the review in selecting a diverse set of projects and target *Pilot Program* funds to geographic areas and populations most in need of USF support for connected care, applicants should also provide the following information, as applicable:

• Description of whether the health care provider is located in a rural area, on Tribal lands, or is associated with a Tribe, or part of the Indian Health Service. If the health care provider is not located in a rural area, include a description of whether the health care provider will primarily serve veterans or low-income patients located in rural areas as defined in the RHC Program rules, and identify those specific rural areas.

• Listing of all Department of Health and Human Services, Health Resources & Services Administration (HRSA) designated Health Professional Shortage Areas (for primary care or mental health care only) or HRSA designated Medically Underserved Areas that will be served by the proposed project.

• Description of whether the pilot project will primarily benefit low-income or veteran patients, and if so, the estimated number or percentage of those patients the project will serve compared to the total number of patients that the pilot project estimates serving.

• Description of whether the primary purpose of the proposed pilot project is to provide connected care services to respond to a public health epidemic, or to provide connected care services for opioid dependency, high-risk pregnancy/maternal mortality, mental health conditions (*e.g.,* substance abuse, depression, anxiety disorders, schizophrenia, eating disorders and addictive behavior) or conditions of a chronic or long term nature (including, but not limited to heart diseases, diabetes, cancer, stroke).

46. Additionally, applicants will also be required, at the time of submission of their application, to certify, among other things, that they will comply with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy and reimbursement laws and regulations, and applicable medical licensing laws and regulations, as well as all applicable *Pilot Program* requirements and procedures, including the requirement to retain records to demonstrate compliance with the *Pilot Program* rules and requirement for five years, subject to audit. Health care providers that participate in the *Pilot Program* must also comply with all applicable federal and state laws, including the False Claims Act, the Anti-Kickback Statute, and the Civil Monetary Penalties Law. The Commission understands that health care providers must routinely navigate these laws in other contexts. Thus, health care providers that are interested in applying for the *Pilot Program* should speak to their compliance experts prior to submitting an application to participate in the *Pilot Program.* Further, applicants will also be required to certify that they are not already receiving or expecting to receive other federal funding for the exact same services eligible for support under the *Pilot Program.* The Commission recognizes the need to possibly waive certain of the RHC Program rules that extend to *the Pilot Program* in order to implement the *Pilot Program,* and therefore also request that applicants identify in their application, as applicable, any Commission rules that extend to the *Pilot Program* in the R&O from which they may need a waiver in order to participate in the *Pilot Program,* if selected.

47. *Instructions for Filing Applications.* The Bureau will issue a public notice announcing the deadline for submitting *Pilot Program* applications and instructions for filing applications with the Commission. Pilot Program applications will be due the later of 45 days from the effective date of the Pilot Program rules or July 31, 2020. Applicants will be required to complete each section of the application and make the required certifications at the end of the application. Applicants may request that any materials or information submitted to the Commission in its application be withheld from public inspection

pursuant to the procedures set forth in § 0.459 of the Commission's rules. Applications must reference WC Docket No. 18–213 only, and will be required to file electronically consistent with the instructions provided in a subsequent public notice. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Applicants must also send a courtesy copy of their application via email to *ConnCarePltProg@fcc.gov.*

48. *Evaluation of Proposals and Selection of Pilot Projects.* The Commission plans to evaluate the applications and select pilot project proposals based on applicants' responses to the criteria. The Commission will also consider the cost of the proposed pilot project compared to the total *Pilot Program* budget. This does not mean the Commission will evaluate proposed pilot projects based solely on a proposed pilot project's total budget but will seek to select an array of pilot projects that can all be funded within the Pilot Program's budget.

49. In choosing participants for the *Pilot Program,* the Commission will also consider whether the applicant has successfully developed, coordinated, or otherwise implemented a telehealth program. While the Commission will consider applicants' responses to all of the application criteria factors listed in the document when evaluating pilot project proposals, they are not determinative of whether a pilot project will be selected because recognition that each pilot project proposal will have its own unique strengths and potential challenges. However, the Commission's goal is to select pilot projects that present a well-defined plan for meeting the health care needs of participating patients, with a particular emphasis on eligible low-income and veteran patients and the *Pilot Program* goals.

50. The Commission directs the Bureau to establish an application schedule consistent with the direction provided in the R&O, to review the applications, to consult with the FCC's Office of Economics and Analytics, Office of Managing Director, Office of General Counsel, and the FCC Connect2Health Task Force, as needed, and to recommend pilot project selections to the Commission. To the extent possible in reviewing applications, the Commission also encourages the Bureau to consult with federal agencies with expertise in telehealth or the federally designated Telehealth Resource Centers. After the Commission selects the pilot projects to participate in the *Pilot Program,* the Bureau will announce the selected pilot projects. After the selection of pilot projects, additional specifics will also be provided concerning the requirements outlined in the R&O, including additional instructions and procedural information regarding, requests for funding, invoicing, and the specific data to be reported and reporting format.

51. *Procurement of Supported Services.* The Commission is adopting, to the extent feasible, the competitive bidding requirements for the Healthcare Connect Fund Program for participants in the *Pilot Program.* Specifically, health care providers can seek bids for multi-year or single-year contracts during the competitive bidding process. If a health care provider only seeks bids for a single-year contract, it will need to conduct a new competitive bidding process for each year of the *Pilot Program.* The competitive bidding requirements for the *Pilot Program* are in addition to and do not supplant any applicable state or local procurement requirements.

52. Similar to the competitive bidding exemptions provided under the Healthcare Connect Fund Program, eligible health care providers participating in the *Pilot Program* will not be required to seek competitive bids if:

- The eligible health care provider seeks support for services and equipment purchased from Master Services Agreements (MSAs) negotiated by federal, state, Tribal, or local government entities on behalf of such health care providers and others, if such MSAs were awarded pursuant to applicable federal, state, Tribal, or local competitive bidding requirements;
- The eligible health care provider opts into an existing MSA approved under the Rural Health Care Pilot Program or Healthcare Connect Fund Program and seeks support for services and equipment purchased from the MSA, if the MSA was developed and negotiated in response to an RFP that specifically solicited proposals that included a mechanism for adding additional sites to the MSA;
- The eligible health care provider has a multi-year contract designated as ''evergreen'' by USAC and seeks to exercise a voluntary option to extend an evergreen contract without undergoing additional competitive bidding;
- The eligible health care provider is in a consortium with participants in the schools and libraries universal service support program (E-Rate program) and a party to the consortium's existing contract, if the contract was approved in the E-Rate program as a master contract;
- The eligible health care provider seeks support for $10,000 or less of total undiscounted eligible expenses for a single year, if the term of the contract is one year or less; or
- The eligible health care provider already has entered into a legally binding agreement with a service provider for services or equipment eligible for support in the *Pilot Program* and that legally binding agreement itself was the product of competitive bidding.

In the absence of an applicable exemption, applicants will have to seek competitive bids for services and equipment that are eligible for support through the *Pilot Program.* Applicants will be required to follow the RHC Program's competitive bidding requirements, which include submitting a Request for Services and Request for Proposal (RFP) (as applicable) for USAC to post on its website, seeking bids, waiting 28 days before selecting a service provider, conducting a bid evaluation to select a service provider, and then selecting the most-cost effective service. All potential bidders must have access to the same information and be treated in the same manner during the competitive bidding period to ensure that the process is ''fair and open.'' Gifts from service providers will also be prohibited.

53. *Requesting Funding, Invoicing, Disbursements, and Material Changes.* Once selected, *Pilot Program* participants will be required to submit a Request for Funding to USAC no later than six months after the selection date with specific pricing and service information for the funding they are requesting through the *Pilot Program.* Participating health care providers with multi-year contracts may submit a single funding request for the full period covered by the contract. However, if a participating health care provider elects to enter into a one-year contract, it will have to submit a new funding request for each subsequent year of *Pilot Program* funding. USAC will review the funding requests and issue funding commitment letters to the participating health care providers and service providers indicating the amount committed under the *Pilot Program* for the selected pilot project. Given that *Pilot Program* funding will be collected over a multiple year period, while participating health care providers with multi-year contracts can submit a single funding request covering the contract period, the Commission anticipates that USAC will issue funding commitments for one year at a time rather than for multiple years.

54. Selected pilot projects will be required to report to the Commission

any material change in the participating health care providers' or pilot projects' status (*e.g.,* health care provider site has closed, or pilot project has ceased operations) within 30 days of such material change in status. In instances where a selected *Pilot Program* participant is unable to participate in the *Pilot Program* for the three-year period due to extenuating circumstances, a successor may be designated by the Bureau. To facilitate the tracking and monitoring of the *Pilot Program* budget and guard against potential waste, fraud and abuse, selected pilot projects must notify USAC within 30 days of any decrease of 5% or more in the number of patients participating in their respective pilot project.

55. After providing the eligible services and/or equipment, service providers will be required to make certain certifications and then submit invoicing forms on a monthly basis and supporting documentation to USAC to receive reimbursement for the cost of the eligible services and/or equipment they have provided to participating health care providers under the *Pilot Program.* USAC will review the monthly invoicing forms and supporting documentation and issue disbursements to the applicable service providers or vendors, whether a broadband service provider, or other provider. *Pilot Program* participants will also be required to make certifications as part of the form submissions to USAC to ensure that *Pilot Program* funds are used for their intended purpose and to ensure that all participating health care providers and service providers are in compliance with the Commission's rules and procedures.

56. *Data Reporting, Document Retention, and Audits.* The Commission directs the Bureau to issue a report detailing the results of the *Pilot Program* after it has been completed. To assist with the report, the Commission will require participating health care providers to submit periodically anonymized, aggregated data, such as reductions in emergency room or urgent care visits in a particular geographic area or among a certain class of patients; decreases in hospital admissions or re-admissions for a certain patient group; condition-specific outcomes such as reductions in premature births or acute incidents among sufferers of a chronic illness; and patient satisfaction as to health status to the Bureau regarding their pilot project to the Bureau after each year of funding for that pilot project. However, the scope of the pilot project proposals is unknown at this time, and some metrics may not be applicable to all of the selected pilot projects.

57. Accordingly, the Commission will determine the specific data to be reported by pilot projects and format of the required data after review of the pilot project proposals. Participating health care providers will also be required to submit final reports within six months of the end dates of their pilot projects summarizing the final results and explaining whether the pilot projects met their stated goals and the goals of the *Pilot Program.* These data will assist the Commission in determining whether and how universal service funds can efficiently and effectively be used for connected care, will enable the Commission to ensure that universal service funds are being used in a manner consistent with section 254, the Commission's rules and procedures, and the goals of the *Pilot Program.* In accordance with § 54.631 of the Commission's rules, health care providers and selected participants, in addition to maintaining records related to their pilot projects to demonstrate their compliance with the *Pilot Program* rules and requirements, must also keep supporting documentation for these reports for at least five years after the conclusion of their pilot project and must present that information to the Commission or USAC upon request. Consistent with § 54.631 of the Commission's rules, pilot projects will also be subject to random compliance audits to ensure compliance with the *Pilot Program* rules and requirements.

58. *USAC Outreach.* After announcement of the selected *Pilot Program* projects, each selected pilot project will be required to provide to USAC, within 14 calendar days of such announcement, the name, mailing address, email address, and telephone number of the lead project coordinator for its pilot project. Within 30 days of the date announcing the selected *Pilot Program* projects, USAC shall conduct an initial coordination meeting with selected *Pilot Program* participants. USAC shall further conduct a targeted outreach program, such as a webinar or similar outreach, to educate and inform selected participants on the *Pilot Program* administrative process, including various filing requirements and deadlines, in order to minimize the possibility of selected participants making inadvertent errors in completing the required forms. The Commission expects that the outreach and educational efforts will assist selected participants in meeting the *Pilot Program's* requirements. Further, such an outreach program will increase awareness of the filing rules and procedures and will improve the overall efficacy of the *Pilot Program.* The Commission also encourages selected participants to contact USAC with any questions prior to filing their forms or supporting documentation. The direction the Commission provides to USAC will not lessen or preclude any of its review procedures. The Commission retains the commitment to detecting and deterring potential instances of waste, fraud, and abuse by ensuring that USAC scrutinizes *Pilot Program* submissions and takes steps to educate selected participants in a manner that fosters appropriate *Pilot Program* participation.

59. Pilot Program Goals and Metrics. The Commission adopts three explicit goals for the *Pilot Program* to determine how USF support provided to health care providers for the costs associated with providing connected care services can enable them to: (1) Improve health outcomes through connected care; (2) reduce health care costs for patients, facilities and the health care system; and (3) support the trend towards connected care everywhere. The goals adopted for the *Pilot Program* are sound and measurable goals, and will help advance the Commission's statutory obligation to promote universal service by providing the Commission with information that will help inform about how to best allocate limited universal service funding.

60. *Legal Authority.* The Commission found that section 254(h)(2)(A) of the 1996 Act authorizes establishing the *Pilot Program* to help defray health care provider's eligible costs of providing connected care services to low-income or veteran patients. Specifically, section 254(h)(2)(A) directs the Commission to ''establish competitively neutral rule[s] to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit . . . health care providers.'' The *Pilot Program* will fund broadband connectivity for participating health care providers and patients, certain network equipment, and other information services that may facilitate the provision of connected care services provided through the *Pilot Program.* These connected care services may be defined as either telecommunications services or information services.

61. For the *Pilot Program,* funding patient broadband internet access services would expand health care providers' digital footprints for purposes of providing connected care services and allow health care providers to serve more eligible low-income patients and veterans through the *Pilot Program* and, thus, enhance health care providers'

access to ''advanced telecommunications and information services.'' Accordingly, funding health care provider purchase of broadband internet access service for participating patients through this discrete, limited duration *Pilot Program* falls within the scope of section 254(h)(2)(A) of the Act. Relying on this statutory provision also ensures that the *Pilot Program* is health care provider-driven and enables participating health care providers to select from the broadest range of broadband internet access service providers to meet the health care needs of participating patients.

62. First, the *Pilot Program* will be ''competitively neutral,'' which means that ''universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.'' The *Pilot Program* satisfies this requirement because eligible health care providers are free to choose any broadband connectivity technology and broadband connectivity provider, in compliance with the applicable competitive bidding requirements for the *Pilot Program*-supported services needed to provide connected care services through their respective pilot projects. In addition, participating health care providers are not required to adopt any specific non-broadband information service to provide broadband-enabled connected care services through the *Pilot Program.* Second, the *Pilot Program* will be ''technically feasible'' because the *Pilot Program* will not require the development of any new technology and gives participating health care providers flexibility to use any available technology to implement their respective pilot projects. Third, the *Pilot Program* will be ''economically reasonable.'' In discussing economic reasonableness, the Commission has generally focused on the effect that any new rules would have on growth in the universal service support mechanisms. The Commission establishes a budget separate from the existing universal service programs and limit the *Pilot Program* budget to at most $100 million, which provides a reasonable cap and will not significantly increase the contributions burden on consumers. Additionally, the Commission has developed measures to promote the fiscally responsible use of *Pilot Program* funds, including requiring that evaluations of pilot project proposals include a comparison of the estimated costs of each proposed pilot project to the total *Pilot Program* budget.

63. Recognizing that the Commission has not previously relied on section 254(h)(2)(A) of the Act to specifically defray eligible health care provider costs of providing connected care services by supporting broadband connections for patient use or other information services necessary to provide connected care services. The Commission previously concluded, however, that it has ''broad discretion regarding how to fulfill this statutory mandate'' under section 254(h)(2)(A). The Commission believes establishing the limited *Pilot Program* for this purpose is consistent with that discretion. Advances in information technologies and services are allowing health care providers to expand their digital footprint by using broadband and broadband enabled devices to provide connected care services to patients in their homes or mobile locations, and there is growing evidence of the benefits of connected care services both for health care providers and their patients. Further, the record indicates that the costs of broadband internet access service for patient use in their homes or mobile locations, and the costs of other information services necessary to provide connected care services, are an obstacle for certain health care providers and their patients to adopt connected care services. Because of the growing evidence of the benefits of providing connected care services for both health care providers and their patients, and the fact that many health care providers and patients have yet to adopt these services, the Commission believes that it is appropriate to establish the *Pilot Program* to examine whether and how universal service can play a role in helping all Americans access and obtain the benefits of connected care services. The Commission thus believes that the specific services and network equipment funded under the *Pilot Program* are within the scope of the statutory directive under section 254(h)(2)(A) to enhance eligible health care providers' access to advanced telecommunications and information services.

64. While the Commission relies on authority under section 254(h)(2)(A) to establish the *Pilot Program,* the *Pilot Program* is also consistent with the directive that the Commission base policies for the advancement of universal service on the principles outlined in section 254(b) of the Act. Specifically, section 254(b)(2) provides that ''[a]ccess to advanced telecommunications and information services should be provided in all regions of the Nation'' and section 254(b)(3) provides that ''[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.'' As explained in the document, the *Pilot Program* will fund eligible health care provider purchases of broadband internet access services for participating patients to use for purposes of connected care services.

IV. Procedural Matters

A. Paperwork Reduction Act Analysis

65. This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The information collection requirements related to the *COVID–19 Telehealth Program* were approved on April 6, 2020 by the Office of Management and Budget (OMB) pursuant to the PRA, 44 U.S.C. 3507(j). The information collection requirements related to the *Pilot Program* will also be submitted to OMB for review under Section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on the new information collection requirements. Applications for the *COVID–19 Telehealth Program* will be accepted by the Commission after the Bureau releases a public notice providing instructions for filing applications with the Commission. Applications to participate in the *Pilot Program* will be due 45 days from the effective date of the *Pilot Program* rules or July 31, 2020, whichever comes later. The Bureau will issue a public notice announcing the deadline for submitting *Pilot Program* applications and instructions for filing applications with the Commission. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission sought specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. In the Report and Order, the Commission has assessed the effects of the information collection on small businesses, and find that the benefits of providing support to help defray eligible health care providers costs to provide connected care services to their patients

and COVID–19 relief to help eligible health care providers meet the health care needs of their patients during the COVID–19 pandemic outweigh any significant economic impact on small entities.

B. Congressional Review Act

66. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), concurs that the rules implementing the COVID–19 Telehealth Program are ''major'' and the rules implementing the *Pilot Program* are ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the R&O, including this FRFA, to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the R&O, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Final Regulatory Flexibility Analysis

67. As required by the Regulatory Flexibility Act of 1980 (RFA), as amended, the Federal Communications Commission (Commission) included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and requirements proposed in the *NPRM* in WC Docket No. 18–213. The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. The Commission did not receive any comments in response to the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

68. *Need for, and Objectives of, the Report and Order.* In the Telecommunications Act of 1996 (1996 Act), Congress recognized the value of providing rural health care providers with ''an affordable rate for the services necessary for the provision of telemedicine and instruction relating to such services.'' The 1996 Act mandated that telecommunications carriers provide telecommunications services for health care purposes to rural public or nonprofit health care providers at rates that are ''reasonably comparable'' to rates in urban areas. The 1996 Act also directed the Commission to establish competitively neutral rules to enhance, to the extent technically feasible and economically reasonable, access to ''advanced telecommunications and information services'' for public and nonprofit health care providers. Based on this legislative mandate, the Commission established the Rural Health Care (RHC) Program which supports health care providers' access to communications technologies. However, there are developments in telehealth, including increased use of connected care services, that the Commission has not yet fully explored. With remote patient monitoring and mobile health applications that can be accessed on a smartphone or tablet, health care providers now have the technology to deliver quality health care directly to patients, regardless of where they are located. Despite the numerous benefits of connected care services to patients and health care providers alike, patients who cannot afford or who otherwise lack reliable, robust broadband internet access connectivity, including many low-income Americans and veterans, are not realizing the benefits of these innovative telehealth technologies. Also, the costs necessary to provide connected care services may limit some health care providers' ability to treat low-income Americans and veterans with connected care services.

69. Thus, in August 2018, the Commission released the Connected Care Notice of Inquiry, FCC 18–112 *(NOI)* seeking information on ''how the Commission can help advance and support the movement towards connected care everywhere and improve access to the life-saving broadband-enabled telehealth services it makes possible.'' Subsequently, in July 2019, the Commission adopted the *NPRM* that proposed and sought comment on a *Pilot Program* that would help defray health care provider costs of providing connected care services to low-income Americans and veterans. In the R&O, given the benefits of connected care services provided through broadband connections, the Commission takes the important step of establishing a *Pilot Program* to explore whether and how the Universal Service Fund (USF) can help defray health care providers' qualifying costs of providing connected care services, including low-income Americans and veterans. The ultimate goal of the *Pilot Program* is to examine how USF support can be used to help health care providers improve health outcomes and reduce health care costs, thereby supporting efforts to advance connected care initiatives. The Commission expects that the *Pilot Program* will benefit many eligible patients who are responding to a wide variety of health challenges, such as diabetes management, opioid dependency, high-risk pregnancies, pediatric heart disease, mental health conditions, and cancer. The Commission also expects that the *Pilot Program* will provide meaningful data that will help better understand how the USF can support health care provider and patient use of connected care services, and how supporting health care provider and patient use of connected care services can improve health outcomes and reduce health care costs. The data and information collected through the *Pilot Program* could also have the ancillary benefit of aiding policy makers and legislators in the consideration of broader reforms—whether statutory changes or updates to rules administered by other agencies—that could support this trend towards connected care.

70. In the R&O, in response to the public health emergency associated with the coronavirus disease (COVID–19), the Commission also establishes a separate, emergency *COVID–19 Telehealth Program* focused on connected care in response to the ongoing COVID–19 pandemic and surge in demand for connected care services. The Commission expects this additional support will help eligible health care providers purchase broadband connectivity, network equipment and information services to provide critical connected care services whether for treatment of coronavirus or other health conditions during this time.

71. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* There were no comments filed that specifically address the rules and policies proposed in the IRFA.

72. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments. The Chief Counsel did not file any comments in response to the proposed policies and requirements in the proceeding.

73. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small

business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

74. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission actions, over time, may affect small entities that are not easily categorized at present. Therefore, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.7 million businesses.

75. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

76. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

77. The small entities that may be affected by the reforms include eligible nonprofit and public health care providers and the eligible service providers offering them services, including telecommunications service providers, internet Service Providers, and service providers of the services and equipment used for dedicated broadband networks.

78. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* In the R&O, the Commission establishes a *Pilot Program* within the USF that will make available up to $100 million over three years to help defray eligible health care providers' costs of providing connected care services primarily to low-income or veteran patients for purposes of connected care. The Commission also establishes an *COVID–19 Telehealth Program* funded through a $200 million Congressional appropriation under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116–136, 134 Stat. 281, for COVID–19 relief to help eligible health care providers meet the health care needs of their patients during the COVID–19 pandemic. The *Pilot Program* is structured to target funding to eligible health care providers serving patients that are most likely to need USF support for connected care services, and to ensure that the *Pilot Program* provides meaningful, measurable data. To participate in the *Pilot Program,* health care providers must satisfy the definition of an eligible health care provider under section 254(h)(7)(B) of the Act and receive an eligibility determination from the Universal Service Administrative Company (USAC), the administrator of the USF programs. Applicants must then submit an application to the Commission regarding their pilot projects by the application deadline ultimately established for the *Pilot Program.* While the *COVID–19 Telehealth Program* is structured a bit differently than the *Pilot Program,* applicants for both programs will be required to certify that they will comply with all applicable *Pilot Program* requirements and procedures. Applicants among other things, will also be required to comply with the Health Insurance Portability and Accountability Act (HIPAA) and other applicable privacy and reimbursement laws and regulations, and applicable medical licensing laws and regulations, as well as all applicable *Pilot Program* requirements and procedures, including document retention requirements, subject to audit.

79. As part of *Pilot Program,* the Commission seeks a diverse set of pilot projects from a wide variety of eligible health care providers and eligible service providers, including small entities. The Commission seeks to strike a balance between requiring applicants to submit enough information that allows the selection high-quality, cost-effective pilot projects that would best further the goals of the *Pilot Program,* but also minimizing the administrative burdens on entities that seek to apply. The R&O provides specific information that health care providers are required to submit in their applications for each pilot project proposal, including, but not limited to, information on the participating health care provider(s), description of the pilot project and how it would further the goals of the *Pilot Program,* estimated pilot project budget, patient populations and the geographic areas to be served and health conditions to be treated. The R&O also establishes a streamlined application process for the *COVID–19 Telehealth Program* in order to more expeditiously address the needs of health care providers affected by the coronavirus epidemic.

80. After evaluation of the pilot program applications, the Bureau will announce the selected pilot projects and provide further information on the specific requirements for the *Pilot Program.* Selected pilot program participants will be required to conduct a competitive bidding process (unless a competitive bidding exemption applies), including submitting the required competitive bidding forms, for the eligible equipment and services that are supported through the *Pilot Program.* Participating health care providers will then be required to submit a request for funding with USAC with specific pricing and service information, and will also be required to submit invoicing forms and supporting documentation on a monthly basis for the supported equipment and services. Participating health care providers will also be required to periodically submit data to the Bureau concerning their pilot project after each year of funding during the three-year period of the pilot project, and will also be required to submit a final report concerning their pilot projects. For the *COVID–19 Telehealth Program,* within six months after the conclusion of the *COVID–19 Telehealth Program,* participants should provide a report to the Commission on the effectiveness of the program. While some of the requirements of the *Pilot Program* and the *COVID–19 Telehealth Program* will result in additional recordkeeping and compliance requirements for small entities, the Commission has determined that the benefits of establishing these programs outweighs the burden of any increased recordkeeping and compliance

requirements for those small entities that choose to participate in the *Pilot Program* and the *COVID–19 Telehealth Program.* Additionally, the requirements are intended to ensure universal service funds are used for their intended purpose and designed so that the Commission can obtain meaningful data to evaluate the *Pilot Program* and inform the policy decisions.

81. *Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

82. The *Pilot Program* is for a discrete, limited period of time. The Commission expects to apply the Commission's rules applicable to the Healthcare Connect Fund Program to the *Pilot Program,* which some entities may already be familiar with if they currently participate in the Healthcare Connect Fund Program. With no expectation of the small entities to be disproportionately impacted. In evaluating the applications, the Commission seeks to select a diverse set of pilot projects and will consider whether the proposed pilot projects promotes entrepreneurs and other small businesses in the provision and ownership of telecommunications and information services, including those that may be socially and economically disadvantaged businesses. All eligible health care providers that participate in the *Pilot Program* will be required to collect and submit data to the Commission at designated intervals during the *Pilot Program.* The Commission has yet established metrics to measure the *Pilot Program* goals and seek information from applicants on the metrics plans to use and how plans to collect those metrics in order to minimize any impact on small entities when establishing metrics for the *Pilot Program.* The collection of this information, however, is necessary to evaluate the impact of the *Pilot Program,* including whether the *Pilot Program* achieves its goals. Thus, the benefits of collecting this information outweigh any significant economic impact on small entities. Moreover, the Commission sought comment on the IRFA and did not receive any comments in response to the IRFA. Further, in order to minimize the economic impact on small entities, the Commission establishes an emergency *COVID–19 Telehealth Program,* which is one piece of a comprehensive approach to reducing barriers to telehealth services for patients and health care facilities throughout the country to provide relief related to the COVID–19 pandemic. The Commission therefore believes that the requirements of the R&O will not have a significant economic impact on a substantial number of small entities.

V. Ordering Clauses

83. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 201, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 254, 303(r), and 403, and DIVISION B of the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116–136, 134 Stat. 281, the Report and Order *is adopted* and *shall become* effective May 11, 2020, pursuant to 47 U.S.C. 408, with the exception of those portions related to the COVID–19 Telehealth Program in the Report and Order which *shall become* effective April 9, 2020 pursuant to 5 U.S.C. 553(d) and 5 U.S.C. 808(2) and the portions containing information collection requirements that have not been approved by the Office of Budget and Management (OMB).

84. *It is further ordered* that applications to participate in the COVID–19 Telehealth Program *shall be filed* after the Wireline Competition Bureau issues a public notice announcing the date when applications will be accepted and instructions for filing applications with the Commission. This date will be after April 9, 2020.

85. *It is further ordered* that, pursuant to the Paperwork Reduction Act of 1995, Section 3507(d), the Connected Care Pilot Program information collection requirements *shall become effective* after announcement in the **Federal Register** of Office of Management and Budget approval of the rules, and on the effective date announced therein.

86. *It is further ordered* that applications to participate in the Connected Care Pilot Program *shall be filed* 45 days after the effective date of the Connected Care Pilot Program rules or July 31, 2020, whichever comes later.

87. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the R&O, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

88. *It is further ordered* that the Commission *shall send* a copy of the R&O to the Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–07587 Filed 4–8–20; 8:45 am]

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Proposed Rules

Federal Register
Vol. 85, No. 69
Thursday, April 9, 2020

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter I

[NRC–2020–0065]

Transfer of Very Low-Level Waste To Exempt Persons for Disposal; Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed interpretive rule; extension of comment period.

SUMMARY: On March 6, 2020, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on a proposed interpretation of its low-level radioactive waste disposal regulations that would permit licensees to dispose of waste by transfer to persons who hold specific exemptions for the purpose of disposal. The public comment period was originally scheduled to close on April 20, 2020. In recognition of the impacts of the current COVID–19 pandemic across the nation, the NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on March 6, 2020 (85 FR 13076) is extended. Comments should be filed no later than July 20, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date. Staff will continue to monitor the COVID–19 pandemic to determine if an additional extension may be warranted.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0065. Address questions about NRC 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:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

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: Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0065 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0065.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://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.

B. Submitting Comments

Please include Docket ID NRC–2020–0065 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On March 6, 2020, the NRC solicited comments on a proposed interpretation of its low-level radioactive waste disposal regulations that would permit licensees to dispose of waste by transfer to persons who hold specific exemptions for the purpose of disposal. The NRC will consider approval of requests for specific exemptions for the purpose of disposal if they are for the disposal of very low-level radioactive waste (VLLW) by land burial in facilities that have been reviewed and approved for the purpose of disposal of VLLW (*i.e.,* Resource Conservation and Recovery Act sites). Therefore, the NRC's intent is that this interpretive rule will allow licensees to transfer VLLW to exempt persons for the purpose of disposal by land burial. The public comment period was originally scheduled to close on April 20, 2020. In recognition of the impacts of the current COVID–19 pandemic across the nation, the NRC has decided to extend the public comment period on this document until July 20, 2020, to allow more time for members of the public to submit their comments.

Dated: April 3, 2020.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs Office of Nuclear Material Safety and Safeguards.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

RIN 3133–AF13

Corporate Credit Unions; Extension of Comment Period

AGENCY: National Credit Union Administration (NCUA).

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

SUMMARY: On March 27, 2020, the NCUA Board (Board) published a Notice of Proposed Rulemaking in the **Federal Register** requesting comment on the Board's proposal to amend the NCUA's corporate credit union regulation (proposed rule). The proposed rule would update, clarify, and simplify several provisions of the NCUA's corporate credit union regulation. The proposed rule provided a 60-day comment period that was set to close on May 26, 2020. To allow interested persons more time to consider and submit their comments, the Board has determined that an extension of the comment period for an additional 60 days is appropriate.

DATES: The comment period for the proposed rule published March 27, 2020, at 85 FR 17288, is extended. Responses to the proposed rule must now be received on or before June 8, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF13, by any of the following methods (*Please send comments by one method only*):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (703) 518–6319. Include ''[Your Name]—Comments on Proposed Rule: Corporate Credit Unions'' in the transmittal.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at *http://www.regulations.gov* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in the NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546, or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Robert Dean, National Supervision Analyst, Office of National Examinations and Supervision, (703) 518–6652; *Legal:* Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, (703) 548–2601; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION: On February 20, 2020, the Board issued a proposed rule to amend the NCUA's corporate credit union regulation. The proposed rule was published in the **Federal Register** on March 27, 2020.[1] The proposed rule would update, clarify, and simplify several provisions of the NCUA's corporate credit union regulation, including: Permitting a corporate credit union to make a minimal investment in a credit union service organization (CUSO) without the CUSO being classified as a corporate CUSO under the NCUA's rules; expanding the categories of senior staff positions at member credit unions eligible to serve on a corporate credit union's board; amending the minimum experience and independence requirement for a corporate credit union's enterprise risk management expert; and requiring a corporate credit union to deduct certain investments in subordinated debt instruments issued by natural person credit unions.

The proposed rule provided a 60-day public comment period that was set to close on May 26, 2020. Given the challenges posed by the COVID–19 (coronavirus infection) pandemic, the Board believes it is necessary to give interested parties more time to properly address the proposed changes and questions presented in the proposed rule. The Board believes that an extension of the proposed comment period for an additional 60 days is appropriate. This extension should allow interested parties more time to prepare responses to the proposed rule without delaying the rulemaking.

By the National Credit Union Administration Board on April 1, 2020.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2020–07159 Filed 4–8–20; 8:45 am]

BILLING CODE 7535–01–P

[1] 85 FR 17288 (Mar. 27, 2020).

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2020–OSERS–0011]

Proposed Priorities, Requirements, and Definitions—Rehabilitation Training: Vocational Rehabilitation Technical Assistance Center—Quality Management; and Vocational Rehabilitation Technical Assistance Center—Quality Employment

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Proposed priorities, requirements, and definitions.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes priorities, requirements, and definitions to fund a Vocational Rehabilitation Technical Assistance Center for Quality Management (VRTAC–QM) and a Vocational Rehabilitation Technical Assistance Center for Quality Employment (VRTAC–QE), Catalog of Federal Domestic Assistance (CFDA) numbers 84.264J and 84.264K. The Assistant Secretary may use these priorities, requirements, and definitions for competitions in fiscal year (FY) 2020 and later years. We take this action to focus Federal financial assistance on identified national needs and to improve employment outcomes under the Vocational Rehabilitation (VR) program and raise expectations for all people with disabilities. We intend the VRTAC–QM to provide training and technical assistance to State VR agencies that will better enable VR personnel to manage available resources, improve effective service delivery, and increase the number and quality of employment outcomes for individuals with disabilities. We intend the VRTAC–QE to provide training and technical assistance to State VR agencies that will better enable VR personnel, especially VR counselors, to implement innovative and effective VR and employment strategies and practices to increase the number and quality of employment outcomes for individuals with disabilities.

DATES: We must receive your comments on or before May 11, 2020.

ADDRESSES: Submit your comments through the Federal eRulemaking portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your

comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Help.''

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments for 84.264J, address them to Douglas Zhu, U.S. Department of Education, 400 Maryland Avenue SW, Room 5095, Potomac Center Plaza, Washington, DC 20202–2800. If you mail or deliver your comments for 84.264K, address them to Felipe Lulli, U.S. Department of Education, 400 Maryland Avenue SW, Room 5101, Potomac Center Plaza, Washington, DC 20202–2800. Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: For 84.264J: Douglas Zhu, U.S. Department of Education, 400 Maryland Avenue SW, Room 5095, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–6037. Email: *84.264J@ed.gov.* For 84.264K: Felipe Lulli, U.S. Department of Education, 400 Maryland Avenue SW, Room 5101, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7425. Email: *84.264K@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding these proposed priorities, requirements, and definitions. To ensure that your comments have maximum effect in developing the notice of final priorities, requirements, and definitions, we urge you to identify clearly the specific priority, requirement, or definition that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from these proposed priorities, requirements, and definitions. Please let us know of any ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities, requirements, and definitions by accessing *Regulations.gov.* You may also inspect the comments in person in Room 5059, 550 12th Street SW, Washington, DC, between the hours of 9:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities, requirements, and definitions. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: Under the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), the Rehabilitation Services Administration (RSA) makes grants to States and public or nonprofit agencies and organizations (including institutions of higher education) to support projects that provide training and technical assistance designed to assist in increasing the numbers of, and upgrading the skills of, qualified personnel (especially rehabilitation counselors) who are trained to—

(1) Provide vocational, medical, social, and psychological rehabilitation services to individuals with disabilities;

(2) Assist individuals with communication and related disorders; and

(3) Provide other services authorized under the Rehabilitation Act.

Program Authority: 29 U.S.C. 772(a)(1).

Applicable Program Regulations: 34 CFR part 385.

Proposed Priorities

This notice contains two proposed priorities.

Background: Amendments to the Rehabilitation Act made by WIOA place heightened emphasis on expanding quality employment and career advancement opportunities for individuals with disabilities, with a focus on competitive integrated employment as defined in the Rehabilitation Act. Consistent with WIOA's amendments to the Rehabilitation Act, the State Vocational Rehabilitation Services program (VR program) operates under the principle that individuals with disabilities, including those with significant and the most significant disabilities, are capable of quality employment outcomes when provided appropriate services, skills, and supports. WIOA places certain limitations on subminimum wage employment. WIOA also emphasizes pre-employment transition services for students with disabilities, supported employment for individuals with the most significant disabilities, customized employment, and coordinated strategies such as career pathways to help individuals with disabilities realize employment goals consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. The VRTAC–QM and the VRTAC–QE will assist State VR agencies in equipping, and increasing the number of, personnel with the necessary skills and training to implement these expanded provisions in the Rehabilitation Act made by WIOA.

State VR agency personnel have experienced several challenges in implementing these expanded provisions. As of October 2019, 31 of 78 VR agencies were unable to serve all eligible individuals due to a lack of financial and staff resources and have thus introduced orders of selection, closed one or more priority categories, and limited the provision of services to eligible individuals based on the significance of their disabilities. Eight of these VR agencies have closed all priority categories, meaning that they are not providing services to new applicants for the VR program.

VR agencies are implementing orders of selection for two main reasons, one being the inability to provide the non-Federal share required as match for the VR program, which prevents them from accessing all available Federal VR program funds, and the other being the requirement to reserve at least 15 percent of Federal VR program funds for providing pre-employment transition services to eligible and potentially eligible students with disabilities, which restricts the amount of VR program funds available to serve all other eligible individuals with disabilities. Consequently, fewer eligible individuals are being served, and the number of employment outcomes has declined.

Based on data reported by VR agencies through the VR program Case Service Report (RSA–911) for program year (PY) 2017 (July 1, 2017–June 30, 2018) and PY 2018 (July 1, 2018–June 30, 2019), the number of individuals with disabilities determined eligible for the VR program decreased from 414,531 to 398,205. Additionally, the number of participants in the VR program (those eligible individuals who received VR services under an Individualized Plan for Employment) decreased from 932,835 to 916,083.

While the employment rate or rehabilitation rate is not one of the WIOA primary indicators of performance, it may nevertheless inform an assessment of the performance of the VR program because it indicates whether participants are employed at the time, they exit the VR program. The VR program's employment rate decreased from 49.3 percent in PY 2017 to 47.6 percent in PY 2018. In the same period, the number of participants exiting with employment outcomes fell from 152,425 to 142,722. Relatedly, the number of participants who exited the VR program for any reason decreased from 311,748 to 300,794 in the same timeframe.

Given all of this, VR agency personnel need program and resource management strategies and skills to efficiently and effectively balance the provision of VR services, including pre-employment transition services to potentially eligible students with disabilities and eligible individuals with disabilities, to ensure that individuals with disabilities are served appropriately and without delay. Absent the commitment and ability of VR staff to use resources effectively and efficiently, VR agencies will not have the funds or staff resources to provide individuals with disabilities with timely services of high quality, and the number of individuals who turn to the VR program in their search for services leading to quality employment will decline further. VR personnel need to learn strategies to balance the needs of all populations seeking services, including students, youth, and adults with disabilities, and to provide timely and relevant services to meet their unique needs.

The focus on serving individuals with significant and the most significant disabilities, coupled with the expectations under the Rehabilitation Act to achieve quality competitive employment outcomes and career advancement, also require VR agency personnel, especially VR counselors, to learn and employ innovative service strategies and practices.

For example, recent data for PYs 2017 and 2018 provided by VR agencies through the RSA–911 indicate that fewer than one-quarter (21.1 percent and 23.1 percent, respectively) of participants who were enrolled in an education or training program leading to a recognized postsecondary credential or employment achieved a measurable skill gain (MSG). An MSG is documented academic, technical, occupational, or other form of progress that participants achieve towards a recognized postsecondary credential or employment. The MSG rate is one of the primary indicators of performance under section 116 of WIOA. The VR program's performance, in the first two years of data collection and reporting, suggests that strategies and services aimed at assisting individuals with disabilities in achieving MSGs as they pursue recognized postsecondary credentials or employment may be underutilized or underreported.

Next, in PY 2018, State VR agencies collected and reported available data through the RSA–911 for two additional indicators of performance: Employment Rate in the Second Quarter after Exit and Median Earnings in the Second Quarter after Exit. The national employment rate for the VR program was 49.2 percent in the second quarter after exit (*i.e.,* fewer than half of VR program participants were employed in the second quarter after exiting the VR program with an employment outcome). These individuals achieved median earnings of $3,714 for the quarter, which translates into annual median earnings of roughly $14,856. These data appear to indicate that the employment outlook for individuals with disabilities served by the program are not significantly improving and that there is a need for greater utilization of more effective interventions by VR personnel.

Further, through its monitoring of VR agencies, RSA has made numerous observations and findings related to VR program performance.

Despite updates in VR agency policies that reflect the expanded provisions of the Rehabilitation Act, some VR counselors reported during RSA monitoring that they have struggled to implement policies and strategies that lead to the intended quality employment outcomes for those they serve.

Under section 302 of the Rehabilitation Act, the RSA Commissioner may make grants or enter into contracts to provide training and technical assistance designed to increase the numbers of, and upgrade the skills of, qualified VR counselors and other VR service providers. In coordination and collaboration with other RSA-funded technical assistance centers, the VRTAC–QM will provide training and technical assistance to State VR agencies that will better enable VR personnel to manage the VR program and available resources and thus improve service delivery to individuals with disabilities.

The VRTAC–QE will bring together the broad range of existing quality employment strategies and supporting practices, identify and implement new ones, and incorporate them into an integrated training and technical assistance plan, consistent with the circumstances and priorities of each State that requests technical assistance. This will enable State VR personnel to implement innovative and effective VR employment strategies and better serve individuals with disabilities.

Both the VRTAC–QM and the VRTAC–QE will generate additional resources, create new information and tools, and expand collaborative partnerships.

Projects must be awarded and operated in a manner consistent with the nondiscrimination requirements mandated by the U.S. Constitution and Federal civil rights laws.

Specific Requests for Comment: The Department is particularly interested in comments on Proposed Priority 1 regarding the best way to prioritize among VR agencies needing intensive TA. We are also interested in comments regarding whether the activities identified reflect the greatest needs in the field.

Proposed Priority 1: Vocational Rehabilitation Technical Assistance Center for Quality Management.

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund a cooperative agreement to establish a Vocational Rehabilitation Technical Assistance Center for Quality Management (VRTAC–QM).

The VRTAC–QM will provide intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to State VR agencies on quality management strategies that will enable VR agencies to improve service delivery to, and employment outcomes achieved by, individuals with disabilities. For States that request intensive training and technical assistance, the training and technical assistance will upgrade and increase the competencies, skills, and knowledge of VR personnel, enabling them to assess current VR program performance and to identify the strengths, weaknesses, opportunities for

improvement, and threats (SWOT) that impact the effectiveness of VR agency service delivery and the quality of employment outcomes. This SWOT assessment will be based on a review of a wide variety of information sources, including, but not limited to, RSA's monitoring findings and recommendations; State audit reports; consumer feedback provided in public hearings and through consumer satisfaction surveys; results of comprehensive statewide needs assessments; and input from workforce partners, community rehabilitation programs, and other VR stakeholders. Based on SWOT assessments, the center and VR agency personnel will develop individualized intensive training and technical assistance agreements designed to provide personnel with skills and strategies they need to address the weaknesses identified in the SWOT assessments to improve service delivery and employment outcomes for individuals with disabilities. The center will also provide VR agency personnel with technical assistance on evaluating whether the quality management strategies they adopt lead to increasing the percentage of participants who achieve an MSG and exit the program with an employment outcome and to modify those strategies, if necessary, to achieve continuous program improvement. In addition to the intensive training and technical assistance, the VRTAC–QM also will provide targeted training and technical assistance and universal training and technical assistance to State VR agencies on a broad range of quality management strategies and practices, both programmatic and fiscal, to address needs common to many agencies.

With regard to program management and performance, the VRTAC–QM's training and technical assistance will support the assessment, development, and enhancement of staff knowledge, skills, and abilities to perform the following functions in order to improve service delivery and employment outcomes for individuals with disabilities:

- Analyzing the State VR agency's comprehensive system of personnel development to identify strengths and weaknesses in staff's ability to understand and address factors affecting program performance, and designing management strategies to address these deficits.
- Analyzing case service data to identify trends and inconsistencies in program performance, and developing strategies to improve the effectiveness and timeliness of services provided, including addressing inconsistencies in the quality and quantity of employment outcomes achieved by various groups of individuals with disabilities served by the program.
- Understanding statutory and regulatory requirements related to performance management, including calculations for the common performance measures required under WIOA and factors that may be affecting the agency's performance on these measures.
- Conducting quality assurance and performance improvement, including the use of data for performance management systems and the implementation of the common performance measures required by WIOA.
- Strategic planning to address aspects of the SWOT assessment that pose challenges and barriers to improving service delivery and employment outcomes for individuals with disabilities, particularly students and youth with disabilities and individuals with significant and the most significant disabilities.
- Implementing effective and efficient policies for delivering pre-employment transition services under section 113, VR services under section 103(a), and supported employment services under title VI of the Rehabilitation Act.
- Understanding the relationship to important outcomes of various cost containment measures, such as implementing an order of selection giving priority for services to individuals with the most significant disabilities, establishing a financial needs test for various services, implementing policies for consumer participation in the cost of services, and implementing the requirement to seek comparable services and benefits for certain services, among others.

Under the VR program, agencies must comply with several complex Federal fiscal requirements related to maintenance of effort, reallotment, reservation of funds for pre-employment transition services, and match, among others. VR agencies must understand, track, assess, and adjust, when necessary, program activities to meet these requirements while maximizing program outcomes. Additionally, the lack of knowledge and skills in fiscal and resource management can negatively affect the ability of VR agency personnel to meet consumer needs, for example, necessitating the implementation of orders of selection limiting the numbers of eligible individuals served in the VR program. With regard to effective resource management, the training and technical assistance will support the assessment, development, and enhancement of staff knowledge, skills, and abilities to ensure that—

- Resources, including program funds and personnel, are being used for allowable purposes and innovative employment strategies and supports that maximize employment outcomes for individuals with disabilities, including students and youth with disabilities and individuals with significant and the most significant disabilities;
- Programs have sound internal controls and reliable reporting systems upon which to base fiscal and programmatic decision-making to support attainment of program goals and objectives, including those related to increasing the numbers and qualifications of service delivery personnel; and
- Resources, including program funds and personnel, are maximized for program needs.

The following are examples of activities the VRTAC–QM may undertake to address weaknesses in resource management:

- Assess grantee financial management processes used to support attainment of fiscal and programmatic outcomes (for example, whether an agency's fiscal processes support the accurate tracking and reporting of non-Federal funds to maximize the drawdown of Federal award funds to support attainment of employment outcomes). The assessment will be used to identify areas for improvement in fiscal processes that will assist the agency in meeting program goals.
- Assess personnel training and technical assistance needs to identify gaps in fiscal knowledge, skills, and abilities that prevent the agency from effective and efficient resource utilization necessary to achieve employment outcomes.
- Provide intensive training and technical assistance on financial planning to maximize program resources and attainment of program goals and objectives, maximizing opportunities for funds matching, avoiding potential maintenance of effort and match penalties, and meeting the reservation of funds requirement for pre-employment transition services in order to increase resources available for service delivery.
- Provide technical assistance on implementing Federal, State, and program fiscal requirements, including internal controls, in an efficient and effective manner to reduce unnecessary burden and to focus efforts on program outcomes.
- Provide technical assistance on the identification, collection, and analysis

of program and fiscal data necessary for program management and maximizing available resources to support consumer services.

Proposed Project Requirements: To meet the requirements of this priority, the VRTAC–QM must, at a minimum, conduct one or more of the following activities:

(1) Establish a committee on quality management of State VR programs that meets at least semi-annually to obtain individual advice and recommendations for the project.

The committee must include, but is not limited to, individuals with disabilities, representatives from State VR agencies, stakeholders, and individuals with subject matter expertise in improving outcomes through effective program and resource management and in employment strategies for people with disabilities. At a minimum, the committee members will provide individual input and recommendations pertaining to the implementation of the project and the project evaluation and quality assurance plan.

(2) Establish a state-of-the-art website and information technology (IT) platform for communicating with State VR agencies and ensure that all products produced by the VRTAC–QM and posted on the website meet government and industry-recognized standards for accessibility.

The website will become a key training and technical assistance delivery vehicle; a major communication center for the VRTAC–QM and State VR agencies; and the central repository of information about quality management strategies and practices that will form the basis for intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance.

(3) Complete a comprehensive review of programmatic and fiscal quality management strategies and practices for VR services for individuals with disabilities to achieve employment outcomes and develop an overarching training and technical assistance plan for the project. Both the review and the plan must be made available to the public, as appropriate.

The purpose of the review is to identify those strategies and practices for inclusion in VRTAC–QM's overarching training and technical assistance plan. The center will develop an analytical framework and selection criteria against which to evaluate potential strategies and practices. The analysis will focus on: State VR agency needs and priorities, up-to-date information on quality management strategies and practices that have proven to be effective in the field of rehabilitation as well as other public and private sectors of the economy that may have applicability to the management of VR agencies, and quantitative and qualitative research on the effectiveness of the identified strategies and practices in order to improve service delivery and employment outcomes for individuals with disabilities.

Sources of information used for this review may include: State VR agency interviews and consultations; information from such sources as the RSA–911 Case Service Report aggregate data, general labor market data and information, Unified or Combined State Plans, and RSA monitoring reports; and information and resources generated by technical assistance centers funded by the U.S. Departments of Education, Labor, and Health and Human Services.

The overarching training and technical assistance plan must include, at a minimum—

(a) Quality management strategies and practices that result in improved service delivery and employment outcomes for individuals with disabilities, including the rationale for their selection;

(b) Conceptual framework for the selected strategies and practices, including key assumptions, expectations, and presumed relationships or linkages among strategies and practices;

(c) Nature and scope of the intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to be provided in support of the selected strategies and practices; and

(d) Protocols and timelines for requesting and obtaining training and technical assistance.

(4) Provide intensive training and technical assistance to State VR agencies.

Intensive training and technical assistance will be provided to increase State VR agencies' capacity to adopt, expand, or sustain programmatic and fiscal quality management strategies and practices that improve the quality of service delivery and employment outcomes. Intensive training and technical assistance will be provided on-site, over an extended period, under the terms of signed intensive training and technical assistance agreements between the VRTAC–QM and the participating State VR agencies. Numerical targets for the number of intensive training and technical assistance agreements will be included in the cooperative agreement between RSA and the VRTAC–QM. Agreements will reflect the participating VR agencies' needs and priorities, goals, and objectives. They must include the following components:

(a) Quality management strategies and practices to be implemented by the State VR agency and that result in improved service delivery and employment outcomes.

(b) Nature and scope of the training and technical assistance to be provided by the VRTAC–QM.

(c) Roles and responsibilities of the VRTAC–QM, State VR agency, and other workforce development partners, including the commitment of resources.

(d) Logic model [1] that includes: Performance outcomes, targets, and baselines; project activities, inputs, and outputs; and data collection and analysis commitments.

The intensive training and technical assistance agreements will be developed based on the VRTAC–QM and participating VR agency's review and analysis of such information sources as Unified or Combined State Plans; RSA–911 and other performance data; general labor market data and information; RSA monitoring reports; State audit reports; and a review of pertinent Federal, State, and local resources in the State, including existing employment and training programs.

(5) Provide targeted training and technical assistance and universal training and technical assistance on programmatic and fiscal quality management strategies and practices that lead to effective and efficient service delivery and quality employment outcomes.

(6) Coordinate training and technical assistance with other technical assistance centers.

The VRTAC–QM must coordinate the provision of training and technical assistance with the Vocational Rehabilitation Technical Assistance Center for Quality Employment and other RSA-funded technical assistance and training centers. This coordination is particularly critical when developing intensive training and technical assistance agreements with the VR agencies to avoid confusion and duplication of efforts. The VRTAC–QM must also coordinate with other technical assistance centers funded by

[1] ''Logic model'' (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

the U.S. Departments of Education, Labor, and Health and Human Services.

(7) Present at a national conference or regional forums or specialized meetings in the fifth year of the grant to disseminate the VRTAC–QM's summative findings and results.

The primary objectives are to help State VR agencies to expand and sustain their VRTAC–QM programmatic and fiscal management strategies and practices that result in improved service delivery and employment outcomes by promoting an exchange of ideas and experiences with other participating VR agencies and to encourage other State VR agencies to consider adopting VRTAC–QM strategies and practices. In addition, the VRTAC–QM will explore cost-effective approaches such as virtual convenings to engage VR agencies and partners who may be unable to attend in-person meetings.

(8) Develop a plan for an evaluation, including a timeline for the evaluation and measurement benchmarks, that will determine the relationship between the center's training and technical assistance on the service delivery and employment outcomes achieved by the VR agencies that received the center's services. This should be done through an analysis of the quality, relevance, and usefulness of VRTAC–QM training and technical assistance activities designed to improve State VR agencies' program and resource management and lead to improved service delivery and achievement of high-quality employment outcomes and career advancement.

Specific Requests for Comment: The Department is particularly interested in comments on Proposed Priority 2 regarding whether the employment strategies and supporting practices identified reflect the greatest needs in the field. We are also interested in comments on whether the list of activities reflects the greatest needs in the field.

Proposed Priority 2: Vocational Rehabilitation Technical Assistance Center for Quality Employment.

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund a cooperative agreement to establish a Vocational Rehabilitation Technical Assistance Center for Quality Employment (VRTAC–QE).

The purpose of the VRTAC–QE is to upgrade and increase the competencies, skills, and knowledge of VR personnel to implement and sustain employment strategies and supporting practices that enable individuals with disabilities to achieve quality employment and career advancement, particularly competitive integrated employment as defined in the Rehabilitation Act. The center will include strategies and practices that meet the needs and promote the quality employment of individuals with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations. The VRTAC–QE will implement a coordinated plan to provide intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to State VR agencies on a broad range of employment strategies and supporting practices.

Employment strategies for consideration include, but are not limited to, the following:

(a) Career pathways education, training, and supports in high-demand occupations, including those in science, technology, engineering, and mathematics (STEM) fields.

(b) Registered and industry-recognized apprenticeships, pre-apprenticeships, and on-the-job training.

(c) Supported employment and customized employment.

(d) Customized training and credential programs to meet employer demand.

(e) Self-employment and entrepreneurship, including services available under the Randolph-Sheppard Vending Facility Program.

(f) Business engagement and employer supports, including dual customer models such as Progressive Employment.

Supporting practices for consideration include, but are not limited to, the following:

(1) Practices to enhance the employment capacity of individuals with the most significant disabilities receiving supported employment services, such as the Individual Placement and Support model.

(2) Pre-employment transition services that prepare students with disabilities and transition services that prepare youth with disabilities to identify career interests through work-based learning and early career exploration opportunities, including internships and job shadowing, with a focus on high-demand and STEM careers.

(3) Career counseling techniques and resources, including labor market information tools such as Career Index Plus.

(4) Strategies involving workforce development partners, community rehabilitation programs, and other community-based organizations to provide the comprehensive support services that individuals with significant and the most significant disabilities need to succeed, such as the Integrated Resource Teams model.

(5) Approaches that encourage VR clients to enter and remain engaged in the VR process, such as rapid engagement, motivational interviewing, benefits counseling, and financial empowerment training, and vehicles such as the Achieving a Better Life Experience (ABLE) tax-free accounts for individuals with disabilities.

(6) Community outreach strategies to expand the pool of potential VR applicants and referral sources, including traditionally underserved populations.

Proposed Project Requirements: To meet the requirements of this priority, the VRTAC–QE must, at a minimum, conduct one or more of the following activities:

(1) Establish a state-of-the-art website and IT platform for communicating with State VR agencies and ensure that all products produced by the VRTAC–QE and posted on the website meet government and industry-recognized standards for accessibility.

The website will become a key training and technical assistance delivery vehicle; a major communication center for the VRTAC–QE, State VR agencies, workforce partners, and other professionals; and the central repository of information about employment strategies and practices that will form the basis for intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance.

(2) Complete a comprehensive review of effective strategies and practices leading to quality employment for individuals with disabilities and develop an overarching training and technical assistance plan for the project. Both the review and the plan must be made available to the public, as appropriate.

The purpose of the review is to identify employment strategies and supporting practices for inclusion in VRTAC–QE's overarching training and technical assistance plan. The center will develop an analytical framework and selection criteria against which to evaluate potential strategies and practices. The analysis will focus on: State VR agency needs and priorities; up-to-date information on national trends, barriers, challenges, and opportunities regarding quality employment for individuals with disabilities, including factors leading to successful employment of individuals

with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and quantitative and qualitative research on the effectiveness of the identified strategies and practices.

Sources of information for this review may include, but are not limited to, State VR agency interviews and consultations; analyses of aggregate RSA–911 Case Service Report data, Unified or Combined State Plans, and RSA monitoring reports; information and tools generated by RSA's vocational rehabilitation technical assistance centers and special demonstration projects, available on the National Clearinghouse of Rehabilitation Training Materials website; and other resources funded by the U.S. Departments of Education, Labor, and Health and Human Services, and institutions of higher education.

The overarching training and technical assistance plan must include, at a minimum—

(a) Employment strategies and supporting practices, including the rationale for their selection;

(b) Conceptual framework for the selected strategies and practices, including key assumptions, expectations, and presumed relationships or linkages among strategies and practices;

(c) Nature and scope of the intensive training and technical assistance, targeted training and technical assistance, and universal training and technical assistance to be provided in support of the selected strategies and practices; and

(d) Protocols and timelines for requesting and obtaining training and technical assistance.

(3) Provide intensive training and technical assistance to State VR agencies.

Intensive training and technical assistance will be provided to increase the capacity of State VR agencies to adopt, expand, or sustain employment strategies and supporting practices that improve the quality of employment outcomes. Intensive training and technical assistance will be provided on-site, over an extended period, under the terms of signed intensive training and technical assistance agreements between the VRTAC–QE and the participating State VR agencies. Numerical targets for the number of intensive training and technical assistance agreements will be included in the cooperative agreement between RSA and the VRTAC–QE. Agreements will reflect the participating VR agencies' needs and priorities, goals, and objectives. They must include the following components:

(a) Employment strategies and supporting practices to be implemented by the State VR agency.

(b) Nature and scope of the training and technical assistance to be provided by the VRTAC–QE.

(c) Roles and responsibilities of the VRTAC–QE, State VR agency, and other workforce development partners, including the commitment of resources.

(d) Logic model [2] that includes: State-specific performance outcomes, targets, and baselines; project activities, inputs, and outputs; and data collection and analysis commitments.

The intensive training and technical assistance agreements will be developed based on the VRTAC–QE and participating VR agency's review and analysis of such information sources as Unified or Combined State Plans; RSA–911 and other performance data; RSA monitoring reports; relevant labor market information; and a review of pertinent Federal, State, and local resources in the State, including existing employment and training programs.

Intensive training and technical assistance will be implemented in coordination with, and leveraging the resources of, State and local workforce and other partners.

(4) Provide targeted training and technical assistance meeting the identified needs of a limited number of State VR agencies, as well as universal training and technical assistance broadly available to all State VR agencies and their partners.

(5) Coordinate training and technical assistance with other technical assistance centers.

The VRTAC–QE must coordinate the provision of training and technical assistance with the Vocational Rehabilitation Technical Assistance Center for Quality Management and other RSA-funded training and technical assistance investments. This coordination is particularly critical when developing intensive training and technical assistance agreements with the VR agencies to avoid confusion and duplication of efforts. The VRTAC–QE must also coordinate with other training and technical assistance resources funded by the U.S. Departments of Education, Labor, and Health and Human Services, and other pertinent Federal or State organizations, as appropriate.

(6) Disseminate VRTAC–QE summative findings and results through a national conference or regional forums or specialized meetings in the fifth year of the grant. The primary objectives are to help State VR agencies to expand and sustain their VRTAC–QE strategies and practices and to encourage other State VR agencies to consider adopting some VRTAC–QE strategies and practices by promoting an exchange of ideas and experiences with other participating VR agencies. To maximize the dissemination of project findings and results in the fifth year, the VRTAC–QE will explore cost-effective approaches such as virtual convenings to engage VR agencies and partners who may be unable to attend in-person meetings.

(7) Develop a plan for an evaluation, including a timeline for the evaluation and measurement benchmarks, that will assess VRTAC–QE employment strategies and supporting activities' relationship to VR participants' employment outcomes and career advancement. The evaluation will also assess the quality, relevance, and usefulness of the VRTAC–QE's training and technical assistance in improving State VR agencies' ability to identify and implement the appropriate strategies and practices.

Proposed Application Requirements: The following proposed application requirements apply to both priority 1 and priority 2. RSA encourages innovative approaches to meet these requirements. Applicants must—

(a) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how the proposed project will meet the evaluation requirements of the priority. Applicants must describe the anticipated implementation steps, milestones, and timelines for the development of a logic model for the project. The logic model must include data elements, inputs, activities, outputs, and short-term and long-term performance indicators regarding—

(1) Quantitative outcomes resulting from the program management or employment strategies and practices, including—

(i) Quality and timeliness of the VR processes and services;

(ii) Number and quality of employment outcomes;

(iii) VR participants' employment or career-readiness;

(iv) Cost-effectiveness; and

(v) Sustainability;

[2] ''Logic model'' (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

(2) Quality, relevance, and usefulness of the project's training and technical assistance activities;

(3) Quantitative or qualitative insights about the relationship between strategies, practices, and training and technical assistance activities on critical outcomes for VR personnel, VR clients, and key partners, including through—

(i) Pre- and post-training assessments;

(ii) Comparison groups;

(iii) Focus groups; or

(iv) Success stories.

(b) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how the applicant will ensure that—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) Projects will be operated in a manner consistent with nondiscrimination requirements contained in the U.S. Constitution and the Federal civil rights laws;

(3) Key project personnel, consultants, and subcontractors have the qualifications and experience to meet all the requirements of the priority, including expertise in—

(i) Programmatic areas addressed in the Project Requirements section of the priority;

(ii) Program and resource management and oversight;

(iii) Knowledge translation and dissemination, including the effective use of communication technologies; and

(iv) Project evaluation leading to continuous improvement, including qualitative and quantitative assessments;

(4) The applicant and key partners have adequate resources to carry out the proposed project activities, and achieve anticipated project outcomes and impact on the VR services to individuals with disabilities, including assurances that the proposed allocation of human and financial resources for project evaluation will be enough to meet the requirements in section (a) of the application requirement regarding the ''Quality of the Evaluation Plan,'' above; and

(5) The proposed costs are reasonable in relation to the anticipated results and benefits.

(c) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how the applicant will ensure that—

(1) The project's intended outcomes, including implementation of the evaluation plan, will be achieved on time and within budget, through—

(i) Clearly defined responsibilities of key project personnel, consultants, and contractors, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables, in accordance with the cooperative agreement between RSA and the applicant;

(iii) Internal monitoring processes to ensure that the project is being implemented in accordance with an established project performance plan, including timelines and milestones; and

(iv) Financial and budgetary oversight processes to ensure timely obligations and reporting of grant funds, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award;

(2) The allocation of key project personnel, consultants, and contractors—including levels of effort of key personnel—will be appropriate and adequate to achieve the project's intended outcomes, including an assurance that key personnel will have enough availability to ensure timely communications with stakeholders and RSA;

(3) The proposed management plan will ensure that the products and services are of high quality, relevance, and usefulness, in both content and delivery; and

(4) The proposed project will benefit from a diversity of perspectives, including those of State and local personnel, providers, researchers, and policy makers, among others, in its development and operation.

Additional Proposed Application Requirements for Proposed Priority 1: The following proposed application requirements apply only to proposed priority 1. RSA encourages innovative approaches to meet these requirements. Applicants must—

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will increase State VR agencies' capacity to improve the quality of VR services and employment outcomes for individuals with disabilities by enabling VR agencies to develop and implement efficient and effective program and resource management techniques leading to increases in the numbers and improved skills of VR counselors and other service delivery personnel. To meet this requirement, the applicant must demonstrate knowledge about—

(1) State VR program challenges, opportunities, barriers, and trends regarding program and resource management or quality employment outcomes for individuals with disabilities including those with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and

(2) Federal, State, and nongovernment initiatives to promote program and resource management and quality employment outcomes for individuals with disabilities, particularly in response to requirements under WIOA. The applicants must demonstrate—

(i) The proposed project's potential to contribute to these Federal, State, and nongovernment initiatives by assisting State VR agencies in equipping personnel with the necessary skills and training to implement the substantive provisions of the Rehabilitation Act introduced by WIOA that are designed to improve the quality of employment outcomes for individuals with disabilities; and

(ii) How the proposed project will increase State VR agencies' capacity to implement program and resource management strategies leading to improved VR services, employment outcomes, and career advancement opportunities for individuals with disabilities.

(b) Demonstrate, in the narrative section of the application, under ''Quality of Project Services,'' how the proposed project will achieve the goals, objectives, and intended outcomes of this priority. To meet this requirement, the applicant must describe its plan for implementing the project, including major implementation activities, timelines, and milestones (particularly for the initial fiscal year), as well as key assumptions and expectations, presumed relationships or linkages among variables, and underlying rationale and empirical support, for the following Project Requirements of the priority:

(1) State-of-the-art website. Applicants must describe how the website will serve as an effective communication center, training and technical assistance delivery vehicle, and repository of information about quality management or employment strategies and practices, including—

(i) Expected features and capabilities, including information-delivery and stakeholder-convening technologies; and

(ii) Anticipated uses of such features and capabilities in support of the project goals and objectives.

(2) Comprehensive review. Applicants must describe how the comprehensive review will provide the factual basis for the project training and technical assistance plan. At a minimum, the comprehensive review must include—

(i) Input from State VR agencies about their needs, priorities, and innovative approaches to program and resource management that lead to improved service delivery;

(ii) Information regarding the latest—

(A) National trends, barriers, challenges, and opportunities;

(B) Effective and efficient program and resource management strategies, techniques, and practices that may be applicable to State VR agencies; and

(C) Additional information that the applicant deems relevant;

(iii) An analytical framework for assessing the collected information and selecting the program and resource management strategies and practices for inclusion in the training and technical assistance plans.

(3) Provision of intensive training and technical assistance. Applicants must describe how the intensive training and technical assistance agreements will increase State VR agencies' capacity to improve the State VR agencies' performance and quality employment outcomes for individuals with disabilities, through State-appropriate—

(i) Program and resource management;

(ii) Federal, State, and local partnerships; and

(iii) Performance outcomes, outputs, inputs, targets, baselines, and data collection requirements.

(4) Provision of targeted training and technical assistance and universal training and technical assistance. Applicants must describe how each training and technical assistance modality (targeted or universal) will help State VR agencies to adopt, expand, and sustain program and resource management practices. For each training and technical assistance modality, describe—

(i) Topics, activities, and products;

(ii) Intended audience and outreach strategies;

(iii) Content delivery and dissemination methods; and

(iv) Steps to ensure quality, relevance, and usefulness.

(5) Coordination. The applicant must describe how it will maximize coordination between the VRTAC–QE and the VRTAC–QM and seek opportunities to coordinate with other training and technical assistance investments, including those funded by the U.S. Departments of Education, Labor, and Health and Human Services, in the provision of training and technical assistance to State VR agencies.

(6) National conference, regional forums, or specialized meetings in the fifth year of the grant performance period. Applicants must describe how the project will disseminate its summative findings and results, including cost-effective approaches such as virtual convenings to engage State VR agencies and other potential Federal, State, local, and nongovernment partners, including—

(i) Types of events (*e.g.,* conferences, forums, specialized meetings);

(ii) Target audience (*e.g.,* by event type); and

(iii) Convening modes (in-person, virtual); and

(c) Demonstrate, in the narrative section of the application under ''Quality of the Evaluation Plan,'' the applicant's capacity and experience in addressing the State VR agencies' training and technical assistance needs in the areas of program and resource management, including but not limited to strategic planning and performance improvement leading to performance improvement, including SWOT assessment related to implementing strategies that ensure education funds are spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

Additional Proposed Application Requirements for Proposed Priority 2: The following proposed application requirements apply only to proposed priority 2. RSA encourages innovative approaches to meet these requirements. Applicants must—

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will increase State VR agencies' capacity to improve the quality of VR services and employment outcomes for individuals with disabilities by enabling VR agencies to develop and implement innovative employment and support strategies that are designed to improve employment outcomes and career advancement for individuals with disabilities. To meet this requirement, the applicant must demonstrate knowledge about—

(1) State VR program challenges, opportunities, barriers, and trends regarding program and resource management or quality employment outcomes for individuals with disabilities including those with significant and the most significant disabilities, students and youth with disabilities, and traditionally underserved populations; and

(2) Federal, State, and nongovernment initiatives to promote program and resource management and quality employment outcomes for individuals with disabilities, particularly in response to requirements under WIOA. The applicants must demonstrate—

(i) The proposed project's potential to contribute to these Federal, State, and nongovernment initiatives by assisting State VR agencies in equipping personnel with the necessary skills and training to implement the substantive provisions of the Rehabilitation Act introduced by WIOA that are designed to improve the quality of employment outcomes for individuals with disabilities; and

(ii) How the proposed project will increase State VR agencies' capacity to implement employment strategies and supporting practices leading to improved VR services, employment outcomes, and career advancement opportunities for individuals with disabilities

(b) Demonstrate, in the narrative section of the application, under ''Quality of Project Services,'' how the proposed project will achieve the goals, objectives, and intended outcomes of this priority. To meet this requirement, the applicant must describe its plan for implementing the project, including major implementation activities, timelines, and milestones (particularly for the initial fiscal year), as well as key assumptions and expectations, presumed relationships or linkages among variables, and underlying rationale and empirical support, for the following Project Requirements of the priority:

(1) State-of-the-art website. Applicants must describe how the website will serve as an effective communication center, training and technical assistance delivery vehicle, and repository of information about quality management or employment strategies and practices, including—

(i) Expected features and capabilities, including information-delivery and stakeholder-convening technologies; and

(ii) Anticipated uses of such features and capabilities in support of the project goals and objectives.

(2) Comprehensive review. Applicants must describe how the comprehensive review will provide the factual basis for the project training and technical assistance plan. At a minimum, the comprehensive review must include—

(i) Input from State VR agencies about their needs, priorities, and innovative approaches to program and resource management that lead to quality

employment and career-readiness that lead to quality employment outcomes;

(ii) Information regarding the latest—

(A) National trends, barriers, challenges, and opportunities;

(B) Effective employment strategies and practices that prepare individuals with disabilities to compete in the global economy and designed to create or expand innovative and affordable paths to relevant careers through postsecondary credentials or job-ready skills; and

(C) Additional information that the applicant deems relevant; and

(iii) An analytical framework for assessing the collected information and selecting the employment and career-readiness strategies and practices for inclusion in the training and technical assistance plans.

(3) Provision of intensive training and technical assistance. Applicants must describe how the intensive training and technical assistance agreements will increase State VR agencies' capacity to improve the State VR agencies' performance and quality employment outcomes for individuals with disabilities, through State-appropriate—

(i) Employment strategies and supporting practices;

(ii) Federal, State, and local partnerships; and

(iii) Performance outcomes, outputs, inputs, targets, baselines, and data collection requirements.

(4) Provision of targeted training and technical assistance and universal training and technical assistance. Applicants must describe how each training and technical assistance modality (targeted or universal) will help State VR agencies to adopt, expand, and sustain employment strategies and practices that improve employment outcomes and career advancement opportunities for eligible VR participants. For each training and technical assistance modality, describe—

(i) Topics, activities, and products;

(ii) Intended audience and outreach strategies;

(iii) Content delivery and dissemination methods; and

(iv) Steps to ensure quality, relevance, and usefulness.

(5) Coordination. The applicant must describe how it will maximize coordination between the VRTAC–QE and the VRTAC–QM and seek opportunities to coordinate with other technical assistance centers, including those funded by the U.S. Departments of Education, Labor, and Health and Human Services, in the provision of training and technical assistance to State VR agencies.

(6) National conference, regional forums, or specialized meetings in the fifth year of the grant performance period. Applicants must describe how the project will disseminate its summative findings and results, including cost-effective approaches such as virtual convenings to engage State VR agencies and other potential Federal, State, local, and nongovernment partners, including—

(i) Types of events (*e.g.,* conferences, forums, specialized meetings);

(ii) Target audience (*e.g.,* by event type); and

(iii) Convening modes (in-person, virtual).

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

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

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

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

Proposed Definitions

Background: We propose the following definitions for use with these proposed priorities. We propose these definitions to ensure that applicants have a clear understanding of how we are using these terms.

Intensive training and technical assistance means training and technical assistance provided to State VR agencies and State VR agency personnel primarily on-site over an extended period. Intensive training and technical assistance is based on an ongoing relationship between the training and technical assistance center staff and State VR agencies and State VR agency personnel under the terms of a signed intensive training and technical assistance agreement.

Targeted training and technical assistance means training and technical assistance based on needs common to one or more State VR agencies and State VR agency personnel on a time-limited basis and with limited commitment of training and technical assistance center resources. Targeted training and technical assistance are delivered through virtual or in-person methods tailored to the identified needs of the participating State VR agencies and State VR agency personnel.

Universal training and technical assistance means training and technical assistance broadly available to State VR agencies and State VR agency personnel and other interested parties through their own initiative, resulting in minimal interaction with training and technical assistance center staff. Universal training and technical assistance includes generalized presentations, products, and related activities available through a website or through brief contacts with the training and technical assistance center staff.

Final Priorities, Requirements, and Definitions: We will announce the final priorities, requirements, and definitions in a notice in the **Federal Register**. We will determine the final priorities, requirements, and definitions after considering responses to the proposed priorities, requirements, and definitions and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these priorities, requirements, or definitions, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or

communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2020, any new incremental costs associated with a new rule must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to ''transfer rules'' that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. Because the proposed priorities, requirements, and definitions would be utilized in connection with a discretionary grant program, Executive Order 13771 does not apply.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing the proposed priorities, requirements, and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities. The costs would include the time and effort in responding to the priority for entities that choose to respond.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document. The benefits include receiving comments regarding the best way to prioritize among VR agencies needing intensive TA and whether the activities identified reflect the greatest needs in the field.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand. The Secretary invites comments on how to make these proposed priorities, requirements, and definitions easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of the preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are public or private nonprofit agencies and organizations, including Indian Tribes and institutions of higher education that may apply. We believe that the costs imposed on an applicant by the proposed priorities, requirements, and definitions would be limited to paperwork burden related to preparing an application and that the benefits of these proposed priorities, requirements, and definitions would outweigh any costs incurred by the applicant. There are very few entities who could provide the type of technical assistance required under the proposed priorities. For these reasons these proposed priorities,

requirements, and definitions would not impose a burden on a significant number of small entities.

Paperwork Reduction Act of 1995: The proposed priorities, requirements, and definitions contain information collection requirements that are approved by OMB under OMB control number 1820–0018.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 385. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, the Secretary particularly requests comments on whether these proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Mark Schultz,

Commissioner, Rehabilitation Services Administration. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2020–07402 Filed 4–8–20; 8:45 am]

BILLING CODE 4000–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Chapter II

[Docket No. 2019–7]

Online Publication; Extension of Comment Period

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notification of inquiry; extension of reply comment period.

SUMMARY: The U.S. Copyright Office is extending the deadline for the submission of written reply comments in response to its December 4, 2019 notification of inquiry regarding online publication.

DATES: The reply comment period for the notification of inquiry published December 4, 2019, at 84 FR 66328, is extended. Written reply comments must be submitted no later than 11:59 p.m. Eastern Time on June 15, 2020.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office's website at *https://www.copyright.gov/rulemaking/online-publication/.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at *regans@copyright.gov,* Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice, by email at *rkas@copyright.gov,* or Jordana Rubel, Associate General Counsel, by email at *jrubel@copyright.gov.* Each can be contacted by telephone by calling (202) 707–3000.

SUPPLEMENTARY INFORMATION: On December 4, 2019, the U.S. Copyright Office issued a notification of inquiry regarding online publication. 84 FR 66328 (Dec. 4, 2019). The Office solicited public comments on a broad range of issues concerning the application of the statutory definition of publication to the online context. The Office subsequently extended the deadline for the submission of comments to March 19, 2020 and the deadline for the submission of reply comments to April 16, 2020. 85 FR 3303 (Jan. 21, 2020).

Given the large number of substantive comments the Office received and the widespread disruption caused by the coronavirus, the Office believes it would be beneficial to provide additional time for reply comments to ensure that members of the public have sufficient time to comment and that the Office has the benefit of a complete record. The Office is therefore extending the deadline for the submission of reply comments to no later than 11:59 p.m. Eastern Time on June 15, 2020.

Dated: March 30, 2020.

Regan A. Smith,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2020–06979 Filed 4–8–20; 8:45 am]

BILLING CODE 1410–30–P

Notices

Federal Register

Vol. 85, No. 69

Thursday, April 9, 2020

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

April 3, 2020.

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: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by May 11, 2020. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Soil Health in Texas.

OMB Control Number: 0535–0264.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. NASS will conduct a survey of select agricultural operations with land operated in the 28 counties of the Brazos River Watershed of Texas. Each selected farmer or rancher will be asked to provide data on (1) Selected soil management practices of the whole field, (2) Selected soil management practices of the selected field, (3) Scenario questions on tillage preferences, and (4) Likert questions on tillage preferences. General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204.

Need and Use of the Information: The information will be summarized and compared against the hypotheses for the Brazos River Watershed:

1. The greater the belief that no-till is useful, the greater an individual's intention to adopt or have adopted no-till.
2. The greater the attitudes that no-till necessary, the greater an individual's intention to adopt or have adopted no-till.
3. The greater the social pressure to adopt no-till, the more likely an individual's intention to adopt or have adopted no-till.
4. The greater the sense of obligation to adopt no-till, the greater an individual's intention to or have adopted no-till.
5. The greater the perceived risk of adopting no-till, the less likely an individual's intention or have adopted no-till.
6. The greater an individual's confidence in their ability to adopt no-till or adopting no-till, the greater their intention to adopt or continue to use no-till.
7. The greater an individual's trust in information from other producers or organizations, the greater their intention to adopt or have adopted no-till.

Description of Respondents: A sample of all active agricultural operations in a defined twenty-eight county region in the State of Texas, Brazos Valley Watershed. The sample includes producers who reported conservation practices on the 2017 Census of Agriculture, as well as those that do not use conservation practices.

Number of Respondents: 2,900.

Frequency of Responses: Reporting: Once a year.

Total Burden Hours: 468.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2020–07429 Filed 4–8–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2020–0003]

Information Collection Requests; Farm Programs: Disaster Assistance-General (0560–0170), Transfer of Records Between Counties (0560–0253) and Customer Data Worksheet Request for Business Partner Record (0560–0265)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on the three Farm Programs' information collection requests. The 3 collection requests in the Farm Programs are: Disaster Assistance-General (0560–0170), Transfer of Records between Counties (0560–0253) and Customer Data Worksheet Request for Business Partner Record (0560–0265). In the Disaster Assistance-General, the information collection is needed to identify disaster areas and establish eligibility for both primary disaster counties and those counties contiguous to such disaster counties for assistance from FSA. This assistance includes FSA emergency loans which are available to eligible and qualified farmers and ranchers. In the Customer Data Worksheet Request for Business Partner

Record, FSA is using the collected information in support of documenting critical producer data (for example, customer name, current mailing address, tax identification number) made at the request of the producer to obtain, correct or update their information. In the Transfer of Records Between Counties, FSA is using the collected information to approve or disapprove the transfer of farm records from one FSA county office to another.

DATES: We will consider comments that we receive by June 8, 2020.

ADDRESSES: We invite you to submit comments on this notice. In your comments, please include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by the following method: Federal eRulemaking Portal; Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0003.

You may also send comments to the Desk Officer for Agriculture, Office of the Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments will be available for public inspection online at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to the collection activities or to obtain a copy of the information collection request: For the Disaster Assistance, please contact Helen Mathew, (202) 720–6834; *helen.mathew@usda.gov;* for the Customer Data Worksheet Request for Business Partner Record Change, please contact Paul Hanson, 202–304–7932; *paul.hanson@usda.gov* and for the Transfers of Records between Counties, please contact Melonie Sullivan, 202–690–61, *melonie.sullivan@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disaster Assistance-General (7 CFR PART 1945–A).

OMB Control Number: 0560–0170.

Expiration Date: September 30, 2020.

Type of Request: Extension with a revision.

Abstract: The information collection is necessary for FSA to effectively administer the regulations related to identifying those disaster areas that are eligible for the purpose of making emergency loans. This program is available to qualified and eligible farmers and ranchers who have suffered weather-related physical or production losses or both in such areas. Before emergency loans can become available, the information needs to be collected to determine if the disaster areas meet the criteria of having a qualifying loss in order to be considered as an eligible county.

The number of responses increased to 820 which increased the burden hours to 412 due to the additional Disaster Designation requests.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Average Time to Respond: Public reporting burden for the information collection is estimated to average 0.477 hours per response.

Type of Respondents: Individuals or households, businesses or other for-profit farms.

Estimated Annual Number of Respondents: 1312.

Estimated Number of Reponses per Respondent: 1.

Estimated Total Annual Responses: 1312.

Estimated Average Time per Response: 0.477 hours.

Estimated Total Annual Burden on Respondents: 626.

Title: Customer Data Worksheet for Business Partner Record Change.

OMB Control Number: 0560–0265.

Expiration Date: October 31, 2020.

Type of Request: Extension with a revision.

Abstract: The information collection is necessary to effectively monitor critical producer data (for example, customer name, current mailing address and tax identification number) made at the request of the producer to provide, correct or update their information. The form AD–2047, Customer Data Worksheet Request for Business Partner Record, is used to collect the information from the producer to input or make changes to the information. The critical producer data are also being used to update existing producer record data and document when and who initiates and changes the record.

FSA, Natural Resource Conservation Service (NRCS) and other USDA Agencies use the Business Partner database to maintain and manage their respective customer data. The necessity to monitor critical producer data in the Business Partner database was a direct result of the OMB Circular A–123 Remediation/Corrective Action Plan for County Office Operations which requires effective internal controls to be in place for Federal programs. FSA team was established and reviewed and documented key controls related to all material producer accounts. FSA also included the analysis on a review of record.

The number of respondents increased by 52,848 to account for additional customers due to additional USDA agencies. The average time per response changed from 10 minutes to 3 minutes for the form of AD–2047 that decreased the burden hours by 4,189 in the request since the last OMB approval.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per responses multiplied by the estimated total annual of responses.

Estimate of Average Time to Respond: Public reporting burden for collecting information under this notice is estimated to average 0.05 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Type of Respondents: FSA, NRCS, AMS, and RD customers currently residing in the Business Partner database.

Estimated Number of Respondents: 109,774.

Estimated Average Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 109,774.

Estimated Average Time per Response: 0.05.

Estimated Total Annual Burden on Respondents: 5,489 hours.

Title: Transfer of Records Between Counties.

OMB Control Number: 0560–253.

Expiration Date: October 31, 2020.

Type of Request: Extension with a revision.

Abstract: Farm owners or operators may request to transfer farm records between FSA county offices under certain circumstances, which may include:

- A change has occurred in the operation of the land; or
- there has been a change that would cause the receiving county office to be more accessible, including, but not limited to, the construction of a new highway, relocation of the county office building site; or
- when an FSA county office closes.

FSA County Committees from both the transferring and receiving counties must approve or disapprove all proposed farm record transfers. If the FSA County Committee is not able to approve the request based on one of the criteria in 7 CFR 718.8(e), then the State Committee would need to submit an exception request to the Deputy Administrator for Farm Programs. The burden hours decreased by 21,382 due to the removal of travel times from the request.

For the following estimated total annual burden on respondents, the

formula used to calculate the total burden hour is the estimated average time per responses hours multiplied by the estimated total annual responses.

Estimate of Average Time to Respond: Public reporting burden for collecting information under this notice is estimated to average 0.16 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Type of Respondents: Owners and operators.

Estimated Number of Respondents: 21,240.

Estimated Average Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 21,240.

Estimated Average Time per Response: 0.16.

Estimated Total Annual Burden on Respondents: 3,398 hours.

Requesting Comments

FSA is requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–07423 Filed 4–8–20; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Rhode Island Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to meeting date and time.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** of Friday, April 3, 2020, concerning a meeting of the Rhode Island Advisory Committee. The document contained a date and time that is now changed to a new date and time.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, (202) 381–8915, *ebohor@usccr.gov.*

Correction: In the **Federal Register** of Friday, April 3, 2020, in FR Doc. 2020–06951, on page 18914–18915, third column of 18914 and first column of 18915, correct the date and time to read: Tuesday, April 14, 2020 at 2:00 p.m. (EDT),

Dated: April 3, 2020.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020–07443 Filed 4–8–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2095]

Reorganization of Foreign-Trade Zone 262 Under Alternative Site Framework; Southaven, Mississippi

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the Northern Mississippi FTZ, Inc., grantee of Foreign-Trade Zone 262, submitted an application to the Board (FTZ Docket B–58–2019, docketed September 19, 2019) for authority to reorganize under the ASF with a service area of DeSoto County, Mississippi, in and adjacent to the Memphis Customs and Border Protection port of entry, and FTZ 262's existing Site 1 would be categorized as a magnet site;

Whereas, notice inviting public comment was given in the **Federal Register** (84 FR 50374, September 25, 2019) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 262 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to an ASF sunset provision for magnet sites that would terminate authority for Site 1 if not activated within five years from the month of approval.

Dated: April 6, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2020–07503 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–844]

Narrow Woven Ribbons With Woven Selvedge From Taiwan: Preliminary Determination of No Shipments and Rescission, in Part, of Antidumping Duty Administrative Review; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that four companies made no shipments of subject merchandise. Further, we are rescinding the review with respect to Maple Ribbon Co., Ltd. (Maple Ribbon). Interested parties are invited to comment on these preliminary results.

DATES: Applicable April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer or 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) 482–3860 or (202) 482–3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 2019, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty (AD) order on narrow woven ribbons with woven selvedge (NWR) from Taiwan for the September 1, 2018 through August 31, 2019 period of review (POR).[1] On September 25, 2019, Commerce received a timely request, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), from Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, LLC (the petitioner) to conduct an administrative review of the AD order on NWR from Taiwan manufactured and/or exported by five companies: Banduoo Ltd. (Banduoo), Fujian Rongshu Industry Co., Ltd. (Fujian Rongshu), Maple Ribbon, Roung Shu Industry Corporation (Roung Shu), and Xiamen Yi-He Textile Co., Ltd. (Xiamen Yi-He).[2]

In November 2019, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the AD order on NWR from Taiwan with respect to these five companies.[3] Also in November 2019, we received timely submissions from Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He notifying Commerce that they did not export or sell subject merchandise to the United States during the POR.[4]

In March 2020, we confirmed Banduoo's, Fujian Roung Shu's, Roung Shu's, and Xiamen Yi-He's no shipment claims with U.S. Customs and Border Protection (CBP).[5] In December 2019, we selected Maple Ribbon as a mandatory respondent in this review and issued an AD questionnaire to it.[6] However, in January 2020, the petitioner timely withdrew its request for an administrative review with respect to Maple Ribbon.[7]

Scope of the Order

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene teraphthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- Also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an ''ornamental trimming'';
- be wound on spools; attached to a card; hanked (*i.e.,* coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this AD order.

Excluded from the scope of the order are the following:

(1) Formed bows composed of narrow woven ribbons with woven selvedge;

(2) ''pull-bows'' (*i.e.,* an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;

(3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (*i.e.,* filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

(4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;

(5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;

(6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;

(7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;

(8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;

(9) narrow woven ribbons constructed from pile fabrics (*i.e.,* fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

(10) narrow woven ribbon affixed (including by tying) as a decorative

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 84 FR 45949 (September 3, 2019).

[2] *See* Petitioner's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan/Petitioner's Request for Administrative Review,'' dated September 25, 2019.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 61011 (November 12, 2019).

[4] *See* Banduoo's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter,'' dated November 22, 2019 (Banduoo No Shipment Letter); Fujian Rongshu's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter,'' dated November 22, 2019 (Fujian Rongshu No Shipment Letter); Roung Shu's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter,'' dated November 22, 2019 (Roung Shu No Shipment Letter); and Xiamen Yi-He's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter,'' dated November 22, 2019 (Xiamen Yi-He No Shipment Letter).

[5] *See* Memorandum, ''Narrow woven ribbons with woven selvedge from Taiwan (A–583–844),'' dated March 12, 2020 (No Shipments Inquiry Response).

[6] *See* Memorandum, ''Respondent Selection,'' dated December 11, 2019; and Commerce's Letter, ''Antidumping Duty Questionnaire,'' dated December 11, 2019.

[7] *See* Petitioner's Letter, ''Narrow Woven Ribbons with Woven Selvedge from Taiwan/Petitioner's Withdrawal Of Request For Administrative Review Of Maple Ribbon Co., Ltd.,'' dated January 22, 2020 (Petitioner Withdrawal Request).

detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a ''belly band'' around a pair of pajamas, a pair of socks or a blanket;

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the 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.

Preliminary Determination of No Shipments

Because Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He timely filed statements reporting that they made no shipments of subject merchandise to the United States during the POR,[8] and we were able to confirm these claims with CBP,[9] we preliminarily determine that these four companies had no shipments during the POR.

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.[10]

Rescission of Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The petitioner's withdrawal of its request with respect to Maple Ribbon was submitted within the 90-day period, and thus is timely.[11] Because the petitioner's withdrawal of its request with respect to Maple Ribbon for an AD administrative review is timely, and because no other party requested a review of this company, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review, in part, with respect to Maple Ribbon.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of this notice.[12] Rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than seven days after the deadline date for case briefs.[13] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation 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. Case and rebuttal briefs should be filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) and must be received successfully in its entirety by 5:00 p.m. Eastern Time by ACCESS.[14] ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Commerce building. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until May 19, 2020, unless extended.[15]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, unless otherwise extended.[16]

Assessment Rates

With respect to Maple Ribbon, Commerce will instruct CBP to assess antidumping duties at the cash deposit rate in effect on the date of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). We intend to issue liquidation instructions to CBP 15 days after publication of this notice.

Further, if we continue to find, in the final results, that Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He

[8] *See* Banduoo No Shipment Letter; Fujian Rongshu No Shipment Letter; Roung Shu No Shipment Letter; and Xiamen Yi-He No Shipment Letter.

[9] *See* No Shipments Inquiry Response.

[10] *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 51306 (August 28, 2014).

[11] *See* Petitioner Withdrawal Request.

[12] *See* 19 CFR 351.309(c).

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020).

[14] *See* 19 CFR 351.303.

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020).

[16] *See* Section 751(a)(3)(A) of the Act.

had no shipments of subject merchandise during the POR, we will instruct CBP to liquidate any suspended entries that entered under their AD case numbers (*i.e.,* at that exporter's rate), or 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 for Banduoo, Fujian Rongshu, Roung Shu, and Xiamen Yi-He 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) 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 from the most recently completed segment; (2) 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 (3) 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.[17] 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 Regarding Administrative Protective Order

This notice serves as a preliminary reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: April 2, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2020–07489 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–DS–P

[17] *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–533–887]

Carbon and Alloy Steel Threaded Rod From India: Amended Final Determination of Sales at Less Than Fair Value and 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), we are issuing an antidumping duty order on carbon and alloy steel threaded rod (threaded rod) from India. Additionally, we are amending our final affirmative determination of sales at less than fair value (LTFV) for carbon and alloy steel threaded rod from India as a result of a ministerial error.

DATES: Applicable April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Annathea Cook or Jerry Huang, 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) 482–0250 or (202) 482–4047, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on February 18, 2020, Commerce published its affirmative final determination in the LTFV investigation of imports of carbon and alloy steel threaded rod from India.[1] On April 3, 2020, the ITC notified Commerce of its final determination, pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of the LTFV imports of carbon and alloy steel threaded rod from India.[2]

Scope of the Order

The merchandise covered by this order is carbon and alloy steel threaded rod from India. For a complete description of the scope of the order, *see* the appendix to this notice.

Amendment to the Final Determination

A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.[3]

Pursuant to sections 735(e) of the Act and 19 CFR 351.224(e) and (f), Commerce is amending the *Final Determination* to reflect the correction of a ministerial error in the final estimated weighted-average dumping margin calculated for Mangal Steel Enterprise Limited (Mangal).[4] In addition, because Mangal's estimated weighted-average dumping margin forms the basis for the estimated weighted-average dumping margin determined for all other companies, we also are revising the all others margin. The amended estimated weighted-average dumping margins are listed in the ''Estimated Weighted-Average Dumping Margins'' section below.

Antidumping Duty Order

On April 3, 2020, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of

[1] *See Carbon and Alloy Steel Threaded Rod from India: Final Affirmative Determination of Sales at Less Than Fair Value,* 85 FR 8818 (February 18, 2020) (*Final Determination*).

[2] *See* Letter to Jeffrey Kessler, Assistant Secretary of Commerce for Enforcement and Compliance, from David S. Johanson, Chairman of the U.S. International Trade Commission, regarding steel threaded rod from China and India, (April 3, 2020) (ITC Letter).

[3] *See* section 735(e) of the Act; and 19 CFR 351.224(f).

[4] *See* Memorandum, ''Antidumping Duty Investigation of Carbon and Alloy Steel Threaded Rod from India—Ministerial Error Allegation in the Final Determination,'' dated March 16, 2020.

LTFV imports of threaded rod from India.[5] Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this antidumping duty order.

Because the ITC determined that imports of threaded rod from India are materially injuring a U.S. industry, unliquidated entries of such merchandise from India, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties. Therefore, 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 threaded rod from China. Antidumping duties will be assessed on unliquidated entries of threaded rod from China entered, or withdrawn from warehouse, for consumption on or after September 25, 2019, the date of publication of the *Preliminary Determination,*[6] 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 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation of threaded rod from India as described in the appendix to this notice which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. 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 cash deposit rates listed below.[7] The all others rate applies to all producers or exporters not specifically listed.

Estimated Weighted-Average Dumping Margins

The weighted-average dumping margins are as follows:

Exporter/producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for export subsidy offset(s)) (percent)
Daksh Fasteners	28.34	22.86
Mangal Steel Enterprise Limited	2.75	0.00
All Others	2.75	0.00

Provisional Measures

Section 733(d) of the Act states that instructions 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 the subject merchandise request Commerce to extend that four-month period to no more than six months. Because Mangal, accounting for a significant proportion of threaded rod from India, requested an extension of provisional measures,[8] we extended the four-month period to six months in this proceeding. The period began on September 25, 2019 and ended on March 22, 2020.

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 threaded rod from India entered, or withdrawn from warehouse, for consumption after March 22, 2020, the date the provisional measures expired, 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**.

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to threaded rod 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: April 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise covered by the scope of this order is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to these investigations are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A320 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by

[5] *See* ITC Letter.

[6] *See Carbon and Alloy Steel Threaded Rod from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 84 FR 50376 (September 25, 2019) (*Preliminary Determination*).

[7] *See* section 736(a)(3) of the Act.

[8] *See* Mangal's Letter, ''Antidumping Investigation of Carbon and Alloy Steel Threaded Rod from India: Request for Postponement of Final Determination,'' dated August 21, 2019.

attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of this order if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of this order whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of this order is: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Specifically excluded from the scope of this order is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–07481 Filed 4–8–20; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board or TTAB) will hold a meeting on Thursday, April 9, 2020. The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry. The purpose of the meeting is for Board members to discuss the impact of COVID–19 on the travel and tourism industry and to discuss how the public and private sectors can work together to accelerate recovery. The final agenda will be posted on the Department of Commerce website for the Board at *http://trade.gov/ttab* at least one week in advance of the meeting.

DATES: Thursday, April 9, 2020, 3:00 p.m.–4:00 p.m. EDT. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. EDT on Tuesday, April 7, 2020.

ADDRESSES: The meeting will be held via conference call. The call-in number and passcode will be provided by email to registrants.

Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted by email to *TTAB@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Aguinaga, the United States Travel and Tourism Advisory Board, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–2404; email: *TTAB@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Exceptional Circumstances: Pursuant to 41 CFR 102–3.150(b), the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the national emergency proclaimed by the President on March 13, 2020 concerning the novel coronavirus disease (COVID–19) outbreak.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. Any member of the public requesting to join the meeting is asked to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may not be possible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Members of the public wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. EDT on Tuesday, April 7, 2020, for inclusion in the meeting records and for circulation to the members of the Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Jennifer Aguinaga at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Tuesday, April 7, 2020, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered during the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Jennifer Aguinaga,

Designated Federal Officer, United States Travel and Tourism Advisory Board.

[FR Doc. 2020–07454 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–888, C–570–105]

Carbon and Alloy Steel Threaded Rod From India and the People's Republic of China: Countervailing Duty Orders

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 the countervailing duty orders on carbon and alloy steel threaded rod (steel threaded rod) from India and the People's Republic of China (China).

DATES: Applicable April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Genevieve Coen at (202) 482–3251 or Hannah Falvey at (202) 482–4889, AD/CVD Operations, Office V (India); Thomas Schauer at (202) 482–0410 or Allison Hollander at (202) 482–2805, AD/CVD Operations, Office I (China); Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(d) of the Tariff Act of 1930, as amended (the Act), on February 18, 2020, Commerce published its affirmative final determinations that countervailable

subsidies are being provided to producers and exporters of steel threaded rod from India and China.[1] On April 3, 2020, the ITC notified Commerce of its affirmative determinations that an industry in the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act, by reason of subsidized imports of subject merchandise from India and China.[2]

Scope of the Order

The scope of these orders covers steel threaded rod from India and China. For a complete description of the scope, *see* the appendix to this notice.

Countervailing Duty Orders

On April 3, 2020, in accordance with sections 705(b)(1)(A)(i) and 705(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of imports of steel threaded rod from India and China.[3] Therefore, in accordance with section 705(c)(2) of the Act, Commerce is issuing these countervailing duty orders. Because the ITC determined that imports of steel threaded rod from India and China are materially injuring a U.S. industry, unliquidated entries of such merchandise from India or China, entered or withdrawn from warehouse for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, countervailing duties for all relevant entries of steel threaded rod from India and China. Countervailing duties will be assessed on unliquidated entries of steel threaded rod from India and China entered, or withdrawn from warehouse, for consumption on or after July 29, 2019, the date of publication of the *Preliminary Determinations,*[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.

Suspension of Liquidation

In accordance with section 706 of the Act, Commerce will instruct CBP to reinstitute the suspension of liquidation of steel threaded rod from India and China. We will also instruct CBP to require, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable subsidy rates for the subject merchandise. These instructions suspending liquidation will remain in effect until further notice.

INDIA

Company	Subsidy rate (percent)
Daksh Fasteners	211.72
Mangal Steel Enterprises Limited	6.07
All Others	6.07

CHINA

Company	Subsidy rate (percent)
Ningbo Zhongjiang High Strength Bolts Co., Ltd	31.02
Zhejiang Junyue Standard Part Co., Ltd	66.81
All Others	41.17

Provisional Measures

Section 703(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months. In the underlying investigations, Commerce published the *Preliminary Determinations* on July 29, 2019. Therefore, the four-month period beginning on the date of the publication of the *Preliminary Determinations* ended on November 25, 2019.

In accordance with section 703(d) of the Act and our practice, we instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of steel threaded rod from India and China entered, or withdrawn from warehouse, for consumption after November 25, 2019, the date 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**.

Notifications to Interested Parties

This notice constitutes the countervailing duty orders with respect to steel threaded rod from India and China pursuant to section 706(a) of the Act. Interested parties can find a list of countervailing duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: April 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

The merchandise covered by the scope of these orders is carbon and alloy steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Steel threaded rod is normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the steel threaded rod, bar, or studs subject to these orders are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications ASTM A36, ASTM A193 B7/B7m, ASTM A193 B16, ASTM A307, ASTM A320 L7/L7M, ASTM A320 L43, ASTM A354 BC and BD, ASTM A449, ASTM F1554–36, ASTM F1554–55, ASTM F1554 Grade 105, American Society of Mechanical Engineers (ASME) specification ASME B18.31.3, and American Petroleum Institute (API) specification API 20E. All steel threaded rod meeting the physical description set forth above is covered by the scope of these orders, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of these orders if performed in the country of manufacture of the threaded rod.

Carbon and alloy steel threaded rod are also included in the scope of these orders whether or not imported attached to, or in conjunction with, other parts and accessories

[1] *See Carbon and Alloy Steel Threaded Rod from India: Final Affirmative Countervailing Duty Determination,* 85 FR 8828 (February 18, 2020); and *Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 85 FR 8833 (February 18, 2020).

[2] *See* Letter to Jeffrey Kessler, Assistant Secretary of Commerce for Enforcement and Compliance, from David S. Johanson, Chairman of the U.S. International Trade Commission, regarding steel threaded rod from China and India, (April 3, 2020) (ITC Letter).

[3] *See* ITC Letter.

[4] *See Carbon and Alloy Steel Threaded Rod from India: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 36570 (July 29, 2019); *see also Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 84 FR 36578 (July 29, 2019).

such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject merchandise, only the threaded rod is included in the scope.

Excluded from the scope of these orders are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with our without other elements.

Excluded from the scope of the antidumping order on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009).

Specifically excluded from the scope of these orders is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–07483 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–104]

Alloy and Certain Carbon Steel Threaded Rod From the People's Republic of China: 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), we are issuing an antidumping duty order on alloy and certain carbon steel threaded rod (threaded rod) from the People's Republic of China (China).

DATES: Applicable April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun at (202) 482–5760, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(c), on February 18, 2020, Commerce published its affirmative final determination in the less-than-fair-value (LTFV) investigation of imports of threaded rod from China.[1] On April 3, 2020, the ITC notified Commerce of its final determination pursuant to section 735(b)(1)(A)(i) of the Act, that an industry in the United States is materially injured by reason of the LTFV imports of threaded rod from China.[2]

Scope of the Order

The product covered by this order is threaded rod. For a complete description for the scope of the order, *see* the appendix to this notice.

Antidumping Duty Order

On April 3, 2020, in accordance with sections 735(d) of the Act, the ITC notified Commerce of its final determination in this investigation, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of threaded rod from China.[3] Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this antidumping duty order.

Because the ITC determined that imports of threaded rod from China are materially injuring a U.S. industry, unliquidated entries of such merchandise from China, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties. Therefore, 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 threaded rod from China. Antidumping duties will be assessed on unliquidated entries of threaded rod from China entered, or withdrawn from warehouse, for consumption on or after September 25, 2019, 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 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation of threaded rod from China as described in the appendix to this notice which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

We will also instruct CBP to require cash deposits equal to the amount as indicated below. 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 cash deposit rates listed below.[5] The rate for the China-wide entity applies to all exporters not specifically listed. For the purpose of determining cash deposit rates, the estimated weighted-average dumping margins for imports of subject merchandise from China have been adjusted, as appropriate, for export-contingent subsidies calculated based on the final determination of the companion countervailing duty investigation of threaded rod from China.[6]

Estimated Weighted-Average Dumping Margins

The weighted-average antidumping duty margin percentages and cash deposit percentages are as follows:

[1] *See Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 85 FR 8821 (February 18, 2020) (*Final Determination*).

[2] *See* Notification Letter from the ITC dated April 3, 2020 (ITC Letter).

[3] *Id.*

[4] *See Alloy and Certain Carbon Steel Threaded Rod from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures,* 84 FR 50379 (September 25, 2019) (*Preliminary Determination*).

[5] *See* section 736(a)(3) of the Act.

[6] *See Final Determination,* 85 FR at 8822; *see also Carbon and Alloy Steel Threaded Rod from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 85 FR 8833 (February 18, 2020), and accompanying Issues and Decision Memorandum.

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Ningbo Zhongjiang High Strength Bolts Co., Ltd	Ningbo Zhongjiang High Strength Bolts Co., Ltd	14.16	3.62
Zhejiang Junyue Standard Part Co., Ltd	Zhejiang Junyue Standard Part Co., Ltd	4.26	0.00
Cooper & Turner (Ningbo) International Trading Co., Ltd.	Zhejiang Cooper & Turner Fasteners Co., Ltd	11.47	0.00
Cooper & Turner (Ningbo) International Trading Co., Ltd.	Zhejiang Morgan Brother Technology Co., Ltd	11.47	0.00
Cooper & Turner (Ningbo) International Trading Co., Ltd.	Zhejiang Huiyou Import & Export Co., Ltd	11.47	0.00
EC International (Nantong) Co., Ltd	Ningbo Zhongjiang High Strength Bolts Co., Ltd	11.47	0.00
EC International (Nantong) Co., Ltd	Ningbo Zhenghai Yongding Fasteners Manufacture Co., Ltd.	11.47	0.00
EC International (Nantong) Co., Ltd	Zhejiang Junyue Standard Part Co., Ltd	11.47	0.00
EC International (Nantong) Co., Ltd	Haiyan Qinshan Rubber Factory	11.47	0.00
IFI & Morgan Ltd	Zhejiang Morgan Brother Technology Co., Ltd	11.47	0.00
Jiaxing Genteel Import & Export Co., Ltd	Ningbo Zhenhai Zhongbiao Standard Parts Factory	11.47	0.00
Ningbo Dingtuo Imp. & Exp. Co., Ltd	Ningbo Jinding Fastening Piece Co., Ltd	11.47	0.00
Zhejiang Heiter Mfg & Trade Co., Ltd	Zhejiang Golden Automotive Fastener Co., Ltd	11.47	0.00
Ningbo Jinding Fastening Piece Co., Ltd	Ningbo Jinding Fastening Piece Co., Ltd	11.47	0.00
Ningbo Qunli Fastener Manufacture Co., Ltd	Ningbo Qunli Fastener Manufacture Co., Ltd	11.47	0.00
Nantong Runyou Metal Products Co., Ltd	Nantong Runyou Metal Products Co., Ltd	11.47	0.00
Ningbo Shareway Import & Export, Co., Ltd	Zhejiang Junyue Standard Parts Co., Ltd	11.47	0.00
Ningbo Xingsheng Oil Pipe Fittings Manufacture Co., Ltd.	Ningbo Xingsheng Oil Pipe Fittings Manufacture Co., Ltd.	11.47	0.00
Ningbo Zhenghai Yongding Fastener Co., Ltd	Ningbo Zhenghai Yongding Fastener Co., Ltd	11.47	0.00
RMB Fasteners Ltd	Zhejiang Morgan Brother Technology Co., Ltd	11.47	0.00
Zhejiang Morgan Brother Technology Co., Ltd	Zhejiang Morgan Brother Technology Co., Ltd	11.47	0.00
China-Wide Entity		59.45	48.91

Provisional Measures

Section 733(d) of the Act states that instructions 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 the subject merchandise request Commerce to extend that four-month period to no more than six months. Because certain exporters accounting for a significant proportion of threaded rod from China requested an extension of the provisional measures, we extended the four-month period to six months in this proceeding.[7] The period began on September 25, 2019 and ended on March 22, 2020.

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 threaded rod from China entered, or withdrawn from warehouse, for consumption after March 22, 2020, the date the provisional measures expired, 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**.

[7] *See Preliminary Determination,* 84 FR at 50381.

Notification to Interested Parties

This notice constitutes the antidumping duty order with respect to threaded rod from China 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: April 3, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Order

The merchandise covered by the scope of this order is alloy and certain carbon steel threaded rod. Alloy and certain carbon steel threaded rod are certain threaded rod, bar, or studs, of carbon or alloy steel, having a solid, circular cross section of any diameter, in any straight length. Alloy and certain carbon steel threaded rod are normally drawn, cold-rolled, threaded, and straightened, or it may be hot-rolled. In addition, the alloy and certain carbon steel threaded rod, bar, or studs subject to this order are non-headed and threaded along greater than 25 percent of their total actual length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.,* galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Alloy steel threaded rod is normally produced to American Society for Testing and Materials (ASTM) specifications A193 B7/B7m, A193 B16, A320 L7/L7m, A320 L43, A354 BC and BD, and F1554 Grade 105. Other specifications are Society of Automotive Engineers (SAE) specification 1429 grades 5 and 8, International Organization for Standardization (ISO) specification 898 class 8.8 and 10.9, and American Petroleum Institute (API) specification 20E. Certain carbon steel threaded rod is normally produced to ASTM specification A449. All steel threaded rod meeting the physical description set forth above is covered by the scope of this order, whether or not produced according to a particular standard.

Subject merchandise includes material matching the above description that has been finished, assembled, or packaged in a third country, including by cutting, chamfering, coating, or painting the threaded rod, by attaching the threaded rod to, or packaging it with, another product, or any other finishing, assembly, or packaging operation that would not otherwise remove the merchandise from the scope of the order if performed in the country of manufacture of the threaded rod.

Alloy and certain carbon steel threaded rod are also included in the scope of this order whether or not imported attached to, or in conjunction with, other parts and accessories such as nuts and washers. If carbon and alloy steel threaded rod are imported attached to, or in conjunction with, such non-subject

merchandise, only the threaded rod is included in the scope.

Excluded from the scope of this order are: (1) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total actual length; and (2) stainless steel threaded rod, defined as steel threaded rod containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements.

Excluded from the scope of the antidumping order on steel threaded rod from the People's Republic of China is any merchandise covered by the existing antidumping order on Certain Steel Threaded Rod from the People's Republic of China. *See Certain Steel Threaded Rod from the People's Republic of China: Notice of Antidumping Duty Order,* 74 FR 17154 (April 14, 2009).

Specifically excluded from the scope of this order is threaded rod that is imported as part of a package of hardware in conjunction with a ready-to-assemble piece of furniture.

Alloy and certain carbon steel threaded rod are currently classifiable under subheadings 7318.15.5051, 7318.15.5056, and 7318.15.5090 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheading 7318.15.2095 and 7318.19.0000 of the HTSUS. The HTSUS subheadings are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2020–07482 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA112]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Atlantic Mackerel, Squid, and Butterfish (MSB) Advisory Panel will hold a meeting.

DATES: The meeting will be held on Thursday, April 23, 2020 at 1 p.m. and conclude by 6 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar with a telephone-only audio connection: *http://mafmc.adobeconnect.com/msbap2020illex/.* Telephone instructions are provided upon connecting, or the public can call direct: 800–832–0736, Rm: *7833942#.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to gather Advisory Panel input on an amendment to the MSB fishery management plan that could modify the plan's goals and objectives as well as the permitting system and associated management measures for *Illex* squid.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to any meeting date.

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

Dated: April 6, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020–07500 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XX048]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an exempted fishing permit application submitted by the Gulf of Maine Research Institute contains all of the required information and warrants further consideration. The exempted fishing permit would allow the use of electronic monitoring and dockside monitoring to support testing a maximized retention model in the groundfish fishery. Vessels would be exempt from minimum fish sizes and groundfish sector at-sea monitoring requirements. Additionally, vessels would be authorized to access portions of Closed Area II during certain times of year, and use trawl gear below the minimum mesh size. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before April 24, 2020.

ADDRESSES: You may submit written comments by either of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''GMRI MREM EFP.''
- *Mail:* Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''GMRI MREM EFP.''

Copies of the supplemental information report (SIR) developed in support of this project may be obtained by contacting Claire Fitz-Gerald, Fishery Policy Analyst at the Greater Atlantic Regional Fisheries Office, 978–281–9255.

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Policy Analyst, 978–281–9255.

SUPPLEMENTARY INFORMATION: Groundfish sectors must implement and fund an at-sea monitoring (ASM) program, and the Northeast Multispecies Fishery Management Plan allows sectors to use electronic monitoring (EM) to satisfy this monitoring requirement, provided that NMFS deems the technology sufficient for catch monitoring. NMFS recently notified the Council of its intent to allow sectors to submit EM plans instead of, or in addition to, ASM plans as part of the fishing year 2021 and 2022 sector operations plans approval process. For the 2020 fishing year, lessons learned through this exempted fishing permit (EFP) will allow NMFS to continue developing standards and requirements for the groundfish EM program. Project partners include the Gulf of Maine Research Institute (GMRI) and fishermen.

GMRI submitted an EFP application to test a maximized retention electronic monitoring (MREM) model and an accompanying dockside monitoring (DSM) program to monitor high-volume bottom-trawl vessels in the groundfish fleet. Vessels would be outfitted with EM systems (cameras and gear sensors), and the cameras would be on for 100 percent of groundfish trips. The EFP

would require participating vessels to retain and land all catch of allocated groundfish, including undersized fish that they would normally be required to discard. All other species would be handled per normal commercial fishing operations. An EM service provider would review 100 percent of the video footage to verify that the vessels did not discard allocated groundfish. Northeast Fisheries Science Center (Center) staff would conduct a secondary review of the video footage on a subset of trips.

All catch would be assessed shoreside via an accompanying DSM program. Dockside monitors would: (1) Collect biological information for undersized catch, including length-frequency data and age structures on a subset of fish in this market category; (2) verify dealer-reported weights for all species and market categories; and (3) inspect fish holds. Vessels would be authorized to sell catch, including undersized fish, to a limited number of dealers. The vessel and dealer would work collaboratively with the Center to ensure that a dockside monitor is present to observe 100 percent of offloads for this project. Participating dealers would be required to accommodate monitors' sampling protocols and all totes containing undersized fish would be accompanied by a tag identifying the program and the vessel trip report (VTR) number.

Because vessels would be fully monitored, GMRI also requested exemptions to incentivize participation in the project and increase fishing opportunities for healthy stocks. The EFP would allow vessels to use the codend configuration used in the Canadian haddock fishery (5.1-inch (13.0-cm) square mesh codend with modifier haddock separator device or Ruhle trawl) and/or the codend configuration tested in the REDNET project (4.5-inch (11.4-cm) diamond mesh codend). The latter mesh size would be restricted to the Redfish Exemption Area and all standard sector exemption requirements would still apply. These exemptions are intended to improve size selectivity and increase catch of target species, while avoiding groundfish species of concern.

The applicant also requested access to portions of Closed Area II. Vessels would be allowed to fish in the non-essential fish habitat portions of Closed Area II from April 16 through January 31. Vessels would not be allowed to fish in the area from February 1 through April 15 as fishing activity during this time may negatively affect Georges Bank cod and haddock spawning. The applicant states that, due to the distribution and movement of groundfish stocks, this exemption would improve vessels' ability to selectively target healthy groundfish stocks.

The applicant also requested an exemption from sector third-party ASM requirements. Under the current MREM program EFP, ASM data is used to build discard rates for unallocated groundfish stocks and non-groundfish species for MREM vessels. ASM data is not used to build discard rates for allocated groundfish stocks because the vessels are required to retain and land this catch. Therefore, we intend to reduce the ASM coverage target under this EFP to the level necessary to meet the coefficient of variation (CV30) precision standard for the unallocated groundfish stocks. For fishing year 2020, the ASM coverage target would be 9 percent, driven by ocean pout. Although the ASM coverage level should not be based solely on the results of the CV30 standard methodology for the fishery as a whole, we determined that the CV30 methodology is appropriate for this program because the same circumstances do not apply. MREM vessels are not allowed to discard allocated stocks and are fully monitored to ensure compliance. These vessels would only be discarding unallocated stocks, which do not present the same potential for bias. Northeast Fishery Observer Program (NEFOP) observers would not be deployed on these vessels because their fishing activity is not consistent with the Standardized Bycatch Reporting Methodology (SBRM) sampling design. Under an operational program, NMFS would build an SBRM stratum for MREM vessels and these data would be used to build discard rates for unallocated species. Participating vessels would use cameras in lieu of ASM and in additional to NEFOP observers. Because vessels participating in the EFP are not subject to NEFOP coverage, a limited amount of ASM is necessary.

This EFP would be effective for the 2020 and 2021 fishing years. NMFS would authorize a maximum of eight bottom-trawl vessels to participate. MREM vessels would take roughly 240–315 trips per year and would land an estimated 1–3 million pounds (454—1,361 mt) of fish annually. All catch of allocated groundfish stocks would be deducted from the appropriate sector's allocation. Because this is a maximized retention program, vessels would not be permitted to discard legal unmarketable fish for allocated groundfish stocks, regardless of whether the vessel holds a sector exemption to do so through its operations plan.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 6, 2020.

Hélène M.N. Scalliet,

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

[FR Doc. 2020–07473 Filed 4–8–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2020–HQ–0003]

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force (AF), Department of Defense (DoD).

ACTION: Notice of a new System of Records.

SUMMARY: The Air Force Deputy Chief Information Officer is adding a new System of Records titled, Bring Your Own Approved Device (BYOAD), F017 SAF CN A. The BYOAD program provides authorized AF users the ability to voluntarily use their authorized personal mobile devices to conduct government business. This system safeguards government records by providing secured communication mechanisms on personal mobile devices with secured containers and AF Public Key Infrastructure (PKI) certificates for conducting government business.

DATES: This new System of Records is effective upon publication; however, comments on the Routine Uses will be accepted on or before May 11, 2020. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number 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 *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Anh Trinh, Department of the Air Force, Air Force Privacy Office, Office of Warfighting Integration and Chief Information Officer, ATTN: SAF/CN, 1800 Air Force Pentagon, Washington, DC 20330–1800, or by phone at (703) 614–8500.

SUPPLEMENTARY INFORMATION: The BYOAD program provides authorized AF military members and civilian employees the ability to use approved personal devices (*i.e.,* smartphone or tablet) to access unclassified government information and applications by installing a Managed Mobile Service (MMS) on their personal devices. Similar federal and private industry programs have shown to increase employee productivity, convenience, and user job satisfaction.

The DoD notices for Systems of Records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *https://dpcld.defense.gov.*

The proposed system reports, as required by of the Privacy Act, as amended, were submitted on March 26, 2020, to the House Committee on Oversight and Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: April 6, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Bring Your Own Approved Device (BYOAD), F017 SAF CN A.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Amazon Web Services—9105B Owens Drive, Unit 202, Manassas Park, VA 20111.

SYSTEM MANAGER(S):

Program Management Office, Headquarters Cyberspace Capabilities Center Service Transition Division, 203 West Losey Street, Scott Air Force Base, IL 62225, 618–229–6717, *AFNIC.NTS.SystemsEngineering@us.af.mil.*

Air Force Deputy Chief Information Officer, 1800 Pentagon Air Force, Washington, DC 20330–1800, 703–695–6829, *usaf.pentagon.saf-cn.mbx.cns-workflow.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 9013, Secretary of the Air Force: Powers and duties; DoD Directive (DoDD) 8100.02, Use of Commercial Wireless Devices, Services and Technologies in the Department of Defense (DoD) Global Information Grid (GIG); DoD Instruction (DoDI) 8420.01, Commercial Wireless Local-Area Network (WLAN) Devices, Systems, And Technologies; DoDI 8170.01, Online Information Management And Electronic Messaging; DoDI 5000.76, Accountability and Management of Internal Use Software; AFMAN17–1301, Computer Security (COMPUSEC).

PURPOSE(S) OF THE SYSTEM:

The BYOAD program provides authorized AF users a mechanism to voluntarily receive AF approved software on their own authorized personal mobile devices for the purpose of conducting government business. This system enables optimum efficiency by providing authorized AF personnel the convenience of using authorized personal mobile devices equipped with secured communication components which robustly safeguard government information and resources as required by federal standards. User participation for this System of Records is based upon informed, explicit consent.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AF Active Duty, Reserve, and Air National Guard service members; and civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual name, personal cell phone number and other mobile specific numbers for network and device identification.

RECORD SOURCE CATEGORIES:

Individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this System of Records.

b. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

c. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

d. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

e. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

f. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

g. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the System of Records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed

breach or to prevent, minimize, or remedy such harm.

h. To another Federal agency or Federal entity, when the DoD determines 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained in electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Individual's full name and personal cell phone number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Destroy 5 years after fiscal year for audit control and planning.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Role-based access control restricts the system access to authorized users with a need-to-know. The system is common access card-enabled and has a firewall with security rules implemented. Records are encrypted during transmission to protect session information and at rest. Access to personally identifiable information is role/attribute based and restricted to those who require the data in the performance of their official duties and have completed annual information assurance and privacy training.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address inquiries to the Deputy Chief Information Officer, 1800 Pentagon Air Force, Washington, DC 20330. Signed, written requests should include the individual's full name, DoD ID number, current address, and telephone number and this System of Records Notice number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system of records should address inquiries to the Deputy Chief Information Officer, 1800 Pentagon Air Force, Washington, DC 20330. Signed, written requests should include the individual's full name, DoD ID number, current address, and telephone number. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2020–07507 Filed 4–8–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Defense Innovation Board (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102–3.50(d). The charter and contact information for the Board's Designated Federal Officer (DFO) are found at *https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation.*

The Board, through the Under Secretary for Defense for Research and Engineering (USD(R&E)), shall provide the Secretary of Defense and the Deputy Secretary of Defense independent advice and recommendations using a focus on innovative means to address future challenges in terms of integrated change to organizational structure and process, business and functional concepts, technology applications, and any other topics raised by the Secretary of Defense, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense or the USD(R&E). The Board shall be composed of no more than 20 members appointed in accordance with DoD policy and procedures. The members must possess some or all of the following: (a) Proven track record of sound judgment in leading or governing large, complex private sector corporations or organizations; (b) demonstrated performance in identifying and adopting new technology innovations into the operations of large organizations in either the public or private sector; (c) demonstrated performance in developing new technology concepts; and (d) proven track record as distinguished academic, professor or researcher at an accredited academic institution.

Board members who are not full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. Board members who are full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed pursuant to 41 CFR 102–3.130(a), to serve as regular government employee members.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: April 3, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020–07428 Filed 4–8–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Extension of the Application Deadline Date; Applications for New Awards; Expanding Opportunity Through Quality Charter Schools Program (CSP)—Grants to State Entities (CSP State Entities)

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: On January 27, 2020, we published in the **Federal Register** a notice inviting applications (NIA) for the fiscal year (FY) 2020 CSP State Entities competition, Catalog of Federal Domestic Assistance (CFDA) number 84.282A. The NIA established a deadline date of April 13, 2020 for the transmittal of applications. This notice extends the deadline date for transmittal of applications until May 15, 2020, and extends the deadline for intergovernmental review until July 14, 2020.

DATES:

Deadline for Transmittal of Applications: May 15, 2020.

Deadline for Intergovernmental Review: July 14, 2020.

FOR FURTHER INFORMATION CONTACT: Ashley Gardner, U.S. Department of Education, 400 Maryland Avenue SW, room 3E113, Washington, DC 20202–5970. Telephone: (202) 453–6787. Email: *charterschools@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On January 27, 2020, we published the NIA for the FY 2020 CSP State Entities competition in the **Federal Register** (85 FR 4642). We are extending the deadline for transmittal of applications to May 15, 2020 in order to allow eligible entities more time to prepare and submit their applications.

Eligibility: The extension of the deadline for transmittal of applications in this notice applies to all eligible entities under the CSP State Entities program. In accordance with the NIA, an eligible entity for the CSP State Entities program is a State entity in a State with a specific State statute authorizing the granting of charters to schools.

Note: All information in the NIA remains the same, except for the deadline for transmittal of applications and deadline for intergovernmental review.

Program Authority: Title IV, part C of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA) (20 U.S.C. 7221–7221j).

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at: *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced document search, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–07460 Filed 4–8–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–111–000.
Applicants: Wind Wall 1 LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Wind Wall 1 LLC.
Filed Date: 4/2/20.
Accession Number: 20200402–5130.
Comments Due: 5 p.m. ET 4/23/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–846–006.
Applicants: Antelope DSR 3, LLC.
Description: Notice of Non-Material Change in Status of Antelope DSR 3, LLC.
Filed Date: 4/2/20.
Accession Number: 20200402–5158.
Comments Due: 5 p.m. ET 4/23/20.

Docket Numbers: ER19–847–006.
Applicants: San Pablo Raceway, LLC.
Description: Notice of Non-Material Change in Status of San Pablo Raceway, LLC.
Filed Date: 4/2/20.
Accession Number: 20200402–5160.
Comments Due: 5 p.m. ET 4/23/20.

Docket Numbers: ER19–2399–001.
Applicants: Caden Energix Hickory LLC.
Description: Notice of Non-Material Change in Status of Caden Energix Hickory LLC.
Filed Date: 4/2/20.
Accession Number: 20200402–5156.
Comments Due: 5 p.m. ET 4/23/20.

Docket Numbers: ER20–1490–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 5613; Queue No. AE2–225 to be effective 3/10/2020.
Filed Date: 4/3/20.
Accession Number: 20200403–5028.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1491–000.
Applicants: Wind Wall 1 LLC.
Description: Baseline eTariff Filing: Application for MBR Authority, Request for Waivers and Blanket Authority to be effective 12/31/9998.
Filed Date: 4/3/20.
Accession Number: 20200403–5056.
Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1492–000.
Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: 4–3–20 Unexecuted Agreement, City and County of San Francisco WDT SA (SA 275) to be effective 6/3/2020.

Filed Date: 4/3/20.

Accession Number: 20200403–5085.

Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1493–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 2011, Queue No. O18 (consent) to be effective 7/17/2008.

Filed Date: 4/3/20.

Accession Number: 20200403–5140.

Comments Due: 5 p.m. ET 4/24/20.

Docket Numbers: ER20–1494–000.

Applicants: Puget Sound Energy, Inc.

Description: Request for Waiver of Tariff Provisions, et al. of Puget Sound Energy, Inc.

Filed Date: 4/3/20.

Accession Number: 20200403–5144.

Comments Due: 5 p.m. ET 4/8/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07493 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL20–38–000]

Ralph Laks v. Southern California Edison Company; Notice of Complaint

Take notice that on April 1, 2020, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Ralph Laks (Complainant) filed a formal complaint against Southern California Edison Company (SCE or Respondent), arguing that SCE's motion for cancellation filed in ER20–1189 should be denied, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainants'.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on May 1, 2020.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07494 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP20–48–000]

Iroquois Gas Transmission System, L.P.; Notice of Schedule for Environmental Review of the Enhancement by Compression Project

On February 3, 2020, Iroquois Gas Transmission System, L.P. (Iroquois) filed an application in Docket No. CP20–48–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas compression and associated facilities. The proposed project is known as the Enhancement by Compression Project (Project), and would add a total of 125 million cubic feet of natural gas per day of incremental firm transportation service to existing customers in New York.

On February 12, 2020, 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—September 30, 2020
90-Day Federal Authorization Decision Deadline—December 29, 2020

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would add one new 12,000 horsepower (hp) compressor unit and associated facilities at each of its existing Athens (Greene County, New York) and Dover Compressor Stations (Dutchess County, New York) and two new 12,000 hp compressor units at its existing Brookfield Compressor Station (Fairfield County, Connecticut). Iroquois

also proposes to add cooling and related equipment at its existing Milford Compressor Station (New Haven County, Connecticut). The Project would add a total of 48,000 hp of new compression on Iroquois' System.

Background

On March 25, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Enhancement by Compression Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments will be addressed in the EA.

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.,* CP20–48), 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: April 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–07490 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP20–738–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—EAP 911572 to Eco-Energy 8963127 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5002.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–739–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Ches Maryland 910915 releases to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5003.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–740–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to a Negotiated Rate Agreement Filing—Macquarie to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5007.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–741–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement FIling Six One Commodities to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5008.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–742–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Filing-Uniper Global to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5009.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–743–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement—Scout Energy to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5015.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–744–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements—4/1/2020 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5018.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–746–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 040120 Negotiated Rates—Hartree Partners, LP R–7090–07 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5019.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–747–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 040120 Negotiated Rates—Hartree Partners, LP R–7090–08 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5020.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–748–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Negotiated & Non-Conforming Rate Amd—Boston Gas to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5021.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–749–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements—Oxy 152038 & 152039 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5030.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–750–000.
Applicants: Equitrans, L.P.
Description: Compliance filing Notice Regarding Non-Jurisdictional Gathering Facilities (PL Segs from 0 Flow).
Filed Date: 4/1/20.
Accession Number: 20200401–5089.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–751–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: OTRA Summer 2020 to be effective 5/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5126.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–752–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Agreement Update (TEP Apr–Jun 2020) to be effective 4/2/2020.

Filed Date: 4/1/20.
Accession Number: 20200401–5157.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–753–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—ConEd 510371 Apr 2020 Releases #2 to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5198.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–754–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (JERA 46435 to EDF 52467) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5203.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–755–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Amendments to Neg Rate Agmts & Cap Rel Summary (Aethon 37657, 50488) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5204.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–756–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Constellation 52557 to Exelon 52654) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5210.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–757–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Osaka 46429 to Spotlight 52638, Texla 52653) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5212.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–758–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (WSGP to NextEra Releases eff 4–1–2020) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5216.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–759–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Scona 52624 to CenterPoint 52658) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5219.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–760–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (SABIC 35304, 35304,35305 to CIMA 38590,38597,38589) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5221.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–761–000.
Applicants: Hardy Storage Company, LLC.
Description: § 4(d) Rate Filing: RAM 2020 to be effective 5/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5223.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–762–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Methanex 42805 to Tenaska 52648) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5305.
Comments Due: 5 p.m. ET 4/13/20.

Docket Numbers: RP20–763–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing (Sempra) to be effective 4/1/2020.
Filed Date: 4/1/20.
Accession Number: 20200401–5310.
Comments Due: 5 p.m. ET 4/13/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07498 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP20–50–000; CP20–51–000]

Tennessee Gas Pipeline Company, LLC and Southern Natural Gas Company, LLC; Notice of Schedule for Environmental Review of the Evangeline Pass Expansion Project

On February 7, 2020, Tennessee Gas Pipeline Company, LLC (Tennessee) and Southern Natural Gas Company, LLC (SNG) filed applications in Docket Nos. CP20–50–000 and CP20–51–000, respectively, requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities in Louisiana and Mississippi. SNG is also requesting authorization under Section 7(b) of the Natural Gas Act to abandon by lease the new capacity to Tennessee. The proposed projects, collectively known as the Evangeline Pass Expansion Project (Project), would provide up to 1,100 million standard cubic feet of natural gas per day to the recently approved Venture Global Gator Express Pipeline interconnect for feed gas for the Plaquemines Liquified Natural Gas Terminal in Plaquemines Parish, Louisiana.

On February 21, 2020, 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—July 27, 2020
90-day Federal Authorization Decision Deadline—October 26, 2020

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

Tennessee proposes to construct and operate two 36-inch-diameter looping [1] pipeline segments, totaling 13 miles, in

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

St. Bernard and Plaquemines Parishes, Louisiana and a new 23,470 horsepower compressor station in St. Bernard Parish. In addition, Tennessee would replace certain facilities including a like-for-like replacement of two 10,410 horsepower units at its existing Compressor Station 527 located in Plaquemines Parish. SNG proposes to construct a new 22,220 horsepower compressor station in Clarke County, Mississippi, and three new meter stations in Clarke and Smith Counties, Mississippi and St. Bernard Parish, Louisiana. Additionally, Tennessee and SNG propose to construct, modify, or replace certain system auxiliary and appurtenant facilities under sections 2.55(a) and 2.55(b) of the Commission's regulations.[2]

Background

On March 20, 2020, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Evangeline Pass Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the Teamsters National Pipeline Labor Management Cooperation Trust in support of the Project. No additional comments have been received to date. All substantive comments will be addressed in the EA.

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.,* CP20–50 or CP20–51), 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: April 3, 2020.

Kimberly D. Bose,

Secretary.

[FR Doc. 2020–07491 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

[2] SNG is proposing to construct or modify auxiliary facilities pursuant to section 2.55(a) of the Commission's regulations in these additional counties and parishes: Jasper, Simpson, Jefferson Davis, Lawrence, and Walthall Counties, Mississippi and Washington, St. Tammany, and Orleans Parishes, Louisiana.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1487–000]

Frontier Windpower II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Frontier Windpower II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 23, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07492 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1491–000]

Wind Wall 1 LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wind Wall 1 LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to

intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 23, 2020.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07495 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP11–1–000]

Pine Prairie Energy Center, LLC; Notice of Extension of Time Request

Take notice that on March 31, 2020, Pine Prairie Energy Center, LLC (Pine Prairie) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time, until May 18, 2023, to construct and place into service two underground storage caverns (Cavern Nos. 6 and 7) which are part of the Phase III Expansion portion of its Pine Prairie Energy Center facilities. The Phase III Expansion Project was authorized on May 19, 2011 and the Pine Prairie Energy Center was originally authorized on November 23, 2004.

Pine Prairie was initially required to construct the Phase III Expansion facilities and place them into service by May 19, 2014. On April 22, 2014, the Office of Energy Projects, by delegated order, extended the deadline through May 18, 2017. On March 28, 2017 the Office of Energy Projects, by delegated order, extended the deadline through May 18, 2020. Pine Prairie now requests a three-year extension of this deadline through May 18, 2023. To date, Pine Prairie has not been able to construct Cavern Nos. 6 and 7 because the required approvals from the Louisiana Department of Natural Resources have been delayed.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on the extension motion may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). However, only motions to intervene from entities that were party to the underlying proceeding will be accepted.

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,[1] the Commission acting as a whole will aim to issue an order acting on the request within 45 days.[2] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension. The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[3] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance. The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on April 20, 2020.

Dated: April 3, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–07496 Filed 4–8–20; 8:45 am]

BILLING CODE 6717–01–P

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[1] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[2] *Algonquin Gas Transmission, LLC,* 170 FERC 61,144, at P 40 (2020).

[3] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2019–0131; FRL–10007–11]

Draft Scopes of the Risk Evaluations To Be Conducted for Thirteen Chemical Substances Under the Toxic Substances Control Act; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by the Toxic Substances Control Act (TSCA), which was amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act in June 2016, EPA is announcing the availability of the draft scope documents for the risk evaluations to be conducted for 13 of 20 High-Priority Substances designated in December 2019. The draft scope document for each chemical substance includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations the EPA plans to consider in conducting the risk evaluation for that chemical substance. EPA is also opening a 45-calendar day comment period on these draft scope documents to allow for the public to provide additional data or information that could be useful to the Agency in finalizing the scope of the risk evaluations; comments may be submitted to this docket and the individual dockets for each of the chemical substances.

DATES: Comments must be received on or before May 26, 2020.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA– EPA–HQ–OPPT–2019–0131, or the applicable docket ID number for the individual chemical substances identified in Unit III., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Ross Geredien, Risk Assessment Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency (Mailcode 7403M), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1864; email address: *geredien.ross@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to entities that manufacture (including import) a chemical substance regulated under TSCA (*e.g.,* entities identified under North American Industrial Classification System (NAICS) codes 325 and 324110). The action may also be of interest to chemical processors, distributors in commerce, and users; non-governmental organizations in the environmental and public health sectors; state and local government agencies; and members of the public. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities and corresponding NAICS codes for entities that may be interested in or affected by this action.

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

This action directly implements TSCA section 6(b)(4)(D), 15 U.S.C. 2605(b)(4)(D).

C. What action is the Agency taking?

EPA is publishing the draft scopes of the risk evaluations for 13 of 20 chemical substances designated as High-Priority Substances for risk evaluation under TSCA. Through the risk evaluation process, EPA will determine whether the chemical substances present an unreasonable risk of injury to health or the environment under the conditions of use, in accordance with TSCA section 6(b)(4). EPA will publish a second **Federal Register** notice announcing the availability of the draft scope documents for the remaining seven chemical substances.

II. Background

TSCA section 6(b)(1) requires EPA to prioritize chemical substances for risk evaluation (15 U.S.C. 2605(b)(1)). Effective December 20, 2019, EPA designated 20 chemical substances as High-Priority Substances for risk evaluation (Ref. 1), which initiated the risk evaluation process for those chemical substances (15 U.S.C. 2605(b)(3)(A); 40 CFR 702.17). The purpose of risk evaluation is to determine whether a chemical substance presents an unreasonable risk to health or the environment, under the conditions of use, including an unreasonable risk to a relevant potentially exposed or susceptible subpopulation (15 U.S.C. 2605(b)(4)(A)). As part of this process, EPA must evaluate both hazard and exposure, exclude consideration of costs or other non-risk factors, use scientific information and approaches in a manner that is consistent with the requirements in TSCA for the best available science, and ensure decisions are based on the weight-of-scientific-evidence (15 U.S.C. 2605(b)(4)(F)). This process will culminate in a determination of whether or not the chemical substance presents an unreasonable risk of injury to health or the environment under the conditions of use (40 CFR 702.47).

III. Draft Scopes for 13 of 20 Designated High Priority Chemical Substances

The 13 chemical substances for which EPA is publishing the draft scopes of the risk evaluations are identified in the following Table, along with the corresponding Chemical Abstract System Registry Number (CASRN) and docket ID numbers.

TABLE—DRAFT SCOPES FOR 13 OF 20 DESIGNATED HIGH PRIORITY CHEMICAL SUBSTANCES

Chemical substance	CASRN	Docket ID No.
1,3-Butadiene	106–99–0	EPA–HQ–OPPT–2018–0451
o-Dichlorobenzene (Benzene, 1,2-dichloro-)	95–50–1	EPA–HQ–OPPT–2018–0444

TABLE—DRAFT SCOPES FOR 13 OF 20 DESIGNATED HIGH PRIORITY CHEMICAL SUBSTANCES—Continued

Chemical substance	CASRN	Docket ID No.
p-Dichlorobenzene (Benzene, 1,4-dichloro-)	106–46–7	EPA–HQ–OPPT–2018–0446
1,1-Dichloroethane	75–34–3	EPA–HQ–OPPT–2018–0426
1,2-Dichloroethane	107–06–2	EPA–HQ–OPPT–2018–0427
trans-1,2- Dichloroethylene (Ethene, 1,2-dichloro-, (1E)-)	156–60–5	EPA–HQ–OPPT–2018–0465
1,2-Dichloropropane	78–87–5	EPA–HQ–OPPT–2018–0428
Ethylene dibromide (Ethane, 1,2-dibromo-)	106–93–4	EPA–HQ–OPPT–2018–0488
1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopenta [g]-2-benzopyran (HHCB)	1222–05–5	EPA–HQ–OPPT–2018–0430
4,4′-(1-Methylethylidene)bis[2, 6-dibromophenol] (TBBPA)	79–94–7	EPA–HQ–OPPT–2018–0462
Phosphoric acid, triphenyl ester (TPP)	115–86–6	EPA–HQ–OPPT–2018–0458
1,1,2-Trichloroethane	79–00–5	EPA–HQ–OPPT–2018–0421
Tris(2-chloroethyl) phosphate (TCEP) (Ethanol, 2-chloro-, 1,1′,1″-phosphate)	115–96–8	EPA–HQ–OPPT–2018–0476

The draft scope of the risk evaluation for each of these 13 chemical substances includes the conditions of use, hazards, exposures, and the potentially exposed or susceptible subpopulations the EPA plans to consider. Development of the scope is the first step of a risk evaluation. The draft scope of each risk evaluation will include the following components (40 CFR 702.41(c)):

- The conditions of use, as determined by the Administrator, that the EPA plans to consider in the risk evaluation.
- The potentially exposed populations that EPA plans to evaluate; the ecological receptors that EPA plans to evaluate; and the hazards to health and the environment that EPA plans to evaluate.
- A description of the reasonably available information and the science approaches that the Agency plans to use.
- A conceptual model that will describe the actual or predicted relationships between the chemical substance, the conditions of use within the scope of the evaluation and the receptors, either human or environmental, with consideration of the life cycle of the chemical substance—from manufacturing, processing, distribution in commerce, storage, use, to release or disposal—and identification of human and ecological health hazards EPA plans to evaluate for the exposure scenarios EPA plans to evaluate.
- An analysis plan, which will identify the approaches and methods EPA plans to use to assess exposure, hazards, and risk, including associated uncertainty and variability, as well as a strategy for using reasonably available information and science approaches.
- A plan for peer review.

With the publication of the draft scopes, EPA is providing a 45-calendar day public comment period. Note that, as a result of the Ninth Circuit Court of Appeals' decision in *Safer Chemicals, Healthy Families* v. *U.S. EPA,* 943 F.3d 397, 425 (9th Cir. 2019), EPA will no longer exclude legacy uses or associated disposal from the definition of ''conditions of use.'' Rather, when these activities are intended, known, or reasonably foreseen, these activities will be considered uses and disposal, respectively, within the definition of ''conditions of use.''

EPA encourages commenters to provide information they believe might be missing or may further inform the risk evaluation. EPA will publish a notice in the **Federal Register** announcing the availability of the final scopes within six months of the initiation of risk evaluations that occurred on December 20, 2019 (See Unit IV.).

IV. References

The following is a listing of the documents that are specifically referenced in this **Federal Register** notice. The docket for this action includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket. For assistance in locating these referenced documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

EPA. High-Priority Substance Designations Under the Toxic Substances Control Act and Initiation of Risk Evaluation on High-Priority Substances; Availability. **Federal Register**. (84 FR 71924, December 30, 2019) (FRL–10003–15).

(Authority: 15 U.S.C. 2601 *et seq.*)

Andrew Wheeler,

Administrator.

[FR Doc. 2020–07484 Filed 4–8–20; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection—emergency reinstatement without change: ADEA waivers.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it has submitted to the Office of Management and Budget (OMB) a request for an emergency reinstatement without change of the information collection described below. On March 31, 2020, OMB approved the request for a period of six months, expiring on September 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, (202) 663–4668 and *kathleen.oram@eeoc.gov,* or Savannah Marion Felton, Senior Attorney, (202) 663–4909 and *savannah.felton@eeoc.gov,* Office of Legal Counsel, 131 M Street NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION: The EEOC enforces the ADEA of 1967, as amended, 29 U.S.C. 621 *et seq.,* which prohibits discrimination against employees and applicants for employment who are age 40 or older. Congress amended the ADEA by enacting the Older Workers Benefit Protection Act of 1990 (OWBPA), Public Law 101–433, 104 Stat. 983 (1990), to clarify the prohibitions against discrimination on the basis of age. In Title II of OWBPA, Congress addressed waivers of rights and claims under the ADEA, amending section 7 of the ADEA by adding a new

subsection (f), 29 U.S.C. 626(f). The provisions of Title II of OWBPA require employers to provide certain information to employees (but not to EEOC) in writing. The regulation at 29 CFR 1625.22 reiterates those requirements. The disclosure of information required by the OWBPA and EEOC's regulation falls within the PRA and the EEOC must receive OMB's approval pursuant to the PRA to enforce the disclosure requirements. Prior to this emergency approval, the EEOC last received approval from OMB for this collection on February 28, 2017, which expired on February 29, 2020. The EEOC then sought emergency approval for the collection on March 30, 2020, which OMB approved the next day.

Overview of this Information Collection

Collection Title: Waivers of Rights and Claims Under the ADEA; Informational Requirements.

OMB Number: 3046–0042.

Type of Respondent: Business, State or local governments, not for profit institutions.

Description of Affected Public: Any employer with 20 or more employees that seeks waiver agreements in connection with an exit incentive or other employment termination program.

Number of Respondents: 127.

Burden Hours: 2090.42.

Number of Forms: None.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against employees and applicants for employment who are age 40 or older. The Older Workers Benefit Protection Act (OWBPA), enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to the EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR 1625.22 reiterates those disclosure requirements.

Burden Statement: Based on EEOC's review of 2015 EEO–1 data, approximately 303 firms reported a reduction in force during the one-year reporting period in the comment field of the EEO–1 form. An estimated 127 or 42% of firms who reported a reduction in force requested waivers of ADEA rights from the employees affected by the reduction in force.

Based on data collected from participating employers, EEOC learned that the senior human resource managers and legal counsel bear the most significant brunt of the paperwork and human capital burden in drafting and distributing the waivers to employees. The burden hours for the creation of the ADEA waiver are estimated to be 8.25 per employer. Burden hours for the distribution of the ADEA waiver are estimated to be 8.21 per employer, for a total of 16.46 hours per employer. These figures were applied to 127 firms estimated to request waivers. The total hour burden for these 127 employers would therefore be 2,090.42 hours.

For the Commission.

Janet L. Dhillon,

Chair.

[FR Doc. 2020–07431 Filed 4–8–20; 8:45 am]

BILLING CODE 6570–01–P

EXPORT-IMPORT BANK

Notice of Joint Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (EXIM) and Sub-Saharan Africa Advisory Committee of the Export-Import Bank of the United States (EXIM)

Time and Date: Tuesday, April 14, 2020 from 1:30–3:00 p.m. EDT.

Place: The meeting will be held via teleconference and audio-only webinar.

Agenda: Discussion of EXIM's COVID–19 (coronavirus) temporary relief measures; EXIM policies and programs and comments for inclusion in EXIM's Report to the U.S. Congress on Global Export Credit Competition; and policies and programs designed to support the expansion of financing support for U.S. manufactured goods and services in sub-Saharan Africa.

Public Participation: The meeting will be open to public participation and time will be allotted for questions or comments submitted online during the webinar. Members of the public may also file written statements before or after the meeting to *brittany.walker@exim.gov.* If you plan to participate in the meeting, you may email *brittany.walker@exim.gov* no later than 12:00 p.m. EDT on Monday, April 13, 2020 to be placed on the attendee list and receive instructions.

Further Information: For further information, contact the Office of External Engagement at *external@exim.gov.*

Joyce Brotemarkle Stone,

Assistant Corporate Secretary.

[FR Doc. 2020–07420 Filed 4–8–20; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institution effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION: This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation website at *www.fdic.gov/bank/individual/failed/banklist.html,* or contact the Manager of Receivership Oversight at *RO@fdic.gov* or at Division of Resolutions and Receiverships, FDIC, 1601 Bryan Street, Suite 34100, Dallas, TX 75201–3401.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10536	The First State Bank	Barboursville	WV	04/03/2020

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on April 6, 2020.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2020–07480 Filed 4–8–20; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2020–04]

Filing Dates for the New York Special Election in the 27th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: New York has rescheduled the date of the Special General Election to fill the U.S. House of Representatives seat in the 27th Congressional District vacated by Representative Chris Collins. The Special General Election, formerly set for April 28, 2020, will now be held on June 23, 2020.

Committees required to file reports in connection with the Special General Election on June 23, 2020, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the New York Special General Election shall file a 12-day Pre-General Report on June 11, 2020, and a 30-day Post-General Report on July 23, 2020. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2020 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the New York Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the New York Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the New York Special Election may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special election must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $19,000 during the special election reporting period. (See chart below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR NEW YORK SPECIAL ELECTION

Report	Close of Books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Committees Involved in the Special General (06/23/2020) Must File:			
Pre-General	06/03/2020	06/08/2020	06/11/2020
July Quarterly	—WAIVED —		
Post-General	07/13/2020	07/23/2020	07/23/2020
October Quarterly	09/30/2020	10/15/2020	10/15/2020

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

Dated: April 2, 2020.

On behalf of the Commission.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2020–07447 Filed 4–8–20; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary approval of information collection, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has temporarily revised the Financial Statements for Holding Companies (FR Y–9; OMB No. 7100–0128) pursuant to the authority delegated to the Board by the Office of Management and Budget (OMB), (OMB Regulations on Controlling Paperwork Burdens on the Public). The revisions are applicable only to reports reflecting the March 31, 2020, as of date. Additionally, the Board invites comment on a proposal to extend for three years, with revision, the FR Y–9.

DATES: Comments must be submitted on or before June 8, 2020.

ADDRESSES: You may submit comments, identified by FR Y–9, by any of the following methods:

- *Agency website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless

modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies. Pursuant to its delegated authority, the Board may temporarily approve a revision to a collection of information, without providing opportunity for public comment, if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligation.

As discussed below, the Board has made certain temporary revisions to the FR Y–9 information collection. The Board's delegated authority requires that the Board, after temporarily approving a collection, publish a notice soliciting public comment. Therefore, the Board also inviting comment on a proposal to extend the FR Y–9 information collection for three years, with these revisions.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Approval Under OMB Delegated Authority of the Temporary Revision of the Following Information Collection

Report title: Financial Statements for Holding Companies.

Agency form number: FR Y–9C; FR Y–9LP; FR Y–9SP; FR Y–9ES; FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly, semiannually, and annually.

Respondents: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. intermediate holding companies (IHCs) (collectively, holding companies (HCs)).[1]

Estimated number of respondents: FR Y–9C (non-advanced approaches (AA) HCs community bank leverage ratio (CBLR)) with less than $5 billion in total assets—71, FR Y–9C (non AA HCs CBLR) with $5 billion or more in total assets—35, FR Y–9C (non AA HCs non-CBLR) with less than $5 billion in total assets—84, FR Y–9C (non AA HCs non-CBLR) with $5 billion or more in total assets—154, FR Y–9C (AA HCs)—19, FR Y–9LP—434, FR Y–9SP—3,960, FR Y–9ES—83, FR Y–9CS—236.

Estimated average hours per response:

Reporting

FR Y–9C (non AA HCs CBLR) with less than $5 billion in total assets—29.14, FR Y–9C (non AA HCs CBLR) with $5 billion or more in total assets—35.11, FR Y–9C (non AA HCs non-CBLR) with less than $5 billion in total assets—40.98, FR Y–9C (non AA HCs non-CBLR) with $5 billion or more in total assets—46.95, FR Y–9C (AA HCs)—48.59, FR Y–9LP—5.27, FR Y–9SP—5.40, FR Y–9ES—0.50, FR Y–9CS—0.50.

Recordkeeping

FR Y–9C—1, FR Y–9LP—1, FR Y–9SP—0.50, FR Y–9ES—0.50, FR Y–9CS—0.50.

Estimated annual burden hours:

Reporting

FR Y–9C (non AA HCs CBLR) with less than $5 billion in total assets—8,276, FR Y–9C (non AA HCs CBLR) with $5 billion or more in total assets—4,915, FR Y–9C (non AA HCs non-CBLR) with less than $5 billion in total assets—13,769, FR Y–9C (non AA HCs non-CBLR) with $5 billion or more in total assets—28,921, FR Y–9C (AA HCs)—3,693, FR Y–9LP—9,149, FR Y–9SP—42,768, FR Y–9ES—42, FR Y–9CS—472.

Recordkeeping

FR Y–9C—1,452, FR Y–9LP—1,736, FR Y–9SP—3,960, FR Y–9ES—42, FR Y–9CS—472.

General description of report: The FR Y–9 family of reporting forms continues to be the primary source of financial data on holding companies that examiners rely on in the intervals between on-site inspections. Financial

[1] An SLHC must file one or more of the FR Y–9 family of reports unless it is: (1) A grandfathered unitary SLHC with primarily commercial assets and thrifts that make up less than five percent of its consolidated assets; or (2) a SLHC that primarily holds insurance-related assets and does not otherwise submit financial reports with the SEC pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

data from these reporting forms are used to detect emerging financial problems, to review performance and conduct pre-inspection analysis, to monitor and evaluate capital adequacy, to evaluate holding company mergers and acquisitions, and to analyze a holding company's overall financial condition to ensure the safety and soundness of its operations. The FR Y–9C, FR Y–9LP, and FR Y–9SP serve as standardized financial statements for the consolidated holding company. The Board requires HCs to provide standardized financial statements to fulfill the Board's statutory obligation to supervise these organizations. The FR Y–9ES is a financial statement for HCs that are Employee Stock Ownership Plans. The Board uses the FR Y–9CS (a free-form supplement) to collect additional information deemed to be critical and needed in an expedited manner. HCs file the FR Y–9C on a quarterly basis, the FR Y–9LP quarterly, the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Current Action: The Board has temporarily revised the instructions to the FR–9C to allow HCs to incorporate the effects of the Money Market Mutual Fund Liquidity Facility (MMLF) interim final rule published on March 23, 2020, for the FR Y–9C submission reflecting the March 31, 2020, as-of date.[2] The revised instructions reflect the exclusion of non-recourse exposures acquired from the MMLF from an HC's total leverage exposure, average total consolidated assets, advanced approaches total risk weighted assets, and standardized total risk weighted assets, as applicable. Specifically, the revised instructions permit eligible HCs to assign a zero percent risk weight to exposures to the MMLF for purposes of determining the risk weighted assets and leverage ratio. HCs would report these securities purchased from the MMLF in either Schedule HC–R, Part II, item 2.a., ''Held-to-maturity securities,'' or Schedule HC–R, Part II, item 2.b., ''Available-for-sale debt securities and equity securities with readily determinable fair values not held for trading,'' as appropriate, in both Column A (Totals) and Column C (0 percent risk weight category).[3] The average of such assets purchased would be reported in Schedule HC–R, part I, item 29, ''LESS: Other deductions from (additions to) assets for leverage ratio purposes,'' and thus excluded from Schedule HC–R, item 30, ''Total assets for the leverage ratio.''

The Board has determined that these temporary revisions to the FR Y–9C must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection of information, as delaying the revisions would result in the collection of inaccurate information, would interfere with the Board's ability to perform its statutory duties, and would cause public harm by preventing HCs from utilizing the MMLF without neutralizing the effects of exposures arising from the program on the organizations' reported risk-based and leverage capital ratios.

Additionally, the Board proposes to extend the FR Y–9 for three years, with the revisions discussed above, in order to permit continued accurate reporting of capital data.

Legal authorization and confidentiality: The Board has the authority to impose the reporting and recordkeeping requirements associated with the FR Y–9 family of reports on BHCs pursuant to section 5 of the Bank Holding Company Act of 1956 (BHC Act) (12 U.S.C. 1844); on SLHCs pursuant to section 10(b)(2) and (3) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) and (3)), as amended by sections 369(8) and 604(h)(2) of the Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act); on U.S. IHCs pursuant to section 5 of the BHC Act (12 U.S.C 1844), as well as pursuant to sections 102(a)(1) and 165 of the Dodd-Frank Act (12 U.S.C. 511(a)(1) and 5365); and on securities holding companies pursuant to section 618 of the Dodd-Frank Act (12 U.S.C. 1850a(c)(1)(A)). The obligation to submit the FR Y–9 series of reports, and the recordkeeping requirements set forth in the respective instructions to each report, are mandatory.

With respect to the FR Y–9C report, Schedule HI's memoranda data item 7(g) ''FDIC deposit insurance assessments,'' Schedule HC–P's data item 7(a) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to U.S. government agencies and government sponsored agencies,'' and Schedule HC–P's data item 7(b) ''Representation and warranty reserves for 1–4 family residential mortgage loans sold to other parties'' are considered confidential commercial and financial information. Such treatment is appropriate under exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)) because these data items reflect commercial and financial information that is both customarily and actually treated as private by the submitter, and which the Board has previously assured submitters will be treated as confidential. It also appears that disclosing these data items may reveal confidential examination and supervisory information, and in such instances, this information would also be withheld pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)), which protects information related to the supervision or examination of a regulated financial institution.

In addition, for both the FR Y–9C report and the FR Y–9SP report, Schedule HC's memorandum item 2.b., the name and email address of the external auditing firm's engagement partner, is considered confidential commercial information and protected by exemption 4 of the FOIA (5 U.S.C. 552(b)(4)) if the identity of the engagement partner is treated as private information by HCs. The Board has assured respondents that this information will be treated as confidential since the collection of this data item was proposed in 2004.

Aside from the data items described above, the remaining data items on the FR Y–9C report and the FR Y–9SP report are generally not accorded confidential treatment. The data items collected on FR Y–9LP, FR Y–9ES, and FR Y–9CS reports, are also generally not accorded confidential treatment. As provided in the Board's Rules Regarding Availability of Information (12 CFR part 261), however, a respondent may request confidential treatment for any data items the respondent believes should be withheld pursuant to a FOIA exemption. The Board will review any such request to determine if confidential treatment is appropriate, and will inform the respondent if the request for confidential treatment has been denied.

To the extent the instructions to the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES reports each respectively direct the financial institution to retain the workpapers and related materials used in preparation of each report, such material would only be obtained by the Board as part of the examination or supervision of the financial institution. Accordingly, such information is considered confidential pursuant to exemption 8 of the FOIA (5 U.S.C. 552(b)(8)). In addition, the workpapers and related materials may also be protected by exemption 4 of the FOIA, to the extent such financial information is treated as confidential by the respondent (5 U.S.C. 552(b)(4)).

Consultation outside the agency: The Federal Reserve consulted with the

[2] *See* 85 FR 16232 (March 23, 2020). These revisions apply only to respondents HCs that are BHCs (including IHCs that are BHCs); other HCs are not eligible to participate in the MMLF.

[3] Reporting in Schedule HC–R, Part II, only applies to non CBLR holding companies. See 84 FR 61776 (November 13, 2019).

Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation in the development of this proposal.

Board of Governors of the Federal Reserve System, April 3, 2020.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2020–07455 Filed 4–8–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than April 23, 2020.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Jeffrey L. Dickey, Weatherford, Oklahoma; Brian R. Dickey, Oklahoma City, Oklahoma; Ranee E. Bugh, Tulsa, Oklahoma; and the David R. Dickey Family Financial Services Trust, Thomas, Oklahoma, Jeffrey L. Dickey, Brian R. Dickey, and Ranee E. Bugh, as co-trustees;* as members of the David Dickey Family Group, to retain voting shares of First Thomas Ban Corp. and thereby indirectly retain voting shares of First Bank of Thomas, both of Thomas, Oklahoma.

Board of Governors of the Federal Reserve System, April 3, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–07415 Filed 4–8–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than May 8, 2020.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Dry Lake Financial, LLC, Spur, Texas;* to become a bank holding company by acquiring up to 51 percent of the voting shares of Espuela Bank Shares, Inc., and thereby indirectly acquire voting shares of Spur Security Bank, both of Spur, Texas.

Board of Governors of the Federal Reserve System, April 3, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–07416 Filed 4–8–20; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 192 3011]

Tapplock, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 11, 2020.

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Tapplock, Inc.; File No. 192 3011'' on your comment, and file your comment online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jared Ho (202–326–3463), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC website (for March 30, 2020), at this web

address: *https://www.ftc.gov/news-events/commission-actions.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before May 11, 2020. Write ''Tapplock, Inc.; File No. 192 3011'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov* website.

Due to the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website.

If you prefer to file your comment on paper, write ''Tapplock, Inc.; File No. 192 3011'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 11, 2020. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an agreement containing a consent order from Tapplock, Inc. (''Tapplock'' or ''Respondent'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Tapplock is a Canadian Internet of Things (''IoT'') company that, among other things, sells internet-connected, fingerprint-enabled padlocks (''smart locks'') to U.S. consumers. The company advertises to U.S. consumers through its website, *www.tapplock.com,* and has previously advertised through the online crowd-funding website Indiegogo.com. Respondent's smart locks interact with a companion mobile application (''app'') that U.S. users are able to download onto their mobile devices. This app logs usernames, email addresses, profile photos, location history, and the precise geolocation of a user's smart lock, and it allows users to lock and unlock their smart locks when they are within Bluetooth range.

In June 2018, security researchers identified critical physical and electronic vulnerabilities with Respondent's smart locks. With respect to physical security, some of Respondent's smart locks could be opened within a matter of seconds, simply by unscrewing the back panel. With respect to electronic security, one vulnerability in Respondent's API could have been exploited to bypass the account authentication process in order to gain full access to the accounts of all Tapplock users and their personal information, including usernames, email addresses, profile photos, location history, and precise geolocation of smart locks. Because Respondent failed to encrypt the Bluetooth communication between the lock and the app, a second vulnerability could have allowed a bad actor to lock and unlock any nearby Tapplock smart lock. Finally, a third vulnerability prevented users from effectively revoking access to their smart lock once they had provided other users access to that lock.

The Commission's proposed two-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. The first count alleges that Respondent misrepresented to consumers that their smart locks were secure. Contrary to this claim, as described above, Respondent's locks were not secure.

The second count alleges that Respondent deceived consumers about its data security practices by falsely representing that it took reasonable precautions and followed industry best practices to protect the personal information provided by consumers. Contrary to this claim, the proposed complaint alleges that Respondent failed to take reasonable precautions and follow industry best practices. For example, the proposed complaint alleges that Respondent: (1) Failed to identify reasonably foreseeable risks to the security of its smart locks or the security of customers' personal accounts, such as through vulnerability or penetration testing, and assess the sufficiency of any safeguards in place to control those risks; (2) failed to employ sufficient measures to detect and

prevent users from bypassing the authentication procedures in Respondent's API to gain access to other users' accounts; (3) failed to adopt and implement written data security standards, policies, procedures, or practices; and (4) failed to implement adequate privacy and security guidance or training for its employees responsible for designing, testing, overseeing, and approving software specifications and requirements.

The proposed order contains provisions designed to prevent Respondent from engaging in the same or similar acts or practices in the future. Part I of the proposed order prohibits Respondent from misrepresenting the extent to which it maintains and protects: (1) The security of a Covered Device; or (2) the privacy, security, confidentiality, or integrity of Personal Information.

Part II of the proposed order requires Respondent to establish and implement, and thereafter maintain, a comprehensive security program (''Security Program'') that that protects: (1) The security of Covered Devices; and (2) the security, confidentiality, and integrity of Personal Information.

Part III of the proposed order requires Respondent to obtain initial and biennial data security assessments for twenty years.

Part IV of the proposed order requires Respondent to disclose all material facts to the assessor and prohibits Respondent from misrepresenting any fact material to the assessments required by Part II.

Part V of the proposed order requires Respondent to submit an annual certification from a senior corporate manager (or senior officer responsible for its information security program) that Respondent has implemented the requirements of the Order and is not aware of any material noncompliance that has not been corrected or disclosed to the Commission.

Parts VI through IX of the proposed order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance. Part X states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–07499 Filed 4–8–20; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Public Health Service Act, Delegation of Authority

Notice is hereby given that the Director, Centers for Disease Control and Prevention (CDC), has delegated to the Deputy Director for Infectious Diseases (DDID); the Director, Influenza Division, National Center for Immunization and Respiratory Diseases (NCIRD); and the COVID–19 Incident Manager, NCIRD, CDC, without authority to redelegate, the authority vested in the Director, CDC, under sections 361(a), (b), (c), and (d) and 362, Title III, of the Public Health Service Act (Control of Communicable Diseases) (42 U.S.C. 264 and 265 *et seq.*), as amended, to issue and sign quarantine, isolation and conditional release orders.

This redelegation shall terminate upon completion of the agency-wide activation in response to the 2019 novel Coronavirus outbreak.

This delegation became effective on March 25, 2020.

Robert McGowan,

Chief of Staff, CDC.

[FR Doc. 2020–07459 Filed 4–8–20; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.612]

Notice for Public Comment on Administration for Native Americans' Program Policies and Procedures Relating to Social and Economic Development Strategies—Growing Organizations

AGENCY: Administration for Native Americans (ANA), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice for public comment.

SUMMARY: Pursuant to Section 814 of the Native American Programs Act of 1974 (NAPA), as amended, ANA is required to provide members of the public an opportunity to comment on proposed changes in interpretive rules and general statements of policy and to give notice of the proposed changes no less than 30 days before such changes become effective. In accordance with notice requirements of NAPA, ANA herein describes proposed interpretive rules and general statements of policy that relate to ANA's new funding opportunity announcement (FOA) in Fiscal Year (FY) 2020, Social and Economic Development Strategies—Growing Organizations (SEDS–GO), (HHS–2020–ACF–ANA–NN–1837).

DATES: Comments are due by May 11, 2020. If ANA does not receive any significant comments within the 30-day comment period, ANA will proceed with the proposed changes in the respective published FOA. The FOA will serve as the final notice of these proposed changes.

ADDRESSES: Comments may be submitted to Jean Hovland, Commissioner, Administration for Native Americans, 330 C Street SW, Washington, DC 20201 or via email: *ANAComments@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Carmelia Strickland, Director, Division of Program Operations, Administration for Native Americans, 330 C Street SW, Washington, DC 20201. Telephone: (877) 922–9262; Email: *ANAComments@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 814 of NAPA, as amended, (42 U.S.C. 2992b–1) incorporates provisions of the Administrative Procedure Act that require ANA to provide notice of its proposed interpretive rules and statements of policy and to seek public comment on such proposals. This notice serves to fulfill the statutory notice and public comment requirement. ANA voluntarily includes rules of practice and procedures in this notice in an effort to be transparent. The proposed interpretive rules, statements of policy, and rules of ANA practice and procedure will appear in the FY 2020 SEDS–GO FOA.

Synopses and application forms will be available on *https://www.grants.gov.*

A. *Interpretive rules, statements of policy, procedures, and practice.* The proposals below reflect ANA's proposed changes in rules, policy, or procedure, which will take effect in the FY 2020 SEDS–GO FOA.

1. New FOA

In FY 2020, ANA will introduce a new FOA as a special initiative under the Social and Economic Development Strategies program to support growing

organizations that have novice level experience with federal grants. The purpose of the SEDS–GO FOA is to provide financial assistance to tribes and Native American organizations with limited capacity, staff, and resources to compete for federal funding. The funding is to be used to enhance their internal capacity and infrastructure to better serve their members or their communities. Awards made under the FOA will have either a 12-, 24-, or 36-month project period with an award ceiling of $200,000, per budget period. Although it is not required to have a 3-year project, the funding opportunity will allow the flexibility for 1 year of planning and 2 years of project implementation. ANA is interested in funding eligible entities that have limited experience in managing federal grants due to their limited ability to prepare grant applications, administer projects, evaluate results, or have limited financial management capacity. Bonus points will be provided during the objective review process for applicants that have never received an ANA grant award. The SEDS–GO FOA will request potential applicants to submit a Letter of Intent within 30 days of its publication, but this is not mandatory. The application submission deadline will be 60 days from the date the SEDS–GO FOA is published.

Applicants will identify up to two organizational challenges that will be addressed within the following program areas of interest: Staff Development; Governance; Effective Grants Management; Strategic/Community Planning; Financial Management Systems; Use of Technology; Ability to Track and Manage Data; and Partnerships. The ANA Project Framework will not be applicable to SEDS–GO FOA. Applicants will identify up to two targeted challenges within the Program Areas of Interest; a Project Goal; Objectives that are Specific, Measurable, Achievable, Relevant, and Time-Bound (SMART); and an Indicator of change.

ANA proposes the following Evaluation criteria scores for the SEDS–GO FY 2020:

Evaluation criteria	Maximum point values
Approach, including Objectives	70 points.
Organizational Capacity	15 points.
Budget and Budget Justification.	15 points.
Bonus Points	5 points.

Bonus points will only be awarded if the applicant organization has never received an ANA grant award. Bonus points will not be awarded in a range—the application will either receive 0 or 5 points.

All Administrative Policies included in ANA's other FY 2020 FOAs will be applicable to the SEDS–GO FOA.

The following statements are applicable to the ANA Commissioner's discretion as part of the ANA internal review process for the selection of applications submitted in response to the SEDS–GO FOA:

In exercising discretion in award selection, the Commissioner may choose not to fund a project if ANA has information outside the application that contradicts the justification for the need for the project. The Commissioner may choose not to fund any proposed project that is outside the scope of the listed program areas of interest. In addition, the Commissioner may choose not to fund a project from an applicant that has received more than two ANA grant awards within the last 10 years.

Statutory Authority: Section 814 of the Native American Programs Act of 1974 (NAPA), as amended.

Elizabeth Leo,

Senior Grants Policy Specialist, Office of Administration, Administration for Children and Families.

[FR Doc. 2020–07488 Filed 4–8–20; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH OF HUMAN SERVICES

Request for Information—Pandemic and All-Hazards Preparedness and Advancing Innovation Act Section 209; Extension of Comment Period

AGENCY: Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; extension of comment period.

SUMMARY: The Office of the Assistant Secretary for Health published a document in the **Federal Register** of March 23, 2020 requesting public comment related to Section 209 of the Pandemic and All-Hazards Preparedness and Advancing Innovation Act. Due to requests of an extension to the public comment period, this document is announcing an extension.

DATES: To be assured consideration, comments must be received at the address provided below no later than midnight Eastern Standard Time (EST) on June 21, 2020.

FOR FURTHER INFORMATION CONTACT: Mr. James Berger, (202) 795–7608; *ACBTSA@hhs.gov.*

Dated: April 3, 2020.

James J. Berger,

Senior Advisor for Blood and Tissue Policy, Office of the Assistant Secretary for Health.

[FR Doc. 2020–07442 Filed 4–8–20; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Tick-Borne Disease Working Group

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As required by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Tick-Borne Disease Working Group (TBDWG) will hold a meeting. The meeting will be open to the public. For this meeting, the TBDWG will review the work of the Public Comment and Federal Inventory Subcommittees and the chapters being developed for the 2020 report to Congress on federal tick-borne activities and research.

DATES: The meeting will be held online via webcast on April 27, 2020, from 9:00 a.m. to 12:30 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the TBDWG web page at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-4-27/index.html* when this information becomes available.

FOR FURTHER INFORMATION CONTACT: James Berger, Designated Federal Officer for the TBDWG; Office of Infectious Disease and HIV/AIDS Policy, Office of the Assistant Secretary for Health, Department of Health and Human Services, Mary E Switzer Building, 330 C Street SW, Suite L600, Washington, DC 20024. Email: *tickbornedisease@hhs.gov;* Phone: 202–795–7608.

SUPPLEMENTARY INFORMATION: Please register for the virtual meeting at *https://kauffmaninc.adobeconnect.com/tbdwg_apr2020/event/event_info.html.* After registering, you will receive an email confirmation with a personalized link to access the webcast on April 27.

The public will have an opportunity to present their views to the TBDWG orally during the meeting's public comment session or by submitting a

written public comment. Comments should be pertinent to the meeting discussion. Persons who wish to provide verbal or written public comment should review instructions at *https://www.hhs.gov/ash/advisory-committees/tickbornedisease/meetings/2020-4-27/index.html* and respond by midnight April 19, 2020, ET. Verbal comments will be limited to three minutes each to accommodate as many speakers as possible during the 30 minute session. Written public comments will be accessible to the public on the TBDWG web page prior to the meeting.

Background and Authority: The Tick-Borne Disease Working Group was established on August 10, 2017, in accordance with Section 2062 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to provide expertise and review federal efforts related to all tick-borne diseases, to help ensure interagency coordination and minimize overlap, and to examine research priorities. The TBDWG is required to submit a report to the HHS Secretary and Congress on their findings and any recommendations for the federal response to tick-borne disease every two years.

Dated: March 30, 2020.

James J. Berger,

Senior Advisor for Blood and Tissue Policy, Office of the Assistant Secretary for Health.

[FR Doc. 2020–07438 Filed 4–8–20; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7033–N–01]

60-Day Notice of Proposed Information Collection: Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans—OMB Control No. 2539–0015

AGENCY: Office of Lead Hazard Control and Healthy Homes, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 8, 2020.

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: Anna Guido, 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 *Anna.P.Guido@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: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

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: Application for Healthy Homes and Lead Hazard Control Grant Programs and Quality Assurance Plans.

OMB Approval Number: 2539–0015.

Type of Request: Renewal with some changes due to program changes.

Form Numbers: SF 424, SF 424, HUD–424CBW, HUD–27061, HUD–2880, HUD–2991, HUD–96008, HUD–96011, SF–LLL, HUD–96012, HUD–96013, HUD–96014, HUD–96015.

Description of the need for the information and proposed use: Applications for Lead-Based Paint Hazard Reduction, Healthy Homes Technical Studies, Lead Technical Studies, Older Adult Home Modification Program, and Healthy Homes and Weatherization Cooperation Demonstration grants, and quality assurance plans for those technical studies grants.

Respondents: Cities, States and municipalities, universities, private companies.

Estimated Number of Respondents: 380.

Estimated Number of Responses: 874.

Frequency of Response: Annual.

Average Hours per Response: 60.

Total Estimated Burdens: 30,600 hours, $1,515,924.

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.

The Director of the Office of Lead Hazard Control and Healthy Homes, Matthew Ammon, having reviewed and approved this document, is delegating the authority to electronically sign this document to Nacheshia Foxx, who is the Federal Register Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: April 6, 2020.

Nacheshia Foxx,

Senior Clearance Officer for the Office of Regulations, Office of the General Counsel.

[FR Doc. 2020–07465 Filed 4–8–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7027–N–10; OMB Control No. 2502–0590]

60-Day Notice of Proposed Information Collection: Delegated Processing for Certain Capital Advance Projects

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 8, 2020.

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: 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. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

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: Delegated Processing for Certain Capital Advance Projects.

OMB Approval Number: 2502–0590.

OMB Expiration Date: 09/30/2016.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Number: HUD–90000, HUD–90001, HUD–90002.

Description of the need for the information and proposed use: This collection was discontinued in 2016 due to no funding being appropriated since 2011 for Section 202 and 811 capital advances or new Project Rental Assistance Contracts. Both Section 202 and 811 programs received new funding in 2018, therefore the collection is now being reinstated. The Delegated Processing Agreement establishes the relationship between the Department and a Delegated Processing Agency (DPA) and details the duties and compensation of the DPA. The Certifications form provides the Department with assurances that the review of the application was in accordance with HUD requirements. The Schedule of Projects form provides the DPA with information necessary to determine if they wish to process the project and upon signature commits them to such processing. Staff of the Office of Housing Assistance and Grant Administration, Multifamily Housing Office will use the information to determine if a housing finance agency wishes to participate in the program and obtain certifications that the review of the application was in accord with HUD requirements.

Respondents: State or Local Housing Agencies.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Frequency of Response: Once a year.

Average Hours per Response: 1.67.

Total Estimated Burden: 70.

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. 3507.

The Assistant Secretary for Housing/Federal Housing Commissioner, John L. Garvin, having reviewed and approved this document, is delegating the authority to electronically sign this document to submitter, Nacheshia Foxx, who is the **Federal Register** Liaison for HUD, for purposes of publication in the **Federal Register**.

Dated: April 6, 2020.

Nacheshia Foxx,

Senior Clearance Officer, Office of the Regulations Division, Office of the General Counsel.

[FR Doc. 2020–07478 Filed 4–8–20; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–MB–2020–0012; FF09M21200–201–FXMB1231099BPP0]

RIN 1018–BE34

Migratory Bird Hunting; Service Regulations Committee and Flyway Council Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Announcement of meetings.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) Migratory Bird Regulations Committee (SRC) will conduct an open meeting on April 28, 2020, to identify and discuss preliminary issues concerning the 2021–2022 migratory bird hunting regulations. We will conduct another meeting in October 2020 to review information on the status of migratory game birds and develop 2021–2022 migratory game bird regulations recommendations for these species. In accordance with Departmental policy, these meetings are open to public observation.

DATES: *SRC meeting:* The Service Regulations Committee meeting will be held April 28, 2020. The meeting will commence at approximately 12:00 p.m. (Eastern) and is open to the public. The meeting will be conducted telephonically with the aid of video technology. Details will be posted at *https://www.fws.gov/birds/* when they become available.

Accommodation requests: Please submit all requests for meeting accommodations by the close of business on April 20, 2020. See *Meeting Accommodations,* below, for more information.

ADDRESSES: Meeting details with web links and telephone numbers will be posted at *https://www.fws.gov/birds/* when they become available.

FOR FURTHER INFORMATION CONTACT: Ken Richkus, U.S. Fish and Wildlife Service,

Department of the Interior, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (703) 358–1780.

SUPPLEMENTARY INFORMATION:

Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located in title 50 of the Code of Federal Regulations in part 20 (50 CFR part 20), annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. Acknowledging regional differences in hunting conditions, the Service has administratively divided the Nation into four Flyways for the primary purpose of managing migratory game birds. Each Flyway (Atlantic, Mississippi, Central, and Pacific) has a Flyway Council, a formal organization generally composed of one member from each State and Province in that Flyway. The Flyway Councils, established through the Association of Fish and Wildlife Agencies, assist in researching and providing migratory game bird management information for Federal, State, and Provincial governments, as well as private conservation entities and the public.

The process for adopting migratory game bird hunting regulations, located in 50 CFR part 20, is constrained by three primary factors. Legal and administrative considerations dictate how long the rulemaking process will last. Most importantly, however, the biological cycle of migratory game birds controls the timing of data-gathering activities and thus the dates on which these results are available for consideration and deliberation.

For the regulatory cycle, Service biologists gather, analyze, and interpret biological survey data and provide this information to all those involved in the process through a series of published status reports and presentations to Flyway Councils and other interested parties. Because the Service is required to take abundance of migratory game birds and other factors into consideration, the Service undertakes a number of surveys throughout the year in conjunction with Service Regional Offices, the Canadian Wildlife Service, and State and Provincial wildlife-management agencies. To determine the appropriate frameworks for each species, we consider factors such as population size and trend, geographical distribution, annual breeding effort, condition of breeding and wintering habitat, number of hunters, and anticipated harvest. After frameworks are established for season lengths, bag limits, and areas for migratory game bird hunting, States may select season dates, bag limits, and other regulatory options for the hunting seasons. States may always be more conservative in their selections than the Federal frameworks, but never more liberal.

Upcoming Meetings

The SRC will conduct an open meeting on April 28, 2020, to identify and discuss preliminary issues concerning the 2021–2022 migratory bird hunting regulations. We will conduct another meeting in October 2020 to review information on the status of migratory game birds and develop 2021–2022 migratory game bird regulations recommendations for these species. In accordance with Departmental policy, these meetings are open to public observation. In addition, Service representatives attended the individual meetings of the four Flyway Councils in March and will reassess attending the August–October Flyway Council meetings. We will provide the meeting dates, commencement times, and locations for the SRC and Flyway Council meetings on our website at *https://www.fws.gov/birds/management/flyways.php* as this information becomes available. If these meetings are not held in person, these meetings may be conducted telephonically with or without the aid of video technology.

Meeting Accommodations

The Service is committed to providing access to the April 28, 2020, SRC meeting for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to the person listed under **FOR FURTHER INFORMATION CONTACT** with your request by close of business on April 20, 2020. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–07504 Filed 4–8–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

[201D0102DM. DS62600000. DLSN00000.000000. DX62601]

Department-Wide Transition To Use of GrantSolutions Award Management System for Managing Financial Assistance Awards

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of a department-wide transition to the GrantSolutions award management system during fiscal years 2020 and 2021.

SUMMARY: The U.S. Department of the Interior (DOI) is providing notice of the transitioning of all bureaus and offices to using the GrantSolutions award management system to manage financial assistance awards. Recipients of financial assistance awards that are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards will use the GrantSolutions system to manage reporting requirements and perform other award management actions.

DATES: The transition to using the GrantSolutions system will begin on May 18, 2020.

ADDRESSES: Mail questions to: Office of Grants Management, 1849 C Street NW, Mail Stop 4262–MIB, Washington, DC 20240. More information on the DOI GrantSolutions system transition for financial assistance is available at the following website: *https://www.doi.gov/grants/grantsolutions.*

FOR FURTHER INFORMATION CONTACT: Kaprice Tucker, Acting Director, 202–208–3466. DOI recipients are encouraged to direct all inquiries to their assigned bureau or office point of contact. People who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual or their designated bureau or office contact during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior (DOI) has entered into an agreement with the Department of Health and Human Services (HHS) to modernize DOI's financial assistance programs through implementation of HHS' GrantSolutions platform, an award management system that provides end-to-end management capabilities for financial assistance awards. The transition supports DOI's

effort to enhance stewardship over the estimated $4 billion in financial assistance awarded annually. The GrantSolutions award management system will allow DOI to standardize financial assistance management procedures, and increase transparency, accountability, and oversight for financial assistance funding.

As a result of the transition, all DOI recipients of financial assistance awards (grants, cooperative agreements, and other types of Federal funding) that are subject to the requirements of 2 CFR 200 will use the GrantSolutions system to manage reporting requirements and perform other award management actions. DOI will provide web-based training for all impacted recipients. DOI will not transition compacts, annual funding agreements, contracts, or other tribal programs subject to the requirements of Public Law 93–638, the Indian Self-Determination and Education Assistance Act, as amended, at this time. These recipients will continue to use existing DOI systems provided by individual bureaus to manage these awards.

The GrantSolutions award management system will allow recipients to perform the following actions:

- View award(s) and related award information.
- View funding applications submitted by the recipient and related award notices.
- Communicate with and send documents to Federal staff.
- Manage award amendments and view their status after submission.
- Manage in-progress applications and view submitted and awarded applications.
- Apply for non-competitive and mandatory awards.
- Apply for directed award supplements.
- View and submit program progress reports.
- Create, edit, submit, and view Federal financial reports.

All bureaus, Departmental offices, and recipients will transition to using the GrantSolutions award management system according to the schedule below. Recipients will receive access to GrantSolutions on the same dates as the bureau or office responsible for managing their program funding. The GrantSolutions transition schedule is as follows:

- Group A transition date is May 18, 2020. Group A includes the following bureaus and their recipients: U.S. Fish and Wildlife Service, Bureau of Ocean Energy Management, and Bureau of Safety and Environmental Enforcement, and their recipients.
- Group B transition date is October 13, 2020. Group B includes the National Park Service and their recipients.
- Group C transition date is December 7, 2020. Group C includes the following bureaus, Departmental offices, and their recipients: Bureau of Indian Affairs/ Bureau of Indian Education, Bureau of Land Management, Bureau of Reclamation, Departmental Offices, Office of Surface Mining Reclamation and Enforcement, and the U.S. Geological Survey, and their recipients.

DOI recipients are encouraged to visit the DOI GrantSolutions system transition web page provided or contact their designated bureau or office financial assistance award contact for more information on the transition.

Kaprice Tucker,

Acting Director, Office of Grants Management.

[FR Doc. 2020–07389 Filed 4–8–20; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK932000 L13100000 PD0000.OMB Control Number 1004–0196]

Agency Information Collection Activities; Oil and Gas Leasing: National Petroleum Reserve—Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Land Management (BLM) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before June 8, 2020.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Faith Bremner, U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW, Room 2134LM, Washington, DC 20240; or by email to *fbremner@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0196 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Wayne Svejnoha at telephone: 907–271–4407, email: *wsvejnoh@blm.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other 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.

Abstract: This control number enables the BLM to obtain the information it needs to meet its responsibilities under the relevant legal provisions of the National Petroleum Reserves Production Act.

Title of Collection: Oil and Gas Leasing: National Petroleum Reserve—Alaska.

OMB Control Number: 1004–0196.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Participants in the oil and gas leasing program within the NPRA.

Total Estimated Number of Annual Respondents: 21.

Total Estimated Number of Annual Responses: 21.

Estimated Completion Time per Response: Varies from 15 minutes to 80 hours, depending on the activity.

Total Estimated Number of Annual Burden Hours: 218.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Non-hour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Faith Bremner,

Senior Regulatory Analyst.

[FR Doc. 2020–07510 Filed 4–8–20; 8:45 am]

BILLING CODE 4310–JA–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1161]

Certain Food Processing Equipment and Packaging Materials Thereof; Commission Determination Not To Review an Initial Determination Finding a Violation of Section 337; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 14) issued by the administrative law judge (''ALJ'') on February 18, 2020, granting summary determination that the defaulting respondents have violated section 337 of the Tariff Act of 1930, as amended. The Commission requests written submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Amanda Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone 202–205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 18, 2019, based on a complaint filed by 3–A Sanitary Standards, Inc. of McLean, Virginia (''Complainant''). 84 FR 28335 (June 18, 2019). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation or sale of certain food processing equipment and packaging materials thereof by reason of false advertising and unfair competition, the threat or effect of which is to destroy or substantially injure an industry in the United States. The notice of investigation named as respondents Wenzhou QiMing Stainless Co., Ltd. of Wenzhou, China (''Wenzhou QiMing''); High MPa Valve Manufacturing Co., Ltd. of Wenzhou, China (''High MPa Valve''); Wenzhou Sinco Steel Co, Ltd. of Wenzhou, China (''Wenzhou Sinco''); Wenzhou Kasin Valve Pipe Fitting Co., Ltd. of Wenzhou, China (''Wenzhou Kasin''); and Wenzhou Fuchuang Machinery (''Wenzhou Fuchuang'') (collectively, ''defaulting respondents''). *Id.* The Office of Unfair Import Investigations (''OUII'') was also named as a party to the investigation. *Id.*

On October 15, 2019, the Commission found respondents Wenzhou QiMing, High MPa Valve, Wenzhou Sinco, and Wenzhou Kasin in default. Order No. 8 (Sept. 19, 2019), *unreviewed,* Notice (Oct. 15, 2019). On December 18, 2019, the Commission found Wenzhou Fuchuang in default. Order No. 13 (Nov. 19, 2019), *unreviewed,* Notice (Dec. 18, 2019).

On November 7, 2019, 3–A SSI moved for summary determination of a violation of section 337 by the defaulting respondents. On November 20, 2019, and December 3, 2019, 3–A SSI supplemented its motion and exhibits. On December 13, 2019, OUII filed a response supporting 3–A SSI's motion.

On February 18, 2020, the presiding ALJ issued Order No. 14, an ID granting 3–A SSI's motion for summary determination of a violation of section 337 by the defaulting respondents. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia,* an exclusion order that could result in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order would have on: (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that

should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such initial submissions should include views on the recommended determination by the ALJ on remedy and bonding.

In their initial submissions, Complainant and OUII are also requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the HTSUS subheadings under which the accused products are imported and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on April 14, 2020. Reply submissions must be filed no later than the close of business on April 21, 2020. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (Inv. No. 337–TA–1161) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR. part 210).

By order of the Commission.

Issued: April 3, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–07430 Filed 4–8–20; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1138]

Certain LTE- and 3G-Compliant Cellular Communications Devices; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that, on February 18, 2020, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337 in the above-captioned investigation. On April 3, 2020, the ALJ issued a Recommended Determination on Remedy and Bond. The Commission is soliciting comments on public interest issues raised by the recommended relief, should the Commission find a violation. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 (''Section 337'') provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless the public interest factors listed in 19 U.S.C. 1337(d)(1) prevent such action. A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation, specifically: (1) Limited exclusion orders (''LEOs'') directed to certain LTE- and 3G-compliant cellular communications devices imported, sold for importation, and/or sold after importation by respondents Apple Inc. of Cupertino, California; HTC Corporation of Taoyuan City, Taiwan; HTC America, Inc. of Seattle, Washington; ZTE Corporation of Guangdong, China; and ZTE (USA) Inc. of Richardson, Texas; and (2) cease and desist orders (''CDOs'') against each respondent.

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bond issued in this investigation on April 3, 2020. Comments should address whether issuance of the remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended LEOs and CDOs are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the recommended LEOs and CDOs;

(iii) Identify like or directly competitive articles that complainant, its licensees, and/or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, its licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended LEOs and CDOs within a commercially reasonable time; and

(v) Explain how the recommended LEOs and CDOs would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on May 5, 2020.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1138'') in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*). Persons with questions regarding filing should contact the Secretary ((202) 205–2000). Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 6, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–07506 Filed 4–8–20; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement, With Change, of Previously Approved Collection: National Inmate Survey in Jails (NIS–4J)

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until June 8, 2020.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Amy Lauger, Supervisory Statistician, Institutional Research and Special Projects Unit, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Amy.Lauger@ojp.usdoj.gov;* telephone: 202–307–0711).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether, and if so how, the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement, with change, of a previously approved collection. A new OMB number is needed, as this collection was previously under 1121–0311 with the collection of prison data. They are now two separate collections.

2. *The Title of the Form/Collection:* National Inmate Survey in Jails (NIS–4J).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will primarily be State, Local, or Tribal Government entities. The work under this clearance will be used to produce estimates for the incidence and prevalence of sexual victimization within correctional facilities as required under the Prison Rape Elimination Act of 2003 (Pub. L. 108–79). The Bureau of Justice Statistics uses this information in published reports and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others interested in criminal justice statistics.

In 2003, the Prison Rape Elimination Act (PREA or the Act) was signed into law. The Act requires BJS to ''carry out, for each calendar year, a comprehensive

statistical review and analysis of the incidence and effects of prison rape.'' The Act further instructs BJS to collect survey data: ''. . . the Bureau shall . . . use surveys and other statistical studies of current and former inmates . . .''

To implement the Act, BJS developed the National Prison Rape Statistics Program (NPRS), which includes four separate data collection efforts: The Survey on Sexual Violence (SSV), the National Inmate Survey (NIS), the National Survey of Youth in Custody (NSYC), and the National Former Prisoner Survey (NFPS). The NIS collects information on sexual victimization self-reported by inmates held in adult correctional facilities, both prisons and jails. The NIS has been conducted three times, in 2007 (NIS–1), in 2008–09 (NIS–2), and in 2011–12 (NIS–3). Each iteration of NIS was conducted in at least one facility in all 50 states and the District of Columbia. In each iteration of the survey, inmates completed the survey using an audio computer-assisted self-interview (ACASI), whereby they heard questions and instructions via headphones and responded to the survey items via a touch-screen interface.

The collection requested in this notice is the fourth iteration of the National Inmate Survey. For NIS–4, administration of the survey in prisons will take place separately from survey administration in jails. This collection request is specific to conducting the survey in adult jail facilities.

The survey instrument for the NIS–4 in Jails is slightly modified from the previous iterations. The main difference is the addition of a new set of incident-specific questions administered to respondents who affirmatively indicate they were sexually victimized at some point in the previous 12 months while housed in their current jail facility. These incident-specific questions will provide information to the public on the nature of sexual victimization in jails, such as where incidents occurred within the facility, the relationship between the victim and the alleged perpetrator(s), and whether the victim suffered any injuries as a result of the incident, among other incident characteristics.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Prior to data collection commencing in 2021, BJS will coordinate the logistics of NIS–4 survey administration with staff at state, local, and tribal correction facilities. Because the administration of this survey in prisons is not included in this request, the overall number of burden hours is lower than in the last request approved in 2010. It is estimated that 225 facility respondents will devote 260 minutes of time to this coordination effort. During data collection in 2021, jail staff will escort an estimated 44,335 jail inmates to/from the interviews, which consists of a short consent administration and an approximately 35 minute survey.

6. *An estimate of the total public burden (in hours) associated with the collection:* This collection was previously approved for implementation in both adult prisons and jails. The current request will only be implemented in adult jails, thereby reducing the total number of facility staff and respondents required to participate. The total estimated NIS–4 Jails public burden, inclusive of facility staff and respondent burden estimates, is 43,982 hours. This comprises 12,061 hours of facility staff burden and 31,921 hours of respondent interviewing burden. This burden estimate assumes 100% participation from both facilities and inmates, but historically both facility and inmate participation have not reached 100%. We expect an inmate response rate of approximately 62%.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: April 6, 2020.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2020–07475 Filed 4–8–20; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Veterans' Employment and Training Service Competitive Grant Programs Reporting

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Veterans' Employment and Training Service (VETS)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and reinstatement in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 11, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department of Labor's VETS administers funds for the Homeless Veterans' Reintegration Program grants to state, local, and tribal governments; businesses and other for-profit and not-for-profit organizations on an annual program year basis. These competitive grants are codified under 38 U.S.C. 2021, 2021A, and 2023. VETS provides funds to competitively-awarded grantees through annual Funding Opportunity Announcements and option year funding. The total number of grantees varies based on the amount of available funds, awarded in grants up to $500,000 each. The Assistant Secretary for Veterans' Employment and Training monitors and supervises the distribution and use of those funds as required by 38 U.S.C. 2021 (b). Additionally, and in accordance with 38 U.S.C. 2021 (d), the Secretary reviews performance and provides a biennial report to Congress on the program, including an evaluation of the services furnished to veterans and an analysis of the information we have collected. VETS intends to request approval for this information collection that streamlines the annual funding request

process for grantees, reports the use of grantee funds in sufficient detail to allow interim adjustments that ensure all appropriated funding is expended properly, and provides data needed for VETS' biennial report to Congress. The forms and reports collect required programmatic and financial data from grantees. The continued use of standardized formats for collecting this information helps to ensure that requested data is provided in a uniform way, reporting burdens are minimized, the impact of collection requirements on respondents are properly assessed, collection instruments are clearly understood by respondents, and the information is easily consolidated for posting in accordance with statutory requirements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 19, 2019 (84 FR 49344).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks reinstatement and PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–VETS.

Title of Collection: Veterans' Employment and Training Service Competitive Grant Programs Reporting.

OMB Control Number: 1293–0014.

Affected Public: State, Local, and Tribal Governments; Private Sector: Businesses or other for-profits and not-for-profits institutions.

Total Estimated Number of Respondents: 1,078.

Total Estimated Number of Responses: 2,662.

Total Estimated Annual Time Burden: 11,004 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: April 3, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–07468 Filed 4–8–20; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Health Standards for Diesel Particulate Matter Exposure (Underground Coal Mines)

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Mine Safety and Health Administration (MSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 11, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines. MSHA establishes standards and regulations for diesel-powered equipment in underground coal mines that provide additional important protection for coal miners who work on and around diesel-powered equipment. The standards are designed to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter. The standards in sections 72.510(a) & (b), and 72.520(a) & (b) contain information collection requirements for underground coal mine operators. Section 72.510(a) requires underground coal mine operators to provide annual training to all miners who may be exposed to diesel emissions. The training must include: Health risks associated with exposure to diesel particulate matter; methods used in the mine to control diesel particulate concentrations; identification of the personnel responsible for maintaining those controls; and actions miners must take to ensure that controls operate as intended. Under Section 72.510(b) underground coal mine operators are required to keep a record of the training for one year. Section 72.520(a) and (b) requires underground coal mine operators to maintain an inventory of diesel powered equipment units together with a list of information about any unit's emission control or filtration system. The list must be updated within 7 calendar days of any change. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 27, 2020 (85 FR 4708).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–MSHA.

Title of Collection: Health Standards for Diesel Particulate Matter Exposure (Underground Coal Mines).

OMB Control Number: 1219–0124.

Affected Public: Private Sector: Businesses or other for-profits.

Total Estimated Number of Respondents: 164.

Total Estimated Number of Responses: 55,980.

Total Estimated Annual Time Burden: 710 hours.

Total Estimated Annual Other Costs Burden: $24.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: April 3, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–07466 Filed 4–8–20; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Federal Contract Compliance Programs (OFCCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before May 11, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Frederick Licari by telephone at 202–693–8073, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OFCCP administers and enforces the three equal employment opportunity laws listed below:

- Executive Order 11246, as amended (E.O. 11246);
- Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 793 (Section 503); and
- Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, 38 U.S.C. 4212.

These authorities prohibit employment discrimination by Federal contractors and subcontractors and require them to take affirmative action to ensure that equal employment opportunities are available regardless of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or status as a protected veteran. Additionally, Federal contractors and subcontractors are prohibited from discriminating against applicants and employees for asking about, discussing, or sharing information about their pay or, in certain circumstances, the pay of their co-workers. Federal contractors and subcontractors are further prohibited from harassing, intimidating, threatening, coercing, or discriminating against individuals who file a complaint, assist or participate in any OFCCP investigation, oppose any discriminatory act or practice, or otherwise exercise their rights protected by OFCCP's laws.

No private right of action exists under the authorities that are enforced by OFCCP, *i.e.,* a private individual may not bring a lawsuit against an employer (or prospective employer) for noncompliance with its contractual obligations enforced by OFCCP. However, any employee of, or applicant for employment with, a federal contractor or subcontractor may file a complaint with OFCCP alleging discrimination or failure to comply with affirmative action obligations. OFCCP encourages such employees and applicants to file their complaints by completing its complaint form (''Form CC–4''). OFCCP investigates the complaint but retains the discretion whether to pursue administrative or judicial enforcement. If a complaint is filed under E.O. 11246 or Section 503, OFCCP may refer it to the U.S. Equal Employment Opportunity Commission (EEOC).1 OFCCP investigates all complaints filed under VEVRAA. Under E.O. 11246, the authority for collection of complaint information is Section 206(b). The implementing regulations which specify the content of this information collection are found at 41 CFR 60–1.23. Under VEVRAA, the authority for collecting complaints information is at 38 U.S.C. 4212(b) and the implementing regulations which specify the content of VEVRAA complaints are found at 41 CFR 60–300.61(b). The statutory authority for collecting complaint information under Section 503 is at 29 U.S.C. 793(b), and the implementing regulations which specify the content of Section 503 complaints are found at 41 CFR 60–741.61(c). This information collection request covers the recordkeeping and reporting requirements for Form CC–4.

For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 21, 2019 (84 FR 56205).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OFCCP.

Title of Collection: Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor.

OMB Control Number: 1250–0002.

Affected Public: Individuals and Households.

Total Estimated Number of Respondents: 897.

Total Estimated Number of Responses: 897.

Total Estimated Annual Time Burden: 897 hours.

Total Estimated Annual Other Costs Burden: $169.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: April 3, 2020.

Frederick Licari,

Departmental Clearance Officer.

[FR Doc. 2020–07467 Filed 4–8–20; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0009]

The Standard on Presence Sensing Device Initiation (PSDI); Extension of the Office of Management and Budget's (OMB) Approval of Collections of Information (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard on Presence Sensing Device Initiation.

DATES: Comments must be submitted (postmarked, sent, or received) by June 8, 2020.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2010–0009) for the Information Collection Request (ICR). All comments, including any personal information you provide, such as social security numbers and dates of birth, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the below phone number to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph 1910.217(h) regulates the use of presence sensing devices (''PSDs'') used to initiate the operation of mechanical power presses; a PSD (*e.g.,* a photoelectric field or curtain) automatically stops the stroke of a mechanical power press when the device detects an operator entering a danger zone near the press. A mechanical power press using presence sensing device initiation (PSDI) automatically starts (initiates) the stroke when the device detects no operator within the danger zone near the press. The certification/validation of safety systems for PSDI shall consider the press, controls, safeguards, operator, and environment as an integrated system which shall comply with 29 CFR 1910.217(a) through (h). Accordingly, the Standard protects employees from serious crush injuries, amputations, and death.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The agency reports no program changes or adjustments associated with this ICR. The agency is, therefore, retaining the previous estimate of one hour (1 hour).

Type of Review: Extension of a currently approved collection.

Title: Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217 (h)).

OMB Control Number: 1218–0143.

Affected Public: Business or other for-profits.

Number of Respondents: 10.

Frequency of Response: Initially, annually; On occasion.

Total Responses: 10.

Average Time per Responses: 0.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for this ICR (Docket No. OSHA–2010–0009). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, TTY (877) 889–5627.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link.

Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on April 3, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020–07469 Filed 4–8–20; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Workers' Compensation Programs

Agency Information Collection Activities; Comment Request; Certification of Funeral Expenses

AGENCY: OWCP/DLHWC.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Certification of Funeral Expenses.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by June 8, 2020.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of Workers' Compensation Programs, Room S3323, 200 Constitution Avenue NW, Washington, DC 20210; by email: *suggs.anjanette@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Anjanette Suggs by telephone at 202–354–9660 or by email at *suggs.anjanette@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend Longshore Act coverage to certain other employees.

Section 9(a) of the Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. Form LS–265 has been provided for use in submitting the funeral expenses for payment. *See* 33 U.S.C. 909(a). Section 13 generally provides for the filing of claims under the Act, and section 39 provides authorization for the Department to administer the Act, including promulgating rules and regulations. See 33 U.S.C. 913 and 939. Regulations 20 CFR 702.121 provides that the OWCP may prescribe forms and require their use to report of any required information. *See* 20 CFR 702.121.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB under the PRA approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Written comments will receive consideration, and summarized and included in the request for OMB approval of the final

ICR. In order to help ensure appropriate consideration, comments should mention OMB No. 1240–0040.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL-Office of Workers' Compensation Programs.

Type of Review: Revision.

Title of Collection: Certification of Funeral Expenses.

Form: LS–265.

OMB Control Number: 1240–0040.

Affected Public: Private Sector.

Estimated Number of Respondents: 75.

Frequency: On occasion.

Total Estimated Annual Responses: 75.

Estimated Average Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 19 hours.

Total Estimated Annual Other Cost Burden: $22.00.

(Authority: 44 U.S.C. 3506(c)(2)(A))

Anjanette Suggs,

Agency Clearance Officer.

[FR Doc. 2020–07470 Filed 4–8–20; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to establish this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by June 8, 2020 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Additional Reporting Requirements for Mathematical Sciences Research Institutes.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection.

Proposed Project: Use of the Information: Mathematical Sciences Research Institutes are national resources that aim to advance research in the mathematical sciences through programs supporting discovery and dissemination of knowledge in mathematics and statistics and enhancing connections to related fields in which the mathematical sciences can play important roles. Institute activities help focus the attention of some of the best mathematical minds on problems of particular importance and timeliness. Institutes are also community resources that involve a broad segment of U.S.-based mathematical sciences researchers in their activities. The goals of the Mathematical Sciences Research Institutes program include advancing research in the mathematical sciences, increasing the impact of the mathematical sciences in other disciplines, and expanding the talent base engaged in mathematical research in the United States. The data collection on participants information at each of the currently supported institutes for this request includes: participant identifications, contact information, affiliations, demographic information, institute programs participated, durations, and NSF support received.

Respondents: Respondents are PIs of current Mathematical Sciences Research Institutes program awards.

Estimated Number of Annual Respondents: 6-7 individuals.

Burden on the Public: 175 hours.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: April 3, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–07456 Filed 4–8–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–022 and 52–023; NRC–2013–0261]

Duke Energy Progress Inc.; Combined License Application for Shearon Harris; Nuclear Power Plant Units 2 and 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a December 02, 2019, letter from Duke Energy Progress, Inc. (DEP), which requested an exemption from certain regulatory requirements for DEP to submit an update to the final safety analysis report (FSAR) included in its application for combined licenses (COLs) for Shearon

Harris Nuclear Power Plant (Harris) Units 2 and 3 by December 31, 2019. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the next update to the FSAR must be submitted prior to, or coincident with, the resumption of the COL application review or by December 31, 2024, whichever comes first.

DATES: The exemption is effective on April 6, 2020.

ADDRESSES: Please refer to Docket ID NRC–2013–0261 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2013–0261. Address questions about NRC 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.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin 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 FURTHER INFORMATION CONTACT: Demetrius Murray, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7646; email: *Demetrius.Murray@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: April 6, 2020.

For the Nuclear Regulatory Commission.

Anna H. Bradford,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

Attachment—Exemption

Nuclear Regulatory Commission

Docket Nos. 52–022 and 52–023

Duke Energy Progress Inc. Combined License Application for Shearon Harris Nuclear Power Plant Units 2 and 3 Exemption

I. Background

On February 18, 2008, DEP submitted to the NRC an application for COLs for two Westinghouse Electric Company AP1000 advanced pressurized water reactors to be constructed and operated at the existing Shearon Harris Nuclear Plant (Harris) site (ADAMS Accession No. ML080580078). The NRC docketed the Shearon Harris Units 2 and 3 COL application (Docket Nos. 52–022 and 52–023) on April 23, 2008. On April 15, 2013, (ADAMS Accession No. ML13112A761) DEP submitted Revision 5 to the COL application including updates to the FSAR, in accordance with Section 50.71(e)(3)(iii) of title 10 of the *Code of Federal Regulations* (10 CFR). On May 2, 2013 (ADAMS Accession No. ML13123A344), DEP requested that the NRC suspend review of the Shearon Harris Nuclear Plant Units 2 and 3 COL application. On August 7, 2013 (ADAMS Accession No. ML13220B004), DEP requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update, which NRC granted through December 31, 2014. On August 1, 2014 (ADAMS Accession No. ML14216A431), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update which the NRC granted through December 31, 2015. On August 12, 2015 (ADAMS Accession No. ML15226A353), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update which NRC granted through by December 31, 2016. On October 13, 2016 (ADAMS Accession No. ML16288A815), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the COL application FSAR update which NRC granted through December 31, 2019. On December 02, 2019 (ADAMS Accession No. ML19337A620), DEP requested another exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit annual updates to the FSAR for the next five years (2019–2023). In this exemption request, DEP indicated that it would submit the next FSAR update prior to any request to the NRC to reactivate the COL application review, and, in any event, provide an update to the FSAR, or take other appropriate action, no later than December 31, 2024.

II. Request/Action

Section 50.71(e)(3)(iii) requires that an applicant for a COL under Subpart C of 10 CFR part 52 submit updates to the FSAR annually during the period from docketing the application to the Commission making its 10 CFR 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii), the annual update of the FSAR included in the Harris Units 2 and 3 COL application would have been due by December 31, 2019. In a letter dated December 02, 2019 (ADAMS Accession No. ML19337A620), DEP requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements in regard to the Harris Units 2 and 3 COL application during the next five years (2019–2023) until December 31, 2024, or until prior to a request to reactivate the Harris Units 2 and 3 COL application review. The requested exemption would allow DEP to submit the next FSAR update at a later date, but still before the NRC resumes its review of the application and, in any event, by December 31, 2024.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, including 10 CFR 50.71(e)(3)(iii), when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)) or the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation (10 CFR 50.12(a)(2)(v)).

One purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information regarding the COL application, in order to perform an efficient and effective review. Because the NRC suspended its review of the Harris Units 2 and 3 COL application, compelling DEP to submit its FSAR on an annual basis is not necessary as the FSAR will not be changed or updated until the review is restarted. Requiring the updates would result in undue hardship on DEP, and the purpose of 10 CFR 50.71(e)(3)(iii) would still be achieved if the update is submitted prior to restarting the review and in any event by December 31, 2024.

No Undue Risk to Public Health and Safety

With respect to a COL application, the underlying purpose of 10 CFR 50.71(e)(3)(iii) is to provide for a timely and comprehensive update of the FSAR in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature, in that it pertains to the schedule for submittal to the NRC of revisions to an application under 10 CFR part 52, for which a license has not been granted. The exemption has no effect on the public health and safety. In addition, since the review of the application has been suspended, any update to the application submitted by DEP will not be reviewed by the NRC at this time. Plant construction cannot proceed until the NRC's review of the application is completed, a mandatory hearing is completed, and a license is issued. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow DEP to submit the next FSAR update prior to requesting the NRC to resume the review and, in any event, on or before December 31, 2024. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present under the circumstances relevant to the requested exemption. Specifically, special circumstances are present if application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to date information in order to perform its review of the COL application efficiently and effectively. Because the requirement to annually update the FSAR was intended for active reviews and the Harris Units 2 and 3 COL application review is now suspended, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and DEP was then required to update its FSAR by December 31, 2024, or prior to any request to restart the review, the purpose of the rule would still be achieved.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) provided that:

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application for which the licensing review has been suspended. Therefore, there is no significant hazards consideration because granting the proposed exemption 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.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change, which is administrative in nature and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change, which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature; the application review is suspended until further notice, and facility construction is not currently authorized, as the COL application remains under review. Accordingly, the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents;

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(1) Reporting requirements;

The exemption request involves submitting an updated FSAR by DEP;

and

(2) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

IV. Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants DEP a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) to update the Final Safety Analysis Report for the Harris Units 2 and 3 COL application until DEP requests the NRC to resume the review, or until December 31, 2024, whichever comes first.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 6th day of April 2020.

For The Nuclear Regulatory Commission.

Anna H. Bradford,

Director, Division of New and renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–07485 Filed 4–8–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0234]

Information Collection: NRC Form 536, "Operator Licensing Examination Data"

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, "NRC Form 536, "Operator Licensing Examination Data."

DATES: Submit comments by June 8, 2020. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0234. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, 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: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0234 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–2019–0234. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2019–0234 on this website.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML19339E077. The supporting statement and NRC Form 536, ''Operator Licensing Examination Data,'' are available in ADAMS under Accession Nos. ML20008D411 and ML20008D415.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Please include Docket ID NRC–2019–0234 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS, and 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. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* NRC Form 536, ''Operator Licensing Examination Data.''

2. *OMB approval number:* 3150–0131.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* 536.

5. *How often the collection is required or requested?* Annually.

6. *Who will be required or asked to respond?*

(a) All holders of operating licenses for nuclear power reactors under the provision of title 10 of the *Code of Federal Regulations (*10 CFR*)* part 50, ''Domestic Licensing of Production and Utilization Facilities,'' except those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

(b) All holders of, or applicants for, a limited work authorization, early site permit, or combined licenses issued under 10 CFR part 52, ''Licenses, Certifications and Approval for Nuclear Power Plants.''

7. *The estimated number of annual responses:* 60.

8. *The estimated number of annual respondents:* 60.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 45.

10. *Abstract:* The NRC is requesting renewal of its clearance to annually request all commercial power reactor licensees and applicants for an operating license to voluntarily send to the NRC: (1) Their projected number of candidates for initial operator licensing examinations; (2) the estimated dates of the examinations, and (3) if the examinations will be facility developed or NRC developed. This information is used to plan budgets and resources in regard to operator examination scheduling in order to meet the needs of the nuclear power industry.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: April 6, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–07457 Filed 4–8–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0198]

Issuance of a Revision to the Guidance Document for Alternative Disposal Requests

AGENCY: Nuclear Regulatory Commission.

ACTION: Revised guidance; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to its guidance document for alternative disposal requests, ''Guidance for the Reviews of Proposed Disposal Procedures and Transfers of Radioactive Material Under 10 CFR 20.2002 and 10 CFR 40.13(a).'' This document provides guidance and the NRC staff process for documenting, reviewing, and dispositioning requests received for alternative disposal of licensed material. The revision incorporates changes made in response to comments received on the draft guidance document, as well as interactions with NRC stakeholders.

DATES: The revised guidance is effective immediately for use.

ADDRESSES: Please refer to Docket ID NRC–2017–0198 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2017–0198. Address questions about NRC dockets IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at *https://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 revision to the guidance

document, along with supporting documents, is available in ADAMS under Accession No. ML19295F109.

FOR FURTHER INFORMATION CONTACT: Marlayna Doell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178; email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION: In October 2017, the NRC issued a draft of the guidance document to obtain public input on how to improve the alternative disposal process (ADAMS Package Accession No. ML17229B588). A notice of availability, requesting comment on the draft guidance document, was published in the **Federal Register** (82 FR 48727; October 19, 2017). This **Federal Register** notice provided background information regarding the draft guidance document, solicited public comments, and provided notice of the NRC's plans to hold a public meeting to discuss the document and receive comments on the proposed changes, which occurred on October 19, 2017.

The NRC reviewed and now responds to all the comments from the initial comment period. The NRC staff's resolution of these comments is incorporated into a response document that is included in the supporting documents for this updated revision to the guidance document (ADAMS Package Accession No. ML19295F109). Comments received addressed the following issues: General; Policy/Rulemaking; Agreement State/Regulatory Overlap; Unimportant Quantities of Radioactive Material; Performance Assessment; Compliance Period and Analysis Timeframes; Radon; Other Off-Site Disposals—Release of Solid Material with Volumetric Contamination; Transportation; and Cumulative Impacts.

The NRC staff revised the guidance document in several areas, including the discussions on performance assessment, off-site burial disposals, regulatory requirements, requests for additional information, other off-site disposals, release of solid material with volumetric contamination, non-licensees, and the overall 10 CFR 20.2002 process in response to comments. The purpose of this revision to the guidance is to improve the alternative disposal process by further clarifying the methods and information needed to dispose of waste using an alternate process. This document is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act. The revision to the guidance is available at ADAMS Package Accession No. ML19295F109 and is available for immediate use by all stakeholders.

Dated: April 3, 2020.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2020–07417 Filed 4–8–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0101]

Anchoring Components and Structural Supports in Concrete

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 1.199, ''Anchoring Components and Structural Supports in Concrete.'' The guide was revised to endorse updated versions of the codes and standards that were endorsed in Revision 0 of the guide.

DATES: Revision 1 to RG 1.199 is available on April 9, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0101 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2019–0101. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin 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.* Revision 1 to RG 1.199 and the regulatory analysis may be found in NRC's Agencywide Documents Access and Management System (ADAMS) under Accession Nos. ML19336A079 and ML17258A580 respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Marcos Rolon-Acevedo, telephone: 301–415–2205; email: Marcos *Rolon-Acevedo@nrc.gov,* and Edward O'Donnell, telephone: 301–415–3317; email: *Edward.Odonnell@nrc.gov.* Both are staff members of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 of RG 1.199 was issued for public comment with a temporary identification of Draft Regulatory Guide, DG–1284. The revision addresses changes in the codes and standards endorsed by Revision 0 of the guide. The revised codes and standards endorsed by Revision 1 include: (1) Appendix D, ''Anchoring to Concrete,'' of American Concrete Institute (ACI) 349–13, ''Code Requirements for Nuclear Safety-Related Concrete Structures and Commentary,'' (2) ACI 355.2–07, ''Qualification of Post-Installed Mechanical Anchors in Concrete and Commentary,'' and (3) American Society for Testing and Materials (ASTM) E488/E488M–15, ''Standard Test Methods for Strength of Anchors in Concrete Elements.''

II. Additional Information

The NRC published a notice of the availability of DG–1284 in the **Federal Register** on April 22, 2019 (84 FR 16699) for a 60-day public comment period. The public comment period closed on June 21, 2019 and there were no public comments on the guide.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of

Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

This regulatory guide provides guidance on standards for anchoring components and structural supports in concrete for nuclear power plants licensed under 10 CFR parts 50 and 52. The issuance of this regulatory guide does not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,'' or affect issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants,'' because, as explained in this regulatory guide, licensees are not required to comply with the positions set forth in this regulatory guide.

Dated: April 3, 2020.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–07421 Filed 4–8–20; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2019–154; MC2020–113 and CP2020–119]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 13, 2020.

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

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

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

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2019–154; *Filing Title:* USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 100, Filed Under Seal; *Filing Acceptance Date:* April 3, 2020; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* April 13, 2020.

2. *Docket No(s).:* MC2020–113 and CP2020–119; *Filing Title:* USPS Request to Add First-Class Package Service Contract 108 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* April 3, 2020; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.,* and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* April 13, 2020.

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

Erica A. Barker,

Secretary.

[FR Doc. 2020–07458 Filed 4–8–20; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88559; File No. SR–BOX–2020–08]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC (''BOX'') Facility To Reflect Certain Pricing Changes That Will Be in Effect While the BOX Trading Floor Is Inoperable

April 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 2, 2020, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A)(ii).
[4] 17 CFR 240.19b–4(f)(2).

to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') facility. 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://boxexchange.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 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

As a precautionary measure to prevent the potential spread of coronavirus (COVID–19), BOX Exchange LLC (BOX) temporarily closed the Trading Floor in Chicago after the close of business on Friday, March 20, 2020. The Exchange proposes to amend the Fee Schedule for trading on BOX to govern certain pricing changes that will be in effect while the BOX Trading Floor is inoperable.

Facilitation and Solicitation Transaction Fees

First, the Exchange proposes to amend Section I.C. (Facilitation and Solicitation Transactions [5]) to establish a fee structure for Facilitation and Solicitation Transactions in lieu of the current fees for Facilitation and Solicitation Transactions while the BOX Trading Floor is inoperable. Further, the Exchange proposes that the Facilitation and Solicitation Transaction Rebate identified in Section I.C.1 will not apply when the BOX Trading Floor is inoperable. With the Trading Floor inoperable, Floor Participants will no longer be allowed to enter Qualified Open Outcry Orders (''QOO'') Orders on BOX. Instead these Participants must enter analogous types of electronic orders on BOX, which are most similar to orders executed through the Facilitation and Solicitation auction mechanism. Because of this, the Exchange proposes to mimic the current structure for Facilitation and Solicitation Transactions; however the Exchange proposes to make a few minor changes to the fees assessed for these transactions when the Trading Floor is inoperable. Specifically, the Exchange proposes to assess no fees for Agency Orders submitted to the Facilitation and Solicitation mechanisms for all Participants, regardless of account type.[6] Second, the Exchange proposes to assess no fees for Facilitation and Solicitation Orders [7] in Penny and Non-Penny Pilot Classes. BOX also proposes to assess a $0.50 fee for Responses in the Facilitation or Solicitation Auction Mechanisms in Penny Pilot Classes and $1.15 for Responses in the Facilitation and Solicitation mechanisms in Non-Penny Pilot Classes.[8] The Exchange believes the proposed fee structure will incentivize Participants who would normally execute orders on the BOX Trading Floor to instead submit orders to the Exchange's Facilitation and Solicitation auction mechanisms.[9] Once the Trading Floor reopens, the Exchange will make necessary changes to the BOX Fee Schedule to remove obsolete text.

Liquidity Fees and Credits

The Exchange proposes to add text to Section III.B. (Liquidity Fees and Credits for Facilitation and Solicitation Transactions). Specifically, the Exchange proposes to add text which states that Participants will not be assessed Liquidity Fees and Credits for Facilitation and Solicitation Transactions when the BOX Trading Floor is inoperable. Once the Trading Floor reopens, the Exchange will make necessary changes to the BOX Fee Schedule to remove obsolete text.

Participant Fees

The Exchange proposes to add text to Section IX., Participant Fees, which states that BOX Participant Fees will not be assessed for Trading Floor-only Participants and Trading Floor Permit Fees will not be assessed for any Participant while the BOX Trading Floor is inoperable.[10] Once the Trading Floor reopens, the Exchange will make necessary changes to the BOX Fee Schedule to remove obsolete text.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[11] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The proposed changes are due to the closing of the BOX Trading Floor as of March 23, 2020. The Exchange believes the proposed changes discussed herein will incentivize Participants to direct order flow that that would have otherwise been executed on the BOX Trading Floor, to be executed through the Exchange's Facilitation and Solicitation auction mechanisms while the Trading Floor is inoperable.[12]

Facilitation and Solicitation Transaction Fees

The Exchange believes that the proposed fee structure for Facilitation and Solicitation Transactions while the Trading Floor is inoperable is reasonable, equitable and not unfairly discriminatory. The Exchange notes that assessing no Agency Order fees is in line with the Exchange's current fee structure for Facilitation and Solicitation Transactions. Further, the Exchange believes that assessing no fees

[5] Transactions executed through the Solicitation Auction mechanism and Facilitation Auction mechanism.

[6] The Exchange notes that no fees are currently assessed for Agency Orders for any account type.

[7] Facilitation and Solicitation Orders are the matching contra orders submitted on the opposite side of the Agency Order.

[8] The Exchange notes that the total fees for Responses in the Facilitation and Solicitation auction mechanisms are not changing. Currently, Participants are assessed a $0.25 fee for Responses in the Facilitation and Solicitation mechanisms for Penny Pilot Classes and an additional $0.25 liquidity fee in Section III.B totaling $0.50 for their order. For Non-Penny Pilot Classes, Participants are assessed a $0.40 fee for Responses in the Facilitation and Solicitation mechanisms and an additional $0.75 liquidity fee in Section III.B totaling $1.15 for their order. As discussed herein, the Exchange proposes to eliminate Liquidity Fees and Credits for Facilitation and Solicitation transactions when the Trading Floor is inoperable. As such, the current liquidity fees are included in the proposed Response fees for the Facilitation and Solicitation mechanisms.

[9] The Exchange notes that the QOO Orders are paired orders on the BOX Trading Floor similar to Facilitation and Solicitation orders submitted electronically through the Facilitation and Solicitation auction mechanism. The Exchange believes that the reduced Facilitation and Solicitation Order fees will incentivize Floor Participants (who are also electronic Participants on BOX) to execute orders electronically instead of directing this order flow to another exchange.

[10] Trading Floor Participants who are also electronic Participants will continue to be charged the BOX Participant Fee.

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] The Exchange notes that the QOO Orders are paired orders on the BOX Trading Floor similar to Facilitation and Solicitation orders submitted electronically through the Facilitation and Solicitation auction mechanism. Under this proposal, Floor Participants (who are also electronic Participants on BOX) will be able to execute orders electronically despite the Trading Floor being closed.

for Facilitation and Solicitation Orders in the Facilitation and Solicitation auction mechanism is reasonable.[13] As discussed above, the Exchange believes that assessing no fees for Facilitation and Solicitation Orders will attract order flow to these mechanisms that would have otherwise been executed on the BOX Trading Floor. The Exchange believes the proposed change will incentivize Participants to direct their orders to the Exchange's mechanisms (instead of directing these orders that would have normally executed on the BOX Trading Floor to other exchanges in the industry) which will result in greater liquidity and ultimately benefit all Participants trading on the Exchange. Further, the Exchange believes that the proposed change is equitable and not unfairly discriminatory, as the proposed change applies to all Participants, regardless of account type.

The Exchange believes that the proposed fees for Responses in the Facilitation and Solicitation auction mechanisms are reasonable. As discussed above, as part of this temporary fee change the Exchange is removing Liquidity Fees and Credits for the Facilitation and Solicitation mechanisms. With the Liquidity Fees and Credits removed, the Exchange is transferring the fee for adding liquidity ($0.25 for Penny Pilot Class and $0.75 Non-Penny Pilot Classes) and adding these fees to the proposed Response fees. BOX Participants responding to the Facilitation and Solicitation orders will not be charged any differently than they are today.[14] Further, the Exchange believes that the proposed fees are equitable and not unfairly discriminatory because the fees are assessed to all Participants, regardless of account type.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to charge higher exchange fees for responders in the Facilitation and Solicitation auctions than for initiators of these orders and the contra orders. The Exchange again notes that the total transaction fee for Responses in the Facilitation and Solicitation mechanisms is not changing. The Exchange is simply including the liquidity fees in Section III.B. to the fees for Responses in the Facilitation and Solicitation mechanisms which are currently assessed today. While the Exchange is decreasing the fees for Facilitation and Solicitation orders and creating a larger disparity between the Initiator and Responder, the Exchange believes that the differential between what an Initiator will pay compared to what a Responder will pay is reasonable because Responders are willing to pay a higher fee for liquidity discovery. The Exchange believes that assessing no fees for Agency Orders and Facilitation and Solicitation Orders will attract more liquidity to these mechanisms ultimately providing Responders with increased opportunity for executions on the Exchange. Despite the increased differential between the Initiator and Responder, the Exchange again notes that Responders are not paying any more than what they currently pay for responses in these mechanisms today. Further, the Exchange believes the proposed fees for Responders are equitable and not unfairly discriminatory as they apply to all Participants, regardless of account type.

The Exchange further believes it is reasonable to establish different fees for Responses to Facilitation and Solicitation transactions in Penny Pilot Classes compared to transactions in Non-Penny Pilot Classes. The Exchange makes this distinction throughout the BOX Fee Schedule, including the Exchange Fees for PIP and COPIP Transactions. The Exchange believes it is reasonable to establish higher fees for Non-Penny Pilot Classes because these Classes are typically less actively traded and have wider spreads.

Liquidity Fees and Credits

Currently, the Liquidity Fees and Credits fee structure for Facilitation and Solicitation transactions, in particular the credit for removing liquidity, aims to attract order flow to the BOX auction mechanisms. The Exchange believes that eliminating the Liquidity Fees and Credits for Facilitation and Solicitation Transactions when the Trading Floor is inoperable is reasonable as the Exchange has, pursuant to this proposal, eliminated Facilitation and Solicitation Order fees.[15] Market participants no longer need the incentive of a credit for removing liquidity when there are no fees assessed for Agency Orders and Facilitation and Solicitation Orders in the Facilitation and Solicitation auction mechanism. Further, the Exchange believes the proposed change is equitable and not unfairly discriminatory in that the change will apply to all categories of Participants and across all account types.

Participant Fees

The Exchange believes that waiving BOX Participant Fees and Trading Floor Permit Fees for Trading Floor Only Participants is reasonable and appropriate because the BOX Trading Floor is inoperable due to the precautionary measure to prevent the potential spread of COVID–19. The Exchange believes waiving these fees is equitable and not unfairly discriminatory because the fees are waived for all Floor Participants, regardless of account type. The Exchange believes it is reasonable and appropriate to continue to assess Participant Fees to Floor Participants who are also an electronic Participant as those Participants will still be able to execute transactions on the Exchange's electronic market.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing exchanges. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes to the Facilitation and Solicitation Transaction fees will not impose a burden on competition among various Exchange Participants. Rather, BOX believes that the change will result in the Participants being charged appropriately for these transactions and are designed to enhance competition in the Facilitation and Solicitation mechanisms. Submitting an order is entirely voluntary and Participants can determine which order type they wish to submit, if any, to the Exchange. Further, the Exchange believes that this proposal will enhance competition between exchanges because it is designed to allow the Exchange to better compete with other exchanges for order flow. The Exchange does not believe that the proposed change will burden competition by creating a disparity between the fees an initiator pays and the fees a competitive responder pays that would result in certain Participants being unable to compete with initiators. In fact, the Exchange believes that these changes will not impair these

[13] The Exchange notes that it previously did not charge Broker Dealers, Professional Customers and Market Makers for Facilitation and Solicitation Orders in the Facilitation and Solicitation mechanism. *See* SR–BOX–2015–29.

[14] *See supra* note 8.

[15] The Exchange again notes that no fees are assessed for Agency Orders for any account type.

Participants from adding liquidity and competing in the Facilitation and Solicitation mechanisms, and will help promote competition by providing incentives for market participants to submit Facilitation and Solicitation Orders, and thus benefit all Participants trading on the Exchange by attracting customer order flow.

Lastly, the Exchange believes that eliminating the Liquidity Fees and Credits for Facilitation and Solicitation Transactions will not burden competition as the proposed change applies to all market participants. As discussed above, the Exchange believes that eliminating the Liquidity Fees and Credits for Facilitation and Solicitation Transactions is reasonable as the Exchange, pursuant to this proposal, has eliminated Facilitation and Solicitation Order fees. Therefore, the credit for removing liquidity is no longer needed to incentivize Participants to submit order flow to the Facilitation and Solicitation auction mechanisms.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the

Exchange Act [16] and Rule 19b–4(f)(2) thereunder,[17] because it establishes or changes a due, or fee.

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2020–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2020–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 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–2020–08, and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07445 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

[17] 17 CFR 240.19b–4(f)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88551; File No. SR–CboeBZX–2020–029]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the JPMorgan Large Cap Growth ETF Under Rule 14.11(k), Managed Portfolio Shares

April 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to list and trade shares of the JPMorgan Large Cap Growth ETF under Rule 14.11(k), Managed Portfolio Shares.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, 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 received approval to add new Rule 14.11(k) for the purpose of permitting the listing and trading of Managed Portfolio Shares, which are securities issued by an actively managed open-end management investment company,[3] on December 16, 2019.[4] Rule 14.11(k)(2)(A) requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Managed Portfolio Shares on the Exchange. As such, the Exchange is submitting this proposal in order to list and trade shares of the JPMorgan Large Cap Growth ETF (the ''Fund'') under Rule 14.11(k).

Description of the Fund and the Trust

The shares of the Fund (the ''Shares'') will be issued by J.P. Morgan Exchange-Traded Fund Trust (the ''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[5] The investment adviser to the Trust will be J.P. Morgan Investment Management Inc. (the ''Adviser''). JPMorgan Distribution Services, Inc. (the ''Distributor'') will serve as the distributor of the Fund's Shares. All statements and representations made in this filing regarding the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of the Verified Intraday Indicative Value (''VIIV''),[6] reference assets, and intraday indicative values, and the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange, as provided under Rule 14.11(a).

Rule 14.11(k)(2)(D) provides that if the investment adviser to the Investment Company issuing Managed Portfolio Shares is registered as a broker-dealer or is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and personnel of the broker-dealer or broker-dealer affiliate, as applicable, with respect to access to information concerning the composition of and/or changes to such Investment Company portfolio and/or the Creation Basket.[7] Any person related to the investment adviser or Investment Company who makes decisions pertaining to the Investment Company's portfolio composition or has access to information regarding the Investment Company's portfolio composition or changes thereto or the Creation Basket must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio or changes thereto or the Creation Basket.[8] Rule 14.11(k)(2)(D) is similar to Rule 14.11(c)(5)(A)(i), related to Index Fund Shares, except that Rule 14.11(k)(2)(D) relates to the establishment of a ''fire wall'' between the investment adviser and the broker-dealer as applicable to an Investment Company's portfolio and/or Creation Basket, not an underlying benchmark index, as is the case with index-based funds. Rule 14.11(k)(2)(D) is also similar to Rule 14.11(i)(7), related to Managed Fund Shares, except that Rule 14.11(k)(2)(D) relates to the establishment of a ''fire wall'' between the investment adviser and the broker-dealer as applicable to an Investment Company's portfolio and Creation Basket, and not just the underlying portfolio, as is the case with Managed Fund Shares. The Adviser is not registered as a broker-dealer, but is affiliated with multiple broker-dealers and has implemented and will maintain a ''fire wall'' with respect to such

[3] As defined in Rule 14.11(k)(3)(A), the term ''Managed Portfolio Share'' means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a Creation Unit (as defined below), or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company's Form N–1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit (as defined below), or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account (as defined below) for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

[4] *See* Securities Exchange Act Release No. 87759 (December 16, 2019), 84 FR 70223 (December 20, 2019) (SR–CboeBZX–2019–047).

[5] The Trust is registered under the 1940 Act. On February 3, 2020, the Trust filed a registration statement on Form N–1A relating to the Fund (File No. 811–22903) (the ''Registration Statement''). The Commission has not yet issued an order granting exemptive relief to the Trust under the 1940 Act, however, the Trust has submitted an application for exemptive relief (the ''Exemptive Application'') (File No. 812–15093). The Exchange notes that the Exemptive Application incorporates by reference the terms and conditions of the exemptive order granted to Precidian ETFs Trust, et al (the ''Exemptive Order'') and expects any exemptive relief granted to the Trust to be substantively identical to the Exemptive Order. As such, this proposal refers throughout to the Exemptive Order when discussing numerous aspects of the Trust and the Fund. The Exchange will not allow the Fund to be listed and traded on the Exchange until it receives all necessary exemptive relief and its Registration Statement is effective. Investments made by the Fund will comply with the conditions set forth in the Exemptive Order. The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. The Exemptive Order specifically notes that ''granting the requested exemptions is appropriate in and consistent with the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It is further found that the terms of the proposed transactions, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.'' *See* Investment Company Act Release Nos. 33440, April 8, 2019 (notice) and 33477, May 20, 2019 (order) for information on the Exemptive Order.

[6] Rule 14.11(k)(3)(B) defines the term VIIV as the indicative value of a Managed Portfolio Share based on all of the holdings of a series of Managed Portfolio Shares as of the close of business on the prior business day and, for corporate actions, based on the applicable holdings as of the opening of business on the current business day, priced and disseminated in one second intervals during Regular Trading Hours (as defined in Rule 1.5(w)) by the Reporting Authority, as defined below.

[7] Rule 14.11(k)(3)(E) defines the term ''Creation Basket'' as on any given business day the names and quantities of the specified instruments (and/or an amount of cash) that are required for an AP Representative (as defined below) to deposit in-kind on behalf of an Authorized Participant in exchange for a Creation Unit and the names and quantities of the specified instruments (and/or an amount of cash) that will be transferred in-kind to an AP Representative on behalf of an Authorized Participant in exchange for a Redemption Unit, which will be identical and will be transmitted to each AP Representative before the commencement of trading.

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel will be subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects its fiduciary obligations as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser (i) adopts and implements written policies and procedures reasonably designed to prevent violations, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) reviews, at least annually, the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designates an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above. The Fund will also comply with the requirements of Regulation Fair Disclosure, as provided in the Exemptive Application.

affiliate broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio and Creation Basket.

In the event (a) the Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio and/or Creation Basket.

Any person related to the Adviser or the Trust who makes decisions pertaining to the Fund's portfolio composition or that has access to information regarding the Fund's portfolio or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio or changes thereto and the Creation Basket.

Further, Rule 14.11(k)(2)(E) requires that any person or entity, including an AP Representative, custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Investment Company's portfolio composition or changes thereto or the Creation Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio or changes thereto or the Creation Basket. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio or Creation Basket. Any person or entity who has access to information regarding the Fund's portfolio composition or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the portfolio composition or changes thereto or the Creation Basket.

Description of the Fund

JPMorgan Large Cap Growth ETF

The Fund's holdings will conform to the permissible investments as set forth in the Exemptive Application and Exemptive Order and the holdings will be consistent with all requirements in the Exemptive Application and Exemptive Order.[9]

The Fund seeks long-term capital appreciation. Typically, in implementing its strategy, the Fund invests in common stocks of companies with a history of above-average growth or companies expected to enter periods of above-average growth. In managing the Fund, the Adviser employs a fundamental bottom-up approach (focusing on the characteristics of individual securities) that seeks to identify companies with positive price momentum and attractive fundamentals. The Adviser seeks structural disconnects which allow businesses to exceed market expectations. These disconnects may result from: Demographic/cultural changes, technological advancements and/or regulatory changes.

Investment Restrictions

The Fund will not purchase any securities that are illiquid investments at the time of purchase and the Fund's holdings will be consistent with all requirements described in the Exemptive Application and Exemptive Order.

The Shares of the Fund will conform to the initial and continued listing criteria under Rule 14.11(k). The Fund's holdings will be limited to and consistent with what is permissible under the Exemptive Order.

The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

Creations and Redemptions of Shares

Creations and redemptions of the Shares will occur as described in Rule 14.11(k). More specifically, in connection with the creation and redemption of Creation Units[10] and Redemption Units,[11] the delivery or receipt of any portfolio securities in-kind will be required to be effected through a separate confidential brokerage account (a ''Confidential Account'').[12] Authorized Participants (as defined in the Fund's Form N–1A filed with the Commission, ''AP'') will sign an agreement with an AP Representative[13] establishing the Confidential Account for the benefit of the AP. AP Representatives will be broker-dealers. An AP must be a Depository Trust Company (''DTC'') Participant that has executed a ''Participant Agreement'' with the Distributor with respect to the creation and redemption of Creation Units and Redemption Units and formed a Confidential Account for its benefit in accordance with the terms of the Participant Agreement. For purposes of creations or redemptions, all transactions will be effected through the respective AP's Confidential Account, for the benefit of the AP, without disclosing the identity of such securities to the AP.

Each AP Representative will be given, before the commencement of trading each Business Day (defined below), the Creation Basket (as described below) for that day. This information will permit an AP that has established a Confidential Account with an AP Representative, to instruct the AP Representative to buy and sell positions in the portfolio securities to permit creation and redemption of Creation Units and Redemption Units. Shares of the Fund will be issued and redeemed in Creation Units and Redemption Units of 5,000 or more Shares. The Fund will offer and redeem Creation Units and Redemption Units on a continuous basis at the net asset value (''NAV'') per share

[9] Pursuant to the Exemptive Order, the permissible investments include only the following instruments that trade on a U.S. exchange contemporaneously with the Shares: ETFs and exchange-traded notes, common stocks, preferred stocks, American depositary receipts, real estate investment trusts, commodity pools, metals trusts, currency trusts, and futures for which the reference asset the Fund may invest in directly or, in the case of an index future, based on an index of a type of asset that the Fund could invest in directly; as well as cash and cash equivalents (short-term U.S. Treasury securities, government money market funds and repurchase agreements).

[10] Rule 14.11(k)(3)(F) defines the term ''Creation Unit'' as a specified minimum number of Managed Portfolio Shares issued by an Investment Company at the request of an Authorized Participant in return for a designated portfolio of instruments and/or cash.

[11] Rule 14.11(k)(3)(G) defines the term ''Redemption Unit'' as a specified minimum number of Managed Portfolio Shares that may be redeemed to an Investment Company at the request of an Authorized Participant in return for a portfolio of instruments and/or cash.

[12] Rule 14.11(k)(3)(D) defines the term ''Confidential Account'' as an account owned by an Authorized Participant and held with an AP Representative on behalf of the Authorized Participant. The account will be established and governed by contractual agreement between the AP Representative and the Authorized Participant solely for the purposes of creation and redemption, while keeping confidential the Creation Basket constituents of each series of Managed Portfolio Shares, including from the Authorized Participant. The books and records of the Confidential Account will be maintained by the AP Representative on behalf of the Authorized Participant.

[13] Rule 14.11(k)(3)(C) defines the term ''AP Representative'' as an unaffiliated broker-dealer, with which an Authorized Participant has signed an agreement to establish a Confidential Account for the benefit of such Authorized Participant, that will deliver or receive, on behalf of the Authorized Participant, all consideration to or from the Investment Company in a creation or redemption. An AP Representative will not be permitted to disclose the Creation Basket to any person, including the Authorized Participants.

next determined after receipt of an order in proper form. The NAV per share of the Fund will be determined as of the close of regular trading on the Exchange on each day that the Exchange is open (a ''Business Day''). The Fund will sell and redeem Creation Units and Redemption Units only on Business Days.

To keep costs low and permit the Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and Redemption Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the circumstances described in the Exemptive Application, APs will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and APs redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'') through the AP Representative in their Confidential Account.[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or a redemption, as the ''Creation Basket.''

Placement of Purchase Orders

The Fund will issue Shares through the Distributor on a continuous basis at NAV. The Exchange represents that the issuance of Shares will operate in a manner similar to that of other ETFs. The Fund will issue Shares only at the NAV per share next determined after an order in proper form is received.

In the case of a creation, the AP would enter an irrevocable creation order with the Fund and direct the AP Representative to purchase the Deposit Instruments. The AP Representative would then purchase the necessary securities in the Confidential Account. In purchasing the necessary securities, the AP Representative will use methods, such as breaking the transaction into multiple transactions and transacting in multiple marketplaces, to avoid revealing the composition of the Creation Basket. Once the Deposit Instruments have been acquired in the Confidential Account, the AP Representative would contribute the Deposit Instruments in-kind to the Fund.

The Distributor will furnish acknowledgements to those placing such orders that the orders have been accepted, but the Distributor may reject any order which is not submitted in proper form, as described in the Fund's prospectus or Statement of Additional Information (''SAI''). The NAV of the Fund is expected to be determined once each Business Day at a time determined by the Trust's Board of Trustees (''Board''), currently anticipated to be as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. E.T.) (the ''Valuation Time''). The Fund will establish a cut-off time (''Order Cut-Off Time'') for purchase orders in proper form. Such Order Cut-Off Time will be provided in the Registration Statement. To initiate a purchase of Shares, an AP must submit to the Distributor an irrevocable order to purchase such Shares after the most recent prior Valuation Time. All orders to purchase Creation Units must be received by the Distributor no later than the Order Cut-Off Time in each case on the date such order is placed (''Transmittal Date'') for the AP to receive the NAV per share determined on the Transmittal Date. As with all existing ETFs, if there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

Purchases of Shares will be settled in-kind and/or cash for an amount equal to the applicable NAV per share purchased plus applicable transaction fees.[15] Other than the Balancing Amount, the Fund will substitute cash only under exceptional circumstances and as set forth under the Fund's policies and procedures governing the composition of Creation Baskets.

Authorized Participant Redemption

The Shares may be redeemed to the Fund in Redemption Unit size or multiples thereof as described below. Redemption orders of Redemption Units must be placed by an AP (''AP Redemption Order''). The Fund will establish in its Registration Statement an Order Cut-Off Time for redemption orders of Redemption Units in proper form. Redemption Units of the Fund will be redeemable at their NAV per share next determined after receipt of a request for redemption by the Trust in the manner specified below before the Order Cut-Off Time. A transaction fee may also be imposed on redemption orders. To initiate an AP Redemption Order, an AP must submit to the Distributor an irrevocable order to redeem such Redemption Unit after the most recent prior Valuation Time, but not later than the Order Cut-Off Time.

In the case of a redemption, the AP would enter into an irrevocable redemption order, and then the Fund would instruct its custodian to deliver the Redemption Instruments to the appropriate Confidential Account. The Authorized Participant would direct the AP Representative on when that day to liquidate those securities. As with the purchase of securities, the AP Representative will use methods, such as breaking the transaction into multiple transactions and transacting in multiple marketplaces, to avoid revealing the composition of the Creation Basket.

Consistent with the provisions of Section 22(e) of the 1940 Act and Rule 22e–2 thereunder, the right to redeem will not be suspended, nor payment upon redemption delayed, except for: (1) Any period during which the Exchange is closed other than customary weekend and holiday closings, (2) any period during which trading on the Exchange is restricted, (3) any period during which an emergency exists as a result of which disposal by the Fund of securities owned by it is not reasonably practicable or it is not reasonably practicable for the Fund to determine its NAV, and (4) for such other periods as the Commission may by order permit for the protection of shareholders.

Redemptions will occur primarily in-kind, although redemption payments may also be made partly or wholly in cash.[16] The Participant Agreement signed by each AP will require establishment of a Confidential Account to receive distributions of securities in-kind upon redemption. Each AP will be required to open a Confidential Account with an AP Representative in order to facilitate orderly processing of redemptions. Other than the Balancing Amount, the Fund will substitute cash only under exceptional circumstances and as set forth under the Fund's policies and procedures governing the composition of Creation Baskets.[17]

[14] The Fund must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the 1933 Act.

[15] To the extent that the Fund allows creations or redemptions to be conducted in cash, such transactions will be effected in the same manner for all APs transacting in cash.

[16] The value of any positions not susceptible to in-kind settlement may be paid in cash.

[17] To the extent that the Fund allows creations or redemptions to be conducted in cash, such

Net Asset Value

The NAV per share of the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of the Fund outstanding, rounded to the nearest cent. Expenses and fees, including the Fund's management fees, will be accrued daily and taken into account for purposes of determining NAV. Interest and investment income on the Trust's assets accrue daily and will be included in the Fund's total assets. The NAV per share for the Fund will be calculated by the Fund's administrator and determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., E.T.) on each day that the Exchange is open.

Exchange-traded instruments will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the securities are primarily traded at the time of valuation. Other holdings of the Fund will generally be valued on the basis of independent pricing services, quotes obtained from brokers and dealers or price quotations or other equivalent indications of value provided by a third-party pricing service, reported net asset value, or at cost.

Availability of Information

The Fund's website (*www.JPMorgan.com/etfs*), which will be publicly available prior to the listing and trading of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's website will include additional quantitative information updated on a daily basis, including, on a per Share basis for the Fund, the prior Business Day's NAV and the market closing price and a calculation of the premium and discount of the market closing price. The Fund's website will also disclose each day the median bid/ask spread for the Fund's most recent 30 days based on the National Best Bid (''NBB'') and National Best Offer (''NBO'') at the time of calculation of such NAV (the ''Bid/Ask Price'').[18] In addition, the Fund will provide any other information on its website regarding premiums/discounts that ETFs registered under the 1940 Act are required to provide or that are otherwise required under the Exemptive Order. The website and information will be publicly available at no charge.

The Trust's SAI and the Fund's shareholder reports will be available free upon request from the Trust. These documents and forms may be viewed on-screen or downloaded from the Commission's website at *www.sec.gov.*

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the VIIV, as defined in Rule 14.11(k)(3)(B) and as described further below, will be widely disseminated by the Reporting Authority [19] and/or one or more major market data vendors in one-second intervals during Regular Trading Hours.

Dissemination of the VIIV

With respect to trading of the Shares, the ability of market participants to buy and sell Shares at prices near the VIIV is dependent upon their assessment that the VIIV is a reliable, indicative real-time value for the Fund's underlying holdings. Market participants are expected to accept the VIIV as a reliable, indicative real-time value because (1) the VIIV will be calculated and disseminated based on the Fund's actual portfolio holdings, (2) the securities in which the Fund plans to invest are generally highly liquid and actively traded and trade at the same time as the Fund and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the VIIV at or near the close of trading is indeed predictive of the actual NAV. The VIIV for the Fund will be disseminated by the Reporting Authority and/or one or more major market data vendors in one-second intervals during Regular Trading Hours. For purposes of the VIIV, securities held by the Fund will be valued throughout the day based on the mid-point between the disseminated current NBB and NBO. If the Adviser determines that a portfolio security does not have a readily available market quotation, that fact along with the identity and weighting of that security in the Fund's VIIV calculation will be publicly disclosed on the Fund's website.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, including whether unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(k)(4)(B)(iii)(a) and (b), which set forth circumstances under which trading in the Shares of the Fund will be halted.

Specifically, Rule 14.11(k)(4)(B)(iii)(a) provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Managed Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Managed Portfolio Shares inadvisable. These may include: (i) The extent to which trading is not occurring in the securities and/or the financial instruments composing the portfolio; or (ii) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[20] The Adviser has represented to the Exchange that it will

transactions will be effected in the same manner for all APs transacting in cash.

[18] The Bid/Ask Price of the Fund will be determined using the mid-point between the current NBB and NBO as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and/or its service providers.

[19] Rule 14.11(k)(3)(H) defines the term ''Reporting Authority'' in respect of a particular series of Managed Portfolio Shares as the Exchange, the exchange that lists a particular series of Managed Portfolio Shares (if the Exchange is trading such series pursuant to unlisted trading privileges), an institution, or a reporting service designated by the Investment Company as the official source for calculating and reporting information relating to such series, including, the net asset value, the Verified Intraday Indicative Value, or other information relating to the issuance, redemption or trading of Managed Portfolio Shares. A series of Managed Portfolio Shares may have more than one Reporting Authority, each having different functions.

[20] The Exemptive Application provides that the Investment Company or their agent will request that the Exchange halt trading in the applicable series of Managed Portfolio Shares where: (i) The intraday indicative values calculated by the calculation engines differ by more than 25 basis points for 60 seconds in connection with pricing of the Verified Intraday Indicative Value; or (ii) holdings representing 10% or more of a series of Managed Portfolio Shares' portfolio have become subject to a trading halt or otherwise do not have readily available market quotations. Any such requests will be one of many factors considered in order to determine whether to halt trading in a series of Managed Portfolio Shares and the Exchange retains sole discretion in determining whether trading should be halted. As provided in the Exemptive Application, each series of Managed Portfolio Shares would employ a pricing verification agent to continuously compare two intraday indicative values during Regular Trading Hours in order to ensure the accuracy of the Verified Intraday Indicative Value.

provide the Exchange with prompt notification upon the existence of any such condition or set of conditions.

Rule 14.11(k)(4)(B)(iii)(b) provides that, if the Exchange becomes aware that: (i) The VIIV of a series of Managed Portfolio Shares is not being calculated or disseminated in one second intervals, as required; (ii) the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time; (iii) the holdings of a series of Managed Portfolio Shares are not made available on at least a quarterly basis as required under the 1940 Act; or (iv) such holdings are not made available to all market participants at the same time, (except as otherwise permitted under the currently applicable exemptive order or no-action relief granted by the Commission or Commission staff to the Investment Company with respect to the series of Managed Portfolio Shares), it will halt trading in such series until such time as the VIIV, the NAV, or the holdings are available, as required.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the Exchange only during Regular Trading Hours as provided in Rule 14.11(k)(2)(B). The Exchange has appropriate rules in place to facilitate trading during all trading sessions in which the Shares will trade. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under Rule 14.11(k) as well as all terms in the Exemptive Order. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act.[21] A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange has obtained a representation from the issuer of the Shares of the Fund that the NAV per share of the Fund will be calculated daily and will be made available to all market participants at the same time.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Portfolio Shares. As part of these surveillance procedures and consistent with Rule 14.11(k)(2)(C), the Adviser will upon request make available to the Exchange and/or FINRA, on behalf of the Exchange, the daily portfolio holdings of the Fund. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and the underlying exchange-traded instruments with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[22]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular (''Circular'') of the special characteristics and risks associated with trading the Shares. Specifically, the Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares; (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the VIIV is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) trading information; and (6) that the portfolio holdings will be disclosed within at least 60 days following the end of every fiscal quarter.

In addition, the Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Circular will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Circular will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., E.T. each trading day.

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act[23] in general and Section 6(b)(5) of the Act[24] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that this proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Fund would meet each of the rules relating to listing and trading of Managed Portfolio Shares and, to the extent that the Fund is not in compliance with such rules, the Exchange would either prevent the Fund from listing and trading if it hadn't started trading on the Exchange or would commence delisting procedures under Exchange Rule 14.12. More specifically, the Exchange will consider the suspension of trading in, and will commence delisting proceedings under Rule 14.12 for, the Fund under any of the following circumstances: (a) If, following the initial twelve-month period after commencement of trading on the Exchange, there are fewer than 50 beneficial holders of the Fund for 30 or more consecutive trading days; (b) if the Exchange has halted trading in the Fund because the VIIV is interrupted pursuant to Rule 14.11(k)(4)(B)(iii)(b) and such

[21] *See* 17 CFR 240.10A–3.

[22] For a list of the current members of ISG, *see www.isgportal.org.*

[23] 15 U.S.C. 78f.

[24] 15 U.S.C. 78f(b)(5).

interruption persists past the trading day in which it occurred or is no longer available; (c) if the Exchange has halted trading in the Fund because the NAV with respect to such Fund is not disseminated to all market participants at the same time, the holdings of such Fund are not made available on at least a quarterly basis as required under the 1940 Act, or such holdings are not made available to all market participants at the same time pursuant to Rule 14.11(k)(4)(B)(iii)(b) and such issue persists past the trading day in which it occurred; (d) if the Exchange has halted trading in the Fund pursuant to Rule 14.11(k)(4)(B)(iii)(a) and such issue persists past the trading day in which it occurred; (e) if the Fund has failed to file any filings required by the Commission or if the Exchange is aware that the Fund is not in compliance with the conditions of any currently applicable exemptive order or no-action relief granted by the Commission or Commission staff with respect to the Fund; (f) if any of the continued listing requirements set forth in Rule 14.11(k) are not continuously maintained; (g) if any of the applicable Continued Listing Representations, as defined in Rule 14.11(a), for the Fund are not continuously met; or (h) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

The Adviser is not registered as a broker-dealer, but is affiliated with multiple broker-dealers and has implemented and will maintain a ''fire wall'' with respect to such affiliate broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio and Creation Basket. In the event (a) the Adviser becomes registered as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio and/or Creation Basket. Any person related to the Adviser or the Trust who makes decisions pertaining to the Fund's portfolio composition or that has access to information regarding the Fund's portfolio or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio or changes thereto and the Creation Basket.

Further, Rule 14.11(k)(2)(E) requires that any person or entity, including an AP Representative, custodian, Reporting Authority, distributor, or administrator, who has access to information regarding the Investment Company's portfolio composition or changes thereto or the Creation Basket, must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable Investment Company portfolio or changes thereto or the Creation Basket. Moreover, if any such person or entity is registered as a broker-dealer or affiliated with a broker-dealer, such person or entity will erect and maintain a ''fire wall'' between the person or entity and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio or Creation Basket. Any person or entity who has access to information regarding the Fund's portfolio composition or changes thereto or the Creation Basket will be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the portfolio or changes thereto or the Creation Basket.

The Exchange further believes that Rule 14.11(k) is designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Managed Portfolio Shares because it provides meaningful requirements about both the data that will be made publicly available about the Shares as well as the information that will only be available to certain parties and the controls on such information. Specifically, the Exchange believes that the requirements related to information protection enumerated under Rule 14.11(k)(2)(E) will act as a strong safeguard against misuse and improper dissemination of information related to the Fund's portfolio composition or changes thereto or the Creation Basket. The requirement that any person or entity implement procedures to prevent the use and dissemination of material nonpublic information regarding the portfolio or Creation Basket will act to prevent any individual or entity from sharing such information externally and the internal ''fire wall'' requirements applicable where an entity is a registered broker-dealer or affiliated with a broker-dealer will act to make sure that no entity will be able to misuse the data for their own purposes. As such, the Exchange believes that this proposal is designed to prevent fraudulent and manipulative acts and practices.

The Exchange further believes that the proposal is designed to prevent fraudulent and manipulative acts and practices related to the listing and trading of Managed Portfolio Shares and to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange would halt trading under certain circumstances under which trading in the Shares may be inadvisable. Specifically, trading in the Shares will be subject to Rule 14.11(k)(4)(B)(iii)(a), which provides that the Exchange may consider all relevant factors in exercising its discretion to halt trading in a series of Managed Portfolio Shares. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the series of Managed Portfolio Shares inadvisable. These may include: (i) The extent to which trading is not occurring in the securities and/or the financial instruments composing the portfolio; or (ii) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[25] The Adviser has represented to the Exchange that it will provide the Exchange with prompt notification upon the existence of any such condition or set of conditions. Trading in the Shares will also be subject to Rule 14.11(k)(4)(B)(iii)(b), which provides that if the Exchange becomes aware that: (i) The VIIV of a series of Managed Portfolio Shares is not being calculated or disseminated in one second intervals, as required; (ii) the NAV with respect to a series of Managed Portfolio Shares is not disseminated to all market participants at the same time; (iii) the holdings of a series of Managed Portfolio Shares are not made available on at least a quarterly basis as required under the 1940 Act; or (iv) such holdings are not made available to all market participants at the same time, (except as otherwise permitted under the currently applicable exemptive order or no-action relief granted by the Commission or Commission staff to the Investment Company with respect to the series of Managed Portfolio Shares), it will halt trading in such series until such time as the VIIV, the NAV, or the holdings are available, as required.

With respect to the proposed listing and trading of Shares of the Fund, the Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange

[25] *See* supra note 20.

pursuant to the initial and continued listing criteria in Rule 14.11(k). The Fund's holdings will conform to the permissible investments as set forth in the Exemptive Application and Exemptive Order. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and the underlying exchange-traded instruments with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading such instruments from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and the underlying exchange-traded instruments from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

With respect to trading of the Shares, the ability of market participants to buy and sell Shares at prices near the VIIV is dependent upon their assessment that the VIIV is a reliable, indicative real-time value for the Fund's underlying holdings. Market participants are expected to accept the VIIV as a reliable, indicative real-time value because (1) the VIIV will be calculated and disseminated based on the Fund's actual portfolio holdings, (2) the securities in which the Fund plans to invest are generally highly liquid and actively traded and trade at the same time as the Fund and therefore generally have accurate real time pricing available, and (3) market participants will have a daily opportunity to evaluate whether the VIIV at or near the close of trading is indeed predictive of the actual NAV.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation that the NAV per share of the Fund will be calculated daily and that the NAV will be made available to all market participants at the same time. Investors can also obtain the Fund's SAI, shareholder reports, Form N–CSR, and Form N–PORT. The Fund's SAI and shareholder reports will be available free upon request from the applicable fund, and those documents and the Form N–CSR and Form N–PORT may be viewed on-screen or downloaded from the Commission's website. In addition, with respect to the Fund, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares will be available via the CTA high-speed line. Information regarding the VIIV will be widely disseminated every second throughout Regular Trading Hours by the Reporting Authority and/or one or more major market data vendors. The website for the Fund will include a prospectus for the Fund that may be downloaded, and additional data relating to NAV and other applicable quantitative information, updated on a daily basis.

Moreover, prior to the commencement of trading, the Exchange will inform its members in a Circular of the special characteristics and risks associated with trading the Shares. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18 or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to Rule 14.11(k)(4)(B)(iii)(a) and (b), which set forth circumstances under which Shares of the Fund will be halted.

In addition, as noted above, investors will have ready access to the VIIV, and quotation and last sale information for the Shares. The Shares will conform to the initial and continued listing criteria under Rule 14.11(k). The Fund's holdings will be limited to and consistent with what is permissible under the Exemptive Order. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the VIIV and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an actively-managed exchange-traded product that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

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

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

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

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

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

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBZX–2020–029. 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–CboeBZX–2020–029, and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07444 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88557; File No. SR–FICC–2020–002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Government Securities Division Rulebook Relating to the Legal Entity Identifier Requirement

April 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2020, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

The proposed rule change consists of a proposal to amend the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules'')[3] to require: (i) Each applicant to become a Netting Member and CCIT Member to obtain and provide a ''Legal Entity Identifier''[4] to FICC as part of its membership application, (ii) each Netting Member and CCIT Member to have a current Legal Entity Identifier on file with FICC at all times and to indemnify FICC for any losses and Legal Actions[5] that arise due to the failure of a Netting Member or CCIT Member to do so, as further described below, and (iii) each Sponsoring Member to provide FICC with a Legal Entity Identifier for each of their current Sponsored Members and for each newly added Sponsored Member going forward and to indemnify FICC for any losses and Legal Actions that arise due to the failure of a Sponsoring Member to do so, as further described below.

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

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

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

[4] A ''Legal Entity Identifier'' is a 20-character reference code to uniquely identify legally distinct entities that engage in financial transactions. The Legal Entity Identifier is based on the ISO 17442 standard developed by the International Organization for Standardization and satisfies the standards implemented by the Global Legal Entity Identifier Foundation. *See https://www.gleif.org/en/about-lei/introducing-the-legal-entity-identifier-lei.* FICC is proposing to add a new definition for the term ''Legal Entity Identifier'' in the GSD Rules, as further discussed below.

[5] ''Legal Action'' (as defined below and in the proposed rule change) means and includes any claim, counterclaim, demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation before any federal, state or foreign court or other tribunal, or any investigative or regulatory agency or self-regulatory organization.

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

1. Purpose

The purpose of the proposed rule change is to amend the GSD Rules to require: (i) Each applicant to become a Netting Member and CCIT Member to obtain and provide a Legal Entity Identifier to FICC as part of its membership application, (ii) each Netting Member and CCIT Member to have a current Legal Entity Identifier on file with FICC at all times and to indemnify FICC for any losses and Legal Actions that arise due to the failure of a Netting Member or CCIT Member to do so, as further described below, and (iii) each Sponsoring Member to provide FICC with a Legal Entity Identifier for each of their current Sponsored Members and for each newly added Sponsored Member going forward and to indemnify FICC for any losses and Legal Actions that arise due to the failure of a Sponsoring Member to do so, as further described below.

Background

The Office of Financial Research (''OFR'') of the U.S. Department of the Treasury has adopted a rule (''OFR Regulation'') establishing a data collection requirement covering centrally cleared transactions in the U.S. repurchase agreement (''repo'') market.[6] This collection requires daily reporting to the OFR by ''covered reporters,'' which is defined to include central counterparties meeting certain criteria (*i.e.,* clearing repurchase agreement transactions), such as FICC.

The OFR Regulation requires covered reporters, such as FICC, to submit the Legal Entity Identifier of each clearing member involved in a reportable repo transaction. A Legal Entity Identifier is a 20-character, alpha-numeric code based on the ISO 17442 standard developed by the International Organization for Standardization.[7] Each Legal Entity Identifier contains information about an entity's ownership structure.[8]

In the OFR Release, the OFR stated that the submission of Legal Entity Identifiers by covered reporters would enhance the ability of the Financial Stability Oversight Council (''Council''),[9] Council member

[6] 84 FR 4975 (February 20, 2019) (hereinafter the ''OFR Release''). The OFR Regulation is codified at 12 CFR part 1610.

[7] See *supra* note 4.

[8] *See id.*

[9] The Council was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Continued

agencies [10] and the OFR to identify potential risks to U.S. financial stability by facilitating an understanding of repo market participants' exposures, concentrations and network structures.[11] The OFR stated that it expects that covered reporters (such as FICC) will take all feasible steps to require that their platform participants obtain Legal Entity Identifiers so that covered reporters are in compliance with the Legal Entity Identifier requirements of the OFR's final rule.[12]

The implementation timeframe for the OFR Regulation is as follows:

- Subject to the third bullet point below, covered reporters were required to begin reporting all required data elements associated with specific security trades 180 days after April 22, 2019.[13]
- Subject to the bullet immediately below, covered reporters were required to begin reporting all required data elements associated with general collateral trades within 240 days after April 22, 2019.[14]
- If a covered reporter is able to effectuate a rulemaking through the Securities and Exchange Commission requiring each direct clearing member, counterparty and broker associated with a repurchase agreement transaction to obtain a Legal Entity Identifier and provide it to the covered reporter, the covered reporter shall begin reporting all data elements requiring a Legal Entity Identifier by the later date of its rulemaking, or 420 days after April 22, 2019.[15]

Proposed Rule Changes

In order to comply with the Legal Entity Identifier submission requirement in the OFR Regulation, FICC is proposing to require: (i) Each applicant to become a Netting Member and CCIT Member to obtain and provide a Legal Entity Identifier to FICC as part of its membership application, (ii) each Netting Member and CCIT Member to have a current Legal Entity Identifier on file with FICC at all times and to indemnify FICC for any losses and Legal Actions that arise due to the failure of a Netting Member or CCIT Member to do so, as further described below, and (iii) each Sponsoring Member to provide FICC with a Legal Entity Identifier for each of their current Sponsored Members and for each newly added Sponsored Member going forward and to indemnify FICC for any losses and Legal Actions that arise due to the failure of a Sponsoring Member to do so, as further described below.

FICC proposes to add a new defined term, Legal Entity Identifier, to GSD Rule 1. FICC proposes to use the terminology of the Global Legal Entity Identifier Foundation for the definition.[16]

(i) Netting Member and CCIT Member Applicants

FICC is proposing to amend Section 5 of GSD Rule 2A to require each Netting Member applicant to obtain and provide a Legal Entity Identifier to FICC as part of its membership application. The same change would be made regarding CCIT Member applicants in Section 3 of GSD Rule 3B. The proposed change would entail a re-lettering of subsections (d) and (e) of Section 3 of GSD Rule 3B. FICC is proposing to implement the changes discussed in this paragraph upon approval of this filing from the Commission.

(ii) Netting Members and CCIT Members

FICC is proposing to amend Section 2 of GSD Rule 3 to add language that would require each Netting Member to have a current Legal Entity Identifier on file with FICC at all times. The same change would be made to Section 5 of GSD Rule 3B for CCIT Members. For existing Netting Members and CCIT Members, FICC is proposing to add a footnote in each case that states such members shall have 60 calendar days from the date of the Commission's approval of this filing to submit their Legal Entity Identifiers to FICC.[17]

FICC is also proposing to add language to Section 2 of GSD Rule 3 and Section 5 of GSD Rule 3B to provide that a Netting Member/CCIT Member shall indemnify FICC, and its employees, officers, directors, shareholders, agents, and Members (collectively, the ''LEI Indemnified Parties''), for any and all losses, liabilities, expenses and Legal Actions suffered or incurred by the LEI Indemnified Parties arising from a Netting Member's or CCIT Member's failure to have its current Legal Entity Identifier on file with FICC. ''Legal Action'' would mean and include any claim, counterclaim, demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation before any federal, state or foreign court or other tribunal, or any investigative or regulatory agency or self-regulatory organization. FICC is proposing this indemnity because in fulfilling its regulatory obligations under the OFR Regulation, FICC would be relying upon Netting Members and CCIT Members to keep their Legal Entity Identifiers on file with FICC current.

(iii) Sponsoring Members and Sponsored Members

FICC is proposing to amend Section 2 of GSD Rule 3A to require that each Sponsoring Member submit the Legal Entity Identifiers of its Sponsored Member applicants. FICC would implement this change regarding applicants upon the Commission's approval of this filing. The proposed rule change would also add language to Section 2 of GSD Rule 3A to require that each Sponsoring Member provide FICC with a Legal Entity Identifier for each of its existing Sponsored Members such that FICC has a current Legal Entity Identifier for each such Sponsored Member at all times. For existing Sponsored Members, FICC is proposing to add a footnote that states the Sponsoring Members shall have 60 calendar days from the date of the Commission's approval of this filing to submit the Legal Entity Identifiers of their Sponsored Members to FICC.[18] In order to cover new Sponsored Members, FICC is proposing to amend Section 3 of GSD Rule 3A to add that the Sponsoring Member must provide the Legal Entity Identifier of each entity it wishes to sponsor into membership as a Sponsored Member. FICC is proposing to implement the change to Section 3 of GSD Rule 3A upon the Commission's approval of this filing.

FICC is also proposing to amend Section 2 of GSD Rule 3A to include an indemnity, described above, with respect to Sponsoring Members because,

The Council is charged with identifying risks to the financial stability of the United States, among other things. *See https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/fsoc.*

[10] The Council member agencies are the Board of Governors of the Federal Reserve System, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Federal Housing Finance Agency, National Credit Union Administration, Office of the Comptroller of the Currency, Securities and Exchange Commission, Treasury Department and Consumer Financial Protection Bureau. *See https://www.treasury.gov/initiatives/fsoc/about/Pages/FSOC-Member-Agencies.aspx.*

[11] *See* OFR Release, *supra* note 6, at 4980.

[12] *Id.*

[13] 12 CFR 1610.10(e)(1)(i).

[14] 12 CFR 1610.10(e)(1)(ii).

[15] 12 CFR 1610.10(e)(1)(iii).

[16] *See supra* note 4. The Global Legal Entity Identifier Foundation was established by the Financial Stability Board in June 2014 to support the implementation and use of Legal Entity Identifiers. The Financial Stability Board is an international body that monitors and makes recommendations about the global financial system. *www.fsb.org*

[17] The proposed footnote in each case would also state that the footnote will sunset at the end of the 60-calendar day period.

[18] The proposed footnote would also state that the footnote will sunset at the end of the 60-calendar day period.

akin to the Netting Members and CCIT Members, FICC would be relying on the Sponsoring Members to keep the Legal Entity Identifiers of their Sponsored Members on file with FICC current.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the GSD Rules be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[19] FICC understands that the Council and its member agencies have a significant interest in the clearance and settlement of the securities transactions cleared by FICC. As explained in the OFR Release, these parties wish to identify risks to U.S. financial stability;[20] monitoring of the repo market is important for financial stability monitoring because the repo market plays a crucial role in providing short-term funding and performing other functions for U.S. markets.[21] The OFR Regulation (which includes the Legal Entity Identifier requirement) is expected to help fulfill the Council's purposes and duties in the monitoring of the repo market.[22] FICC believes that the proposed rule changes (which would add the defined term ''Legal Entity Identifier'' to the GSD Rules and would further amend the GSD Rules to require: (i) Each applicant to become a Netting Member and CCIT Member to obtain and provide a Legal Entity Identifier to FICC as part of its membership application, (ii) each Netting Member and CCIT Member to have a current Legal Entity Identifier on file with FICC at all times and to provide the indemnity described in Item II(A)1(ii) above, and (iii) each Sponsoring Member to provide FICC with a Legal Entity Identifier for each of their current Sponsored Members and for each newly added Sponsored Member going forward and to indemnify FICC as described in Item II(A)1(iii) above) would facilitate FICC's compliance with the OFR Regulation. Therefore, given the purposes of the OFR Regulation described here, FICC believes that the proposed rule changes would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[23]

In addition, Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the GSD Rules be designed to protect the public interest.[24] The purpose of the OFR Regulation is to assist the Council and its member agencies to monitor the stability of the repo market. The stability of the repo market serves the public interest because the repo market plays a crucial role in the U.S. markets. Because the proposed rule changes would facilitate FICC's compliance with the OFR Regulation, which, in turn, serves the public interest, FICC believes that the proposed rule changes would serve to protect the public interest.[25]

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

FICC believes that the proposed changes to add the defined term ''Legal Entity Identifier'' to the GSD Rules and to further amend the GSD Rules to require: (i) Each applicant to become a Netting Member and CCIT Member to obtain and provide a Legal Entity Identifier to FICC as part of its membership application, (ii) each Netting Member and CCIT Member to have a current Legal Entity Identifier on file with FICC at all times and to provide the indemnity described above in Item II(A)1(ii), and (iii) each Sponsoring Member to provide FICC with a Legal Entity Identifier for each of their current Sponsored Members and for each newly added Sponsored Member going forward and to indemnify FICC as described above in Item II(A)1(iii) could impose a burden on competition because these changes would impose a cost on firms that currently do not have Legal Entity Identifiers to obtain and maintain them. FICC does not believe that any burden on competition imposed by the proposed rule change would be significant because the cost to obtain and maintain a Legal Entity Identifier is relatively small,[26] and FICC understands that many of its members already maintain Legal Entity Identifiers for other purposes. Regardless of whether the potential burden on competition is deemed significant, FICC believes the proposed rule change is both necessary and appropriate in furtherance of the purposes of the Act. Specifically, FICC believes that any burden on competition that is created by the proposed changes would be necessary in furtherance of the purposes of the Act[27] because the proposed rule change would permit FICC to comply with the OFR Regulation, which ultimately would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by allowing the OFR to identify risks to U.S. financial stability. FICC also believes that any burden that is created by the proposed rule change would be appropriate in furtherance of the purposes of the Act[28] because the proposed changes would be limited to information that FICC is required to provide pursuant to the OFR Regulation.

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

Written comments relating to the proposed rule changes have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

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

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

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2020–002 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–FICC–2020–002. This file number should be included on the

[19] 15 U.S.C. 78q–1(b)(3)(F).

[20] *See* OFR Release, *supra* note 6, at 4975.

[21] *Id.*

[22] *Id.*

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] *Id.*

[25] *Id.*

[26] For example, the cost to obtain a Legal Entity Identifier is $100 from Business Entity Data BV, and the cost to renew (which is required annually) is $80. *See www.gmeiutility.org.*

[27] 15 U.S.C. 78q–1(b)(3)(I).

[28] *Id.*

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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2020–002 and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07437 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88555; File No. SR–CboeEDGA–2020–010]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Expand the Trading Hours Applicable to Managed Portfolio Shares To Include All Trading Sessions

April 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2020, Cboe EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') 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.

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

[2] 17 CFR 240.19b–4.

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

Cboe EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') proposes to expand the trading hours applicable to Managed Portfolio Shares to include all trading sessions instead of just Regular Trading Hours.[3] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/edga/*), at the Exchange's Office of the Secretary, 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

The Exchange adopted new Rule 14.11 for the purpose of permitting trading, pursuant to unlisted trading privileges,[4] of Managed Portfolio Shares, which are securities issued by an actively managed open-end management investment company,[5] on January 21, 2020.[6] Rule 14.11(b)(2) currently provides that transactions in Managed Portfolio Shares will occur only during Regular Trading Hours. On March 23, 2020, Cboe BZX Exchange, Inc. (''BZX''), the listing market for Managed Portfolio Shares, amended its rules to allow Managed Portfolio Shares to trade during all sessions.[7] Accordingly, the Exchange is now proposing to change rule 14.11(b)(2) in order to allow for trading in Managed Portfolio Shares during all trading sessions on the Exchange.

The proposed amendment would allow trading in Managed Portfolio Shares during all sessions including the Early Trading Session,[8] the Pre-Opening Session,[9] Regular Trading Hours, and the Post-Closing Session.[10] The Exchange notes that Managed Portfolio Shares are currently the only product-type that is not available for trading during all trading sessions on the Exchange. As such, this proposal would allow Managed Portfolio Shares to be traded, pursuant to unlisted trading privileges, on the Exchange in a manner identical to all other products traded on the Exchange.

[3] As defined in Rule 1.5(y), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[4] As noted in Exchange Rule 14.1(a), the Exchange does not list any Equity Securities, as defined in Rule 14.1(a). Therefore, the provisions of Rules 14.2 through 14.11 only allow the trading of such Equity Securities pursuant to unlisted trading privileges.

[5] As defined in Rule 14.11(c)(1), the term ''Managed Portfolio Share'' means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a Creation Unit (as defined in Rule 14.11(c)(6)), or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company's Form N–1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit (as defined in Rule 14.11(c)(7)), or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account (as defined in Rule 14.11(c)(4))for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

[6] *See* Securities Exchange Act Release No. 88111 (February 3, 2020), 85 FR 7364 (February 7, 2020) (SR–CboeEDGA–2020–001).

[7] *See* Securities Exchange Act Release No. 88468 (March 25, 2020) 85 FR 17908 (March 31, 2020) (SR–CboeBZX–2020–028).

[8] As defined in Rule 1.5(ii), the term ''Early Trading Session'' shall mean the time between 7:00 a.m. and 8:00 a.m. Eastern Time.

[9] As defined in Rule 1.5(s), the term ''Pre-Opening Session'' shall mean the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

[10] As defined in Rule 1.5(r), the term ''Post-Closing Session'' shall mean the time between 4:00 p.m. and 8:00 p.m. Eastern Time.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that allowing Managed Portfolio Shares to trade during all trading sessions on the Exchange will remove impediments to and perfect a national market system by reducing the complexity and potential investor confusion that could be associated with limiting the trading hours for one product type. Furthermore, the proposal is consistent with a recent changed made by the listing market for Managed Portfolio Shares, BZX, and thus would eliminate complexity and potential investor confusion related to which platforms are offering trading in Managed Portfolio Shares at different times of the day.

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 notes that the proposed rule change, rather, will facilitate the trading of Managed Portfolio Shares in a manner that is consistent with other product types traded on the Exchange as well as on other trading platforms, enhancing competition among market participants, product types, and platforms, to the benefit of investors and the marketplace.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

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

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

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

Because the foregoing proposed rule change does not: (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.[14]

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would allow trading of Managed Portfolio Shares on the Exchange during all trading sessions as soon as possible, making the treatment of Managed Portfolio Shares consistent with all other product types as well as the listing market, and reducing confusion and complexity associated with Managed Portfolio Shares. In addition, the Exchange states that the proposal raises no novel or unique issues in that it would allow Managed Portfolio Shares to trade in a manner identical to all other products traded on the Exchange and consistent with the exemptive relief granted by the Commission. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

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–CboeEDGA–2020–010 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGA–2020–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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

[17] 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).

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–CboeEDGA–2020–010 and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07432 Filed 4–8–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88561; File No. SR–NASDAQ–2019–090]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 4, To Adopt Nasdaq Rule 5704 Governing the Listing and Trading of Exchange Traded Fund Shares

April 3, 2020.

On November 8, 2019, The Nasdaq Stock Market LLC (''Exchange'' or ''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to, among other things, adopt new Nasdaq Rule 5704 to list and trade Exchange Traded Fund Shares. The proposed rule change was published for comment in the **Federal Register** on November 22, 2019.[3]

On December 17, 2019, pursuant to Section 19(b)(2) of the Act,[4] 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 to disapprove the proposed rule change.[5] On February 6, 2020, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[6] On February 20, 2020, the Commission published the proposed rule change, as modified by Amendment No. 1, for notice and comment and instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[7] On March 3, 2020, March 17, 2020, and March 19, 2020, the Exchange filed Amendments No. 2, No. 3, and No. 4 to the proposed rule change, respectively.[8] The Commission has received no comment letters on the proposed rule change.

The Commission is publishing this notice to solicit comments on Amendment No. 4 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Amendment No. 4, on an accelerated basis.

I. Exchange's Description of the Proposal, as Modified by Amendment No. 4

The Exchange proposes to adopt new Nasdaq Rule 5704 to list and trade shares of securities issued by an exchange-traded fund as defined herein, as well as amendments to Nasdaq Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) and Nasdaq Rule 5615 (Exemptions from Certain Corporate Governance Requirements), Nasdaq Rule 5705(b) (Index Fund Shares), Nasdaq Rule 5735 (Managed Fund Shares), and to discontinue the quarterly reports currently required with respect to Managed Fund Shares under Nasdaq Rule 5735(b). This Amendment No. 4 replaces and supersedes the original filing and Amendments No. 1, No. 2 and No. 3 in their entirety.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes Nasdaq Rule 5704 to establish generic listing standards that permit the listing and trading of shares (''Exchange Traded Fund Shares'') of exchange-traded funds (''ETFs'' as defined below) that meet the criteria established by the Commission in its adoption of Rule 6c–11[9] (''Rule 6c–11'') under the Investment Company Act of 1940, as amended (''1940 Act''), to operate without obtaining an exemptive order from the SEC under the 1940 Act.[10] This will help to accomplish the SEC's goal in adopting Rule 6c–11 to allow such ETFs to come directly to market without the cost and delay of obtaining exemptive relief while still protecting the interests of investors and other market participants. Rule 6c–11 will provide exemptions applicable to both index-based and transparent actively managed ETFs. Rule 6c–11 will enhance the regulatory framework through streamlining existing procedures and reducing the costs and time frames associated with bringing ETFs to market. This, in turn, will also serve to enhance competition among ETF issuers and ultimately reduce investor costs.[11]

[18] 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. 87559 (November 18, 2019), 84 FR 64574.

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

[5] *See* Securities Exchange Act Release No. 87776, 84 FR 70610 (December 23, 2019).

[6] *See infra* note 8.

[7] *See* Securities Exchange Act Release No. 88207 (February 13, 2020), 85 FR 9879.

[8] Each of Amendments No. 2, 3, and 4 amended and replaced the proposed rule change, as modified by the prior amendment, in its entirety. All amendments to the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-nasdaq-2019-090/srnasdaq2019090.htm.*

[9] Specifically, Rule 6c–11 applies to open-end funds that (i) issue and redeem creation units to and from authorized participants in exchange for a basket of securities and other assets (and any cash balancing amount), and (ii) whose shares are listed on a national securities exchange and trade at market-determined prices. Rule 6c-11 does not apply to leveraged, inverse, non-transparent, share classes, or exchange-traded funds structured as unit investment trusts.

[10] *See* Release No. 33–10695; IC–33646; File No. S7–15–18 (Exchange-Traded Funds) (September 25, 2019), 84 FR 57162 (October 24, 2019) (''Adopting Release'').

[11] The SEC said in the Adopting Release that Rule 6c–11 ''will modernize the regulatory framework for ETFs to reflect our more than two decades of experience with these investment products. The rule is designed to further important Commission objectives, including establishing a consistent, transparent, and efficient regulatory framework for ETFs and facilitating greater competition and innovation among ETFs.'' *See* Adopting Release at 57163. The SEC also said that in reference to the impact of Rule 6c–11 that: ''We believe rule 6c–11 will establish a regulatory framework that: (1) Reduces the expense and delay currently associated

Nasdaq believes that the proposed generic listing rules for Exchange Traded Fund Shares, described below, will facilitate efficient procedures for ETFs that are permitted to operate in reliance on Rule 6c–11. The Exchange also believes that proposed Nasdaq Rule 5704 is consistent with, and will further, the Commission's goals in adopting Rule 6c–11. Exchange Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 will be permitted to be listed and traded on the Exchange without a prior Commission approval order or notice of effectiveness pursuant to Section 19(b) of the Act. This will significantly reduce the time frame and costs associated with bringing Exchange Traded Fund Shares to market, which, in turn, will promote competition among issuers of Exchange Traded Fund Shares, to the benefit of investors.

Nasdaq will notify the Commission through the filing of a Form 19b–4(e) when an ETF lists on Nasdaq pursuant to proposed Nasdaq Rule 5704. The Form 19b–4(e) will identify the Nasdaq rule under which the ETF is being generically listed. The Exchange will retain its right to file a Form 19b–4 under Nasdaq Rule 5705(b) and Nasdaq Rule 5735, respectively, for the listing and trading of Index Fund Shares or Managed Fund Shares. Additionally, Nasdaq will also file a Form 19b–4(e) for ETFs that decide to switch from operating under Nasdaq rules other than proposed Nasdaq Rule 5704 to operating in compliance with Rule 6c–11 and in conformity with proposed Nasdaq Rule 5704.

The Exchange also proposes to amend Nasdaq Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) and Nasdaq Rule 5615 (Exemptions from Certain Corporate Governance Requirements), Nasdaq Rule 5705(b) (Index Fund Shares), Nasdaq Rule 5735 (Managed Fund Shares), and to discontinue the quarterly reports currently required with respect to Managed Fund Shares under Nasdaq Rule 5735(b).

Proposed Nasdaq Rule 5704 will enable ETFs, whether index-based or actively managed, to qualify for listing and trading on the Exchange both on an initial and continued basis by meeting and maintaining compliance with the criteria set forth in Rule 6c–11.[12] The specific provisions of proposed Nasdaq Rule 5704 are presented below, as well as amendments to Nasdaq Rule 4120 (Limit Up-Limit Down Plan and Trading Halts), Nasdaq Rule 5615 (Exemptions from Certain Corporate Governance Requirements), Nasdaq Rule 5705(b) (Index Fund Shares), and Nasdaq Rule 5735 (Managed Fund Shares), which would be necessitated by adoption of the proposed rule. Additionally, the proposed rule change to discontinue the quarterly reports currently required with respect to Managed Fund Shares under Nasdaq Rule 5735(b) is also discussed below.

Proposed Nasdaq Rule 5704

Proposed Definitions

Proposed Nasdaq Rule 5704(a)(1)(A) defines the term ''Exchange Traded Fund'' (''ETF'') as having the same meaning as the term ''exchange-traded fund'' as defined in Rule 6c–11.[13] In the case of an ETF that is not currently listed on a national securities exchange, the portion of the definition found in Rule 6c–11 requiring such listing will become applicable if the ETF is listed on a national securities exchange.

Proposed Nasdaq Rule 5704(a)(1)(B) defines the term ''Exchange Traded Fund Share'' as having the same meaning as the term is defined as having in Rule 6c–11.[14]

Proposed Nasdaq Rule 5704(a)(1)(C) defines the term ''Reporting Authority'' in respect of a particular series of Exchange Traded Fund Shares to mean Nasdaq, a wholly-owned subsidiary of Nasdaq, or an institution or reporting service designated by Nasdaq or its subsidiary as the official source for calculating and reporting information relating to such series, including, but not limited to, any current index or portfolio value; the current value of the portfolio of any securities required to be deposited in connection with issuance of Exchange Traded Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of Exchange Traded Fund Shares, net asset value, and other information relating to the issuance, redemption or trading of Exchange Traded Fund Shares.[15] The definition also notes that it does not imply that an institution or reporting service that is the source for calculating and reporting information relating to Exchange Traded Fund Shares must be designated by Nasdaq or its subsidiary; the term ''Reporting Authority'' does not refer to an institution or reporting service not so designated.

Initial and Continued Listing.[16] Proposed Nasdaq Rule 5704(b) states that Nasdaq may approve a series of Exchange Traded Fund Shares for listing and trading pursuant to Rule 19b–4(e) under the Act, provided each series of Exchange Traded Fund Shares is eligible to operate in reliance on Rule 6c-11 and satisfies the requirements of Rule 5704 on an initial and continued listing basis.[17]

with forming and operating certain ETFs unable to rely on existing orders; and (2) creates a level playing field for ETFs that can rely on the rule. As such, the rule will enable increased product competition among certain ETF providers, which can lead to lower fees for investors, encourage financial innovation, and increase investor choice in the ETF market.'' *See* Adopting Release at 57204.

[12] Rule 6c–11 is now effective so Exchange Traded Fund Shares that are permitted to operate in reliance on Rule 6c–11 would be eligible for listing and trading on Nasdaq under proposed Nasdaq Rule 5704.

[13] Rule 6c–11(a)(1) defines ''exchange-traded fund'' as a registered open-end management company: (i) That issues (and redeems) creation units to (and from) authorized participants in exchange for a basket and a cash balancing amount if any; and (ii) Whose shares are listed on a national securities exchange and traded at market-determined prices. The terms ''authorized participant,'' ''basket'' and ''creation unit'' are defined in Rule 6c–11(a)(1).

[14] Rule 6c–11(a)(1) defines ''exchange-traded fund share'' as a share of stock issued by an exchange-traded fund.

[15] The proposed definition of ''Reporting Authority'' is substantively identical to the definition for this term in Nasdaq Rule 5705(b)(1)(C) (Index Fund Shares) and in Nasdaq Rule 5735(c)(4) (Managed Fund Shares).

[16] Nasdaq may list and trade a series of Exchange Traded Fund Shares based on one or more foreign or domestic indexes or portfolios. Each series of Exchange Traded Fund Shares based on each particular index or portfolio, or combination thereof, will be designated as a separate series and will be identified by a unique symbol. The components that are included in an index or portfolio on which a series of Exchange Traded Fund Shares is based will be selected by such person, which may be Nasdaq or an agent or wholly-owned subsidiary thereof, as will have authorized use of such index or portfolio. Such index or portfolio may be revised from time to time as may be deemed necessary or appropriate to maintain the quality and character of the index or portfolio.

[17] Rule 6c–11(c) sets forth certain conditions applicable to exchange-traded funds, and specifies the information required to be disclosed prominently on the fund's website free of charge, including the following: (i) Before the opening of regular trading on the primary listing exchange of the exchange-traded fund shares, the estimated cash balancing amount (if any) and the following information (as applicable) for each portfolio holding that will form the basis of the next calculation of current net asset value per share: (A) Ticker symbol; (B) CUSIP or other identifier; (C) Description of holding; (D) Quantity of each security or other asset held; and (E) Percentage weight of the holding in the portfolio; (ii) The exchange-traded fund's current net asset value per share, market price, and premium or discount, each as of the end of the prior business day; (iii) A table showing the number of days the exchange-traded fund's shares traded at a premium or discount during the most recently completed calendar year and the most recently completed calendar quarters since that year (or the life of the exchange-traded fund, if shorter); (iv) A line graph showing exchange-traded fund share premiums or discounts for the most recently completed calendar year and the most recently completed calendar quarters since that year (or the life of the exchange-traded fund, if shorter); (v) The exchange-traded fund's median bid-ask spread, expressed as a percentage rounded

Continued

Proposed Nasdaq Rule 5704(b)(1) says that each series of Exchange Traded Fund Shares must also satisfy the follow criteria on an initial and continued listing (except for paragraph (A) below) basis:

Proposed Nasdaq Rule 5704(b)(1)(A) states that for each series of Exchange Traded Fund Shares, Nasdaq will establish a minimum number of Exchange Traded Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq.[18]

Proposed Nasdaq Rule 5704(b)(1)(B) sets forth the requirements regarding index calculation and dissemination that must be satisfied on both an initial and continued listing basis. Proposed Nasdaq Rule 5704(b)(1)(B)(i) states that if the investment adviser to an ETF is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to the underlying portfolio. Additionally, personnel who make decisions on the ETF's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable ETF portfolio. Proposed Nasdaq Rule 5704(b)(1)(B)(ii) states that the Reporting Authority that provides the ETF's portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio. Proposed Nasdaq Rule 5704(b)(1)(B)(iii) states that if the index underlying a series of Exchange Traded Fund Shares is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser. Proposed Nasdaq Rule 5704(b)(1)(B)(iv) states that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index.[19]

Proposed Nasdaq Rule 5704(b)(1)(C) states that regular market session trading will occur between 9:30 a.m. and either 4:00 p.m. or 4:15 p.m. for each series of Exchange Traded Fund Shares, as specified by Nasdaq. In addition, Nasdaq may designate a series of Exchange Traded Fund Shares for trading during a pre-market session beginning at 4:00 a.m. and/or a post-market session ending at 8:00 p.m.

Proposed Nasdaq Rule 5704(b)(1)(D) states that the minimum price variation for quoting and entry of orders in Exchange Traded Fund Shares is $0.01.[20]

Proposed Nasdaq Rule 5704(b)(2) sets forth the circumstances under which Nasdaq will consider the suspension of trading and removal in, and will initiate delisting proceedings under the Nasdaq Rule 5800 Series of, a series of Exchange Traded Fund Shares. These circumstances will include the following: (i) Proposed Nasdaq Rule 5704(b)(2)(A) states that if Nasdaq becomes aware that the series of Exchange Traded Fund Shares is no longer eligible to operate in reliance on Rule 6c–11; (ii) Proposed Nasdaq Rule 5704(b)(2)(B) states that if, following the initial twelve month period after commencement of trading on Nasdaq of the series of Exchange Traded Fund Shares, there are fewer than 50 beneficial holders; (iii) Proposed Nasdaq Rule 5704(b)(2)(C) states that if any of the other requirements set forth in this rule are not continuously maintained; or (iv) Proposed Nasdaq Rule 5704(b)(2)(D) states that if such other event will occur or condition exists which in the opinion of Nasdaq, makes further dealings on Nasdaq inadvisable.[21]

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of Exchange Traded Fund Shares. Trading in Exchange Traded Fund Shares will be halted if the circuit breaker parameters in Nasdaq Rule 4120 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange Traded Fund Shares inadvisable. An example of such an event as mentioned above in proposed Nasdaq Rule 5704(b)(2)(D) would include if the value of the index or portfolio of securities on which the series of Exchange Traded Fund Shares is based is no longer calculated or available or an interruption to the dissemination persists past the trading day in which it occurred. Another example includes the extent to which certain information about the Exchange Traded Fund Shares that is required to be disclosed under Rule 6c–11 of the 1940 Act is not being made available.

The Exchange will also halt trading if it becomes aware that the net asset value for a series of Exchange Traded Fund Shares is not being disseminated to all market participants at the same time.[22] In addition, as proposed herein, Nasdaq may halt trading in Exchange Traded Fund Shares if trading in the underlying securities compromising [sic] the index or portfolio applicable to such series of Exchange Traded Fund Shares has been halted in the primary market(s), or if trading has ceased in securities underlying the index or portfolio, or in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market.[23]

Proposed Nasdaq Rule 5704(c) states that Nasdaq will implement and maintain written surveillance procedures for Exchange Traded Fund Shares. The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because the Exchange will perform ongoing surveillance of Exchange Traded Fund Shares listed on

to the nearest hundredth (and computed in a manner described in Rule 6c–11(c)(v)(A) through (D)); and (vi) If the exchange-traded fund's premium or discount is greater than 2% for more than seven consecutive trading days, a statement that the exchange-traded fund's premium or discount, as applicable, was greater than 2% and a discussion of the factors that are reasonably believed to have materially contributed to the premium or discount, which must be maintained on the website for at least one year thereafter. Rule 6c–11(c)(4) provides that the exchange-traded fund may not seek, directly or indirectly, to provide investment returns that correspond to the performance of a market index by a specified multiple, or to provide investment returns that have an inverse relationship to the performance of a market index, over a predetermined period of time.

[18] Nasdaq will generally consider at least one creation unit outstanding at the time of listing to be sufficient for the purposes of complying with this requirement.

[19] The proposed requirements are substantively identical to those included in Nasdaq Rule 5705(b) (Index Fund Shares) and in Nasdaq Rule 5735 (Managed Fund Shares).

[20] The proposed minimum price variation for quoting and entry of orders is substantively identical to the requirement included in Nasdaq Rule 5745(b)(3) (Exchange-Traded Managed Fund Shares (''NextShares'')).

[21] Nasdaq may also submit a separate rule filing under Section 19(b) of the Act to permit the listing and trading of a series of Exchange Traded Fund Shares. If Nasdaq submits such a rule filing, any of the statements or representations regarding (a) the index composition; (b) the description of the portfolio; (c) limitations on portfolio holdings or reference assets; (d) dissemination and availability of the index, portfolio information, or intraday indicative values; or (e) the applicability of Nasdaq listing rules specified in such proposals are not continuously maintained, will constitute continued listing standards with respect to that series of Exchange Traded Fund Shares.

[22] *See* Nasdaq Rule 4120(a)(10). Nasdaq may resume trading once the net asset value becomes available to all market participants.

[23] *See* Proposed Nasdaq Rule 4120(a)(9).

the Exchange in order to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis. Nasdaq believes that the manipulation concerns that such standards are intended to address are otherwise mitigated by a combination of the Exchange's surveillance procedures, Nasdaq's ability to halt trading under the proposed Rule Nasdaq Rule 4120(a)(9), Nasdaq Rule 4120(a)(10), and the Exchange's ability to suspend trading and commence delisting proceedings under proposed Nasdaq Rule 5704(b)(2)(B). As previously stated, Nasdaq is proposing to amend Nasdaq Rule 4120(b)(4)(A) to clarify that Exchange Traded Fund Shares are subject to Nasdaq's halt authority.

Nasdaq also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that will come from compliance with Rule 6c–11, specifically the additional flexibility provided to issuers of Exchange Traded Fund Shares through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional disclosure obligations.[24] The Exchange believes that the combination of these factors will act to keep Exchange Traded Fund Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Exchange Traded Fund Shares on Nasdaq.

The Exchange will monitor for compliance with Rule 6c–11 to ensure that the continued listing standards are being met. The Exchange will also periodically review the website of series of Exchange Traded Fund Shares to ensure that the requirements of Rule 6c–11 are being met. Nasdaq also will employ intraday alerts that will notify Exchange personnel of unusual trading activity throughout the day that could be indicative of unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. The Exchange also notes that Nasdaq Rule 5701(d) would require an issuer of Exchange Traded Fund Shares to notify Nasdaq with prompt notification after the issuer becomes aware of any non-compliance with the requirements of the Nasdaq Rule 5700 Series, which would encompass any failure of the issuer to comply with Rule 6c–11 or the 1940 Act.[25]

Additionally, Nasdaq represents that its surveillance procedures are adequate to properly monitor the trading of the Exchange Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[26] Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to Nasdaq-listed securities, which are currently applicable to Index Fund Shares and Exchange Traded Fund Shares, among other product types, to monitor trading in Exchange Traded Fund Shares. The Exchange or the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in Exchange Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the Intermarket Surveillance Group (''ISG'') or with which Nasdaq has in place a comprehensive surveillance sharing agreement (''CSSA'').

Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of Exchange Traded Fund Shares reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board's (''MSRB'') Electronic Municipal Market Access (''EMMA'') system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange Traded Fund Shares, to the extent that a series of Exchange Traded Fund Shares holds municipal securities. Finally, as noted above, the issuer of a series of Exchange Traded Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under Nasdaq Rule 5615(a)(6)(A) and the changes to Nasdaq Rule 5615(a)(6)(B) as proposed herein.

The Exchange notes that Exchange Traded Fund Shares will be subject to all Exchange rules applicable to equities trading, including rules governing Exchange member disclosure obligations in connection with equities trading, and that Rule 6c–11 does not change the applicability of these Exchange rules with respect to these securities.[27]

Proposed Nasdaq Rule 5704(d) states that upon termination of an ETF, Nasdaq requires that each series of Exchange Traded Fund Shares issued in connection with such entity be removed from listing.

Proposed Nasdaq Rule 5704(e) states that neither Nasdaq, the Reporting Authority, nor any agent of Nasdaq will have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any current index or portfolio value, the current value of the portfolio of securities required to be deposited to the open-end management investment company in connection with issuance of a series of Exchange Traded Fund Shares; the amount of any dividend equivalent payment or cash distribution to holders of a series of Exchange Traded Fund Shares; net asset value; or other information relating to the purchase, redemption or trading of a series of Exchange Traded Fund Shares, resulting from any negligent act or omission by Nasdaq, the Reporting Authority or any agent of Nasdaq, or any act, condition or cause beyond the reasonable control of Nasdaq, its agent, or the Reporting Authority, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in one or more underlying securities.[28]

Proposed Nasdaq Rule 5704(f) states that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Nasdaq Rule 5705(b) or Nasdaq Rule 5735(b)(1), or pursuant to an approval of a proposed rule change or subject to a notice of effectiveness by the Commission, may be considered for listing solely under this Rule 5704 if such security is eligible to operate in reliance on Rule 6c–11

[24] The Exchange notes that the Commission came to a similar conclusion in several places in the Rule 6c–11 Release. *See* Adopting Release at 15–18; 60–61; 69–70; 78–79; 82–84; and 95–96.

[25] The Exchange notes that failure by an issuer to notify the Exchange of non-compliance pursuant to Nasdaq Rule 5701(d) would itself be considered non-compliance with the requirements of the Nasdaq Rule 5700 Series and subject to potential trading halts and the delisting process in the Nasdaq Rule 5800 Series.

[26] Nasdaq will obtain a representation from the ETF that the net asset value per share for each series of Exchange Traded Fund Shares will be calculated daily and will be made available to all market participants at the same time. Nasdaq will also obtain a representation from the issuers of each series of Exchange Traded Fund Shares that the requirements of proposed Nasdaq Rule 5704 will be satisfied.

[27] With respect to trading in Exchange Traded Fund Shares, all of the Nasdaq member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange rules and federal securities laws, and Nasdaq will continue to monitor its members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.

[28] The proposed requirements are substantively identical to those included in Nasdaq Rule 5705(b)(11) (Index Fund Shares) and in Nasdaq Rule 5735(e) (Managed Fund Shares).

under the 1940 Act. At the time of listing of such security under this Rule 5704, the continued listing requirements applicable to such previously-listed securities will be those specified in paragraph (b) of this Rule 5704. Any requirements for listing as specified in Nasdaq Rule 5705(b) or Nasdaq 5735(b)(1), or an approval order or notice of effectiveness of a separate proposed rule change, that differ from the requirements of this Rule 5704 will no longer be applicable to such security.[29]

Amendments to Nasdaq Rule 4120. Limit Up-Limit Down Plan and Trading Halts

The Exchange proposes to amend Nasdaq Rule 4120 to include Exchange Traded Fund Shares in Nasdaq Rule 4120(a)(9) and Nasdaq Rule 4120(a)(10)[30] as these rules apply to trading halts. This will ensure the applicability of trading halts to the trading of Exchange Traded Fund Shares listed on Nasdaq and traded on Nasdaq pursuant to unlisted trading privileges.

Amendments to Nasdaq Rule 5615. Exemptions From Certain Corporate Governance Requirements

The Exchange also proposes to amend the definition of ''Derivative Securities'' in Nasdaq Rule 5615 to incorporate Exchange Traded Fund Shares so Rule 5615 and its exemptions from certain corporate governance requirements are applicable to Exchange Traded Fund Shares. The proposed addition of Exchange Traded Fund Shares to Nasdaq Rules 4120 and 5615 would subject Exchange Traded Fund Shares to the same requirements currently applicable to other 1940 Act-registered investment company securities (*i.e.,* Index Fund Shares, Managed Fund Shares and Portfolio Depositary Receipts).

Amendments to Nasdaq Rule 5705(b). Index Fund Shares

The Exchange also proposes to amend the definition of ''Derivative Securities Products'' in Nasdaq Rule 5705(b)(3)(A)(i)a. to incorporate Exchange Traded Fund Shares so the exclusions applicable to Derivative Securities Products in Nasdaq Rule 5705(b)(3)(A) will also apply to Exchange Traded Fund Shares, as well as minor changes to improve clarity. Nasdaq believes that this is appropriate because ETFs that are currently listed pursuant to Nasdaq Rule 5705(b) and are permitted to operate in reliance on Rule 6c–11 and list pursuant to proposed Nasdaq Rule 5704 should be included in the existing exclusions.

Amendments to Nasdaq Rule 5735. Managed Fund Shares

The Exchange also proposes to amend the definition of ''Exchange Traded Derivative Securities'' in Nasdaq Rule 5735(c)(6) to incorporate Exchange Traded Fund Shares so the exclusions applicable to Exchange Traded Derivative Securities in Nasdaq Rule 5735(b)(1)(A) will also apply to Exchange Traded Fund Shares, as well as a minor change to improve clarity. Nasdaq believes this is appropriate because ETFs that are currently listed pursuant to Nasdaq Rule 5735(b) and are permitted to operate in reliance on Rule 6c–11 and list pursuant to proposed Nasdaq Rule 5704 should be included in the existing exclusions.

Proposed Discontinuance of Quarterly Reporting Obligation for Managed Fund Shares

On September 23, 2016, the SEC approved Nasdaq Rule 5735(b)(1), adopting generic listing standards for Managed Fund Shares.[31] In proposing that rule, Nasdaq represented that it would provide the Commission staff with a report each calendar quarter about issues of Managed Fund Shares listed under that rule.[32]

The quarterly reports were initially intended to provide SEC Staff insight into the number and type of funds listed pursuant to Nasdaq Rule 5735(b)(1), as well as highlight any issues regarding the trading of such funds or a funds' compliance with the continued listing standards. Nasdaq believes that since the implementation of this requirement, SEC Staff has received an ample number of reports as to gain sufficient understanding of the products listed pursuant to Nasdaq Rule 5735(b)(1). SEC Staff has now had several years of experience monitoring through these reports and has not detected any significant issues involving Managed Fund Shares listed under Nasdaq Rule 5735(b)(1).

Nasdaq also believes such quarterly reports will no longer be necessary because Rule 6c–11 collapses the distinction between Index Fund Shares and Managed Fund Shares, which illustrates that the SEC has reached a sufficient level of comfort with Managed Fund Shares. As a result, the Exchange believes that the quarterly reports no longer serve an ongoing purpose and, therefore, proposes to discontinue such reporting going forward. Rule 6c–11(d) includes specific ongoing reporting requirements for ETFs, such as written agreements between an authorized participant and a fund allowing purchase or redemption of creation units, information regarding the baskets exchanged with authorized participants, and the identity of authorized participants transacting with a fund.[33] This information will be sufficient for the SEC's examination staff to determine compliance with Rule 6c–11 and the applicable federal securities laws.[34]

[29] To the extent that a series of Exchange Traded Fund Shares does not satisfy one or more of the criteria in proposed Nasdaq Rule 5704, the Exchange may file a separate proposal under Section 19(b) of the Act in order to list such series on the Exchange. Further, in the event that a series of Exchange Traded Fund Shares becomes listed under proposed Nasdaq Rule 5704 and subsequently can no longer rely on Rule 6c–11, so long as the series of Exchange Traded Fund Shares may otherwise rely on exemptive relief issued by the Commission, such series of Exchange Traded Fund Shares may be listed as a series of Index Fund Shares under Nasdaq Rule 5705 or Managed Fund Shares under Nasdaq Rule 5735, as applicable, as long as the series of Exchange Traded Fund Shares meets all listing requirements under the applicable rule.

[30] The definition of ''Derivative Securities'' found in Nasdaq Rule 4102(b)(4)(A) is referenced in Nasdaq Rule 4120(a)(10) as the applicable definition for that rule.

[31] *See* Exchange Act Release No. 78918 (September 23, 2016), 81 FR 67033 (September 29, 2016) (SR–NASDAQ–2016–104).

[32] *See* Exchange Act Release No. 78616 (August 18, 2016), 81 FR 57968 at 57973 (August 24, 2016) (''the Exchange will provide the Commission staff with a report each calendar quarter that includes the following information for issues of Managed Fund Shares listed during such calendar quarter under Rule 5735(b)(1): (1) Trading symbol and date of listing on the Exchange; (2) the number of active authorized participants and a description of any failure of an issue of Managed Fund Shares or of an authorized participant to deliver shares, cash, or cash and financial instruments in connection with creation or redemption orders; and (3) a description of any failure of an issue of Managed Fund Shares to comply with Nasdaq Rule 5735'').

[33] Rule 6c–11(d), which sets forth recordkeeping requirements applicable to exchange-traded funds, provides that that the exchange-traded fund must maintain and preserve for a period of not less than five years, the first two years in an easily accessible place: (1) All written agreements (or copies thereof) between an authorized participant and the exchange-traded fund or one of its service providers that allows the authorized participant to place orders for the purchase or redemption of creation units; (2) For each basket exchanged with an authorized participant, records setting forth: (i) The ticker symbol, CUSIP or other identifier, description of holding, quantity of each holding, and percentage weight of each holding composing the basket exchanged for creation units; (ii) If applicable, identification of the basket as a custom basket and a record stating that the custom basket complies with policies and procedures that the exchange-traded fund adopted pursuant to paragraph (c)(3) of Rule 6c–11; (iii) Cash balancing amount (if any); and (iv) Identity of authorized participant transacting with the exchange traded fund.

[34] In the Adopting Release, the SEC stated, ''requiring ETFs to maintain records regarding each basket exchanged with authorized participants will provide our examination staff with a basis to understand how baskets are being used by ETFs, particularly with respect to custom baskets. In order

Nasdaq also believes that for the reasons stated above, as well as that the quarterly reports as currently required are duplicative of the new Rule 6c–11(d) requirements, there is no longer a reason to keep this reporting requirement. To avoid unnecessary overlap and potential inconsistency, as well as to avoid unnecessary, duplicative burdens on authorized participants and their firms in providing and maintaining information regarding creation and redemption activity, the Exchange proposes to discontinue the filing of quarterly reports with respect to Managed Fund Shares under Nasdaq Rule 5735(b).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[35] in general, and furthers the objectives of Section 6(b)(5) of the Act,[36] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Exchange Traded Fund Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. The generic listing rules in proposed Nasdaq Rule 5704, as described above, will facilitate efficient procedures for listing ETFs that are permitted to operate in reliance on Rule 6c–11 and are consistent with and will further the SEC's goals in adopting Rule 6c–11. Nasdaq will notify the Commission through the filing of a Form 19b–4(e) when an ETF lists on Nasdaq pursuant to proposed Nasdaq Rule 5704. The Form 19b–4(e) will identify the Nasdaq rule under which the ETF is being generically listed. The Exchange will retain its right to file a Form 19b–4 under Nasdaq Rule 5705(b) and Nasdaq Rule 5735, respectively, for the listing and trading of Index Fund Shares or Managed Fund Shares. Nasdaq will also file a Form 19b–4(e) for ETFs that decide to switch from operating under Nasdaq rules other than proposed Nasdaq Rule 5704 to operating in compliance with Rule 6c-11 and in conformity with proposed Nasdaq Rule 5704.

Additionally, by allowing Exchange Traded Fund Shares to be listed and traded on the Exchange without a prior SEC approval order or notice of effectiveness pursuant to Section 19(b) of the Act, proposed Nasdaq Rule 5704 will significantly reduce the time frame and costs associated with bringing Exchange Traded Fund Shares to market, thereby promoting market competition among issuers of these securities, to the benefit of the investors. Also, the proposed change would fulfill the intended objective of Rule 19b–4(e) under the Act by permitting Exchange Traded Fund Shares that satisfy the proposed listing standards to be listed and traded without separate SEC approval.

With respect to both proposed Nasdaq Rule 5704(a)(1)(A), which defines the term ''Exchange Traded Fund'', and proposed Nasdaq Rule 5704(a)(1)(B), which defines the term ''Exchange Traded Fund Share'', the Exchange believes these definitions will increase the clarity to the benefit of investors and the marketplace. Additionally, these terms mirror the definitions as set forth in Rule 6c–11.[37]

With respect to proposed Nasdaq Rule 5704(a)(1)(C), which defines the term ''Reporting Authority'', the Exchange believes that defining the term generally consistent with how it is defined in Nasdaq Rule 5705 [38] and Nasdaq Rule 5735 [39] will increase the clarity to the benefit of investors and the marketplace.

With respect to proposed Nasdaq Rule 5704(b), Exchange Traded Fund Shares will be listed and traded on the Exchange subject to the requirement that each series of Exchange Traded Fund Shares is eligible to operate in reliance on Rule 6c–11 [40] and must satisfy the requirements of this proposed Nasdaq Rule 5704 on an initial and continued listing basis. This requirement will ensure that Exchange-listed Exchange Traded Fund Shares continue to operate in a manner that fully complies with the portfolio transparency requirements of Rule 6c–11(c). This will also ensure that Exchange Traded Fund Shares listed and traded on the Exchange in accordance with Nasdaq Rule 5704 on an initial and continued listing basis will serve to perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest.

With respect to proposed Nasdaq Rule 5704(b)(1) and subparagraphs (A)–(D) thereunder (with the exception that subparagraph (A) only applies on an initial listing basis),[41] the Exchange believes it is to the benefit of investors and the marketplace that Nasdaq may approve an ETF for listing and trading pursuant to Rule 19b–4(e) under the Act. The approval is also contingent on that each series of Exchange Traded Fund Shares is eligible to operate in reliance on Rule 6c–11 and satisfies the requirements of Rule 5704 on an initial and continued listing basis.

Nasdaq will monitor for compliance with the continued listing requirements as discussed above. If the ETF is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under proposed Nasdaq Rule 5704(b)(2).[42] The Exchange believes that this will help to prevent fraudulent and manipulative acts and practices.

The Exchange believes this also fulfills the intended objective of Rule 19b–4(e) under the Act by allowing Exchange Traded Fund Shares to be listed and traded without requiring separate Commission approval. This will provide investors with additional investment choices in which they may choose to invest.

With respect to proposed Nasdaq Rule 5704(c), the Exchange will implement and maintain written surveillance procedures for Exchange Traded Fund Shares and represents that its surveillance procedures are adequate to properly monitor such trading in all trading sessions and to deter and detect violations of Nasdaq rules. Specifically,

to provide our examination staff with detailed information regarding basket composition, however, we have modified rule 6c–11 to require the ticker symbol, CUSIP or other identifier, description of holding, quantity of each holding, and percentage weight of each holding composing the basket exchanged for creation units as part of the basket records, instead of the name and quantities of each position as proposed. We believe that this additional information will better enable our examination staff to evaluate compliance with the rule and other applicable provisions of the federal securities laws.'' *See* Adopting Release at 57195.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See* Adopting Release at 57178 and at 57234, respectively.

[38] *See* Nasdaq Rule 5705(b)(1)(C).

[39] *See* Nasdaq Rule 5735(c)(4).

[40] Rule 6c–11(c) sets forth certain conditions applicable to ETFs, including information required to be disclosed on the ETF's website.

[41] Proposed Nasdaq Rule 5704(b)(1)(A)–(D) covers: (i) Establishing a minimum number of Exchange Traded Fund Shares required to be outstanding at the time of commencement of trading on Nasdaq (only applicable on an initial listing basis); (ii) index and portfolio calculation and dissemination, as well as ''fire walls'' and procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the index or portfolio; (iii) regular market session trading; and (iv) the minimum price variation for quoting and entry of orders in Exchange Traded Fund Shares is $0.01.

[42] *See supra* note 25.

the Exchange intends to utilize its existing surveillance procedures applicable to securities, which will include Exchange Traded Fund Shares, to monitor trading in the Exchange Traded Fund Shares (additional surveillance processes and procedures are described herein). These surveillance procedures promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because the Exchange will perform ongoing surveillance of Exchange Traded Fund Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 on an ongoing basis.

The Exchange also believes that such concerns are further mitigated by enhancements to the arbitrage mechanism that will come from Rule 6c–11, specifically the additional flexibility provided to issuers of Exchange Traded Fund Shares through the use of custom baskets for creations and redemptions and the additional information made available to the public through the additional disclosure obligations.[43] The Exchange believes that the combination of these factors will act to keep Exchange Traded Fund Shares trading near the value of their underlying holdings and further mitigate concerns around manipulation of Exchange Traded Fund Shares on Nasdaq.

The Exchange will monitor for compliance with Rule 6c–11 to ensure that the continued listing standards are being met. The Exchange will also periodically review the website of series of Exchange Traded Fund Shares to ensure that the requirements of Rule 6c–11 are being met. Nasdaq also will employ intraday alerts that will notify Exchange personnel of unusual trading activity throughout the day that could be indicative of unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market. The Exchange also notes that Nasdaq Rule 5701(d) would require an issuer of Exchange Traded Fund Shares to notify Nasdaq with prompt notification after the issuer becomes aware of any non-compliance with the requirements of the Nasdaq Rule 5700 Series, which would encompass any failure of the issuer to comply with Rule 6c–11.

Nasdaq also believes that its surveillance procedures are adequate to properly monitor the trading of the Exchange Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to Nasdaq-listed securities, which are currently applicable to Index Fund Shares and Managed Fund Shares, among other product types, to monitor trading in Exchange Traded Fund Shares. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Exchange Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which Nasdaq has in place a CSSA.

Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of Exchange Traded Fund Shares reported to FINRA's TRACE. FINRA also can access data obtained from the MSRB EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange Traded Fund Shares, to the extent that a series of Exchange Traded Fund Shares holds municipal securities. Finally, as noted above, the issuer of a series of Exchange Traded Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Exchange-Traded Fund Shares, as provided under Nasdaq Rule 5615(a)(6)(A) and the changes to Nasdaq Rule 5615(a)(6)(B) as proposed herein.

With respect to proposed Nasdaq Rule 5704(d), which states that upon termination of an ETF that Nasdaq will remove from listing the Exchange Traded Fund Shares issued in connection with such entity. The Exchange believes that adopting language similar to language already included in Nasdaq Rule 5705(b)(9)(B)(i) and in Nasdaq Rule 5735(d)(2)(E) makes for consistency among Nasdaq's rules and benefits investors and the marketplace by making clear rules that lessen potential confusion.

With respect to proposed Nasdaq Rule 5704(e), which sets forth the limitation of liability applicable to Nasdaq, the Reporting Authority, or any agent of Nasdaq, the Exchange believes that requiring similar written disclosure to that already required under Nasdaq Rule 5705(b)(11) and Nasdaq Rule 5735(e) makes for consistency among Nasdaq's rules and benefits investors and the marketplace by reducing potential confusion.

With respect to proposed Nasdaq Rule 5704(f), which states that a security that has previously been approved for listing on the Exchange pursuant to the generic listing requirements specified in Nasdaq Rule 5705(b) or Nasdaq Rule 5735(b)(1), or pursuant to an approval of a proposed rule change filed or subject to a notice of effectiveness by the Commission, may be considered for listing solely under this proposed Nasdaq Rule 5704 if the security is permitted to operate in reliance on Rule 6c–11 under the 1940 Act and at the time of listing of such security under this proposed Nasdaq Rule 5704, the continued listing requirements applicable to such security will be those specified in paragraph (b) of this proposed Nasdaq Rule 5704, the Exchange believes [sic] makes for consistency among Nasdaq's rules and benefits investors and the marketplace by making clear rules that lessen potential confusion.

The Exchange believes the rest of proposed Nasdaq Rule 5704(f), which states any requirements for listing as specified in Rule 5705(b) or 5735(b)(1), or an approval order or notice of effectiveness of a separate proposed rule change that differ from the requirements of this Rule 5704 will no longer be applicable to such securities will streamline the listing process for such security, consistent with the regulatory framework adopted in Rule 6c–11 under the 1940 Act.

The Exchange believes that proposed Nasdaq Rule 5704, as well as amendments to Nasdaq Rules 4120, 5615, 5705(b), and 5735 will facilitate the listing and trading of additional types of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace.

Proposed Nasdaq Rule 5704 and related amendments to other Nasdaq rules are also designed to protect investors and the public interest because the Exchange deems Exchange Traded Fund Shares to be equity securities and therefore they would be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.[44]

Nasdaq believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices. The Exchange has in place

[43] The Exchange notes that the Commission came to a similar conclusion in several places in the Rule 6c–11 Release. *See* Adopting Release at 15–18; 60–61; 69–70; 78–79; 82–84; and 95–96.

[44] *See* note 4 above, Adopting Release at 57171.

written surveillance procedures that are adequate to properly monitor trading in the Exchange Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The surveillance procedures for monitoring compliance with Rule 6c–11 will be consistent with the manner in which the Exchange conducts its trading surveillance for ETFs. The Exchange will also require that issuers of Exchange Traded Fund Shares listed under proposed Nasdaq Rule 5704 must notify the Exchange regarding instances of non-compliance. Additionally, the Exchange will require periodic certifications from the issuer that it has maintained compliance with Rule 6c–11. Nasdaq will also check the ETF's website on a periodic basis for the inclusion of proper disclosure in compliance with Rule 6c–11. As stated previously, Nasdaq will continue to monitor for compliance with the continued listing standards.

The Exchange believes that the proposed rule change seeks to incorporate Rule 6c–11 into Nasdaq's rules will promote just and equitable principles of trade, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest. As the SEC noted in its Adopting Release, Rule 6c–11 may allow ETFs to operate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act,[45] as well as lead to increased capital formation particularly in the form of an increased demand for ETFs.[46]

The Exchange believes that the amendments to Nasdaq Rules 5705(b) and 5735 to include Exchange Traded Fund Shares into the existing exclusions of these rules promotes just and equitable principles of trade, removes impediments to, and perfects the mechanisms of, a free and open market and a national market system by ensuring that Exchange Traded Fund Shares are treated consistently with Index Fund Shares and Managed Funds Shares. The Exchange believes that the minor changes to these rules improve clarity and serve to better protect investors and the public interest.

The Exchange believes that the discontinuance of quarterly reports currently required for Managed Fund Shares under Nasdaq Rule 5735(b) will no longer be necessary in light of the requirements of Rule 6c–11(d)[47] and the breadth of information that has been submitted to date under this requirement promotes just and equitable principles of trade, removes impediments to, and perfects the mechanisms of, a free and open market and a national market system by eliminating a requirement no longer necessary or of benefit to the Commission.

As discussed above, Rule 6c–11(d) includes specific ongoing reporting requirements for exchange-traded funds, including written agreements between an authorized participant and a fund allowing purchase or redemption of creation units, information regarding the baskets exchanged with authorized participants, and the identity of authorized participants transacting with a fund. The SEC has stated that the information required by Rule 6c–11(d) will provide the SEC's examination staff with information to determine compliance with Rule 6c–11 and applicable federal securities laws.

In addition, and as discussed above, Rule 6c–11 collapses the distinction between Index Fund Shares and Managed Fund Shares. Nasdaq believes that the SEC has reached a level of comfort with Managed Fund Shares that makes the ongoing receipt of the information included in the quarterly reports unnecessary.

In addition and as also discussed above, Nasdaq believes that since the implementation of this requirement, SEC Staff has received an ample number of reports as to gain sufficient understanding Managed Fund Shares and has not detected any significant issues involving Managed Fund Shares listed under Nasdaq Rule 5735(b)(1). The quarterly reports were initially intended to provide SEC Staff insight into the number and type of funds listed pursuant to Nasdaq Rule 5735(b)(1), as well as highlight any issues regarding the trading of such funds or a funds' compliance with the continued listing standards.

As a result, Nasdaq believes it should discontinue the filing of quarterly reports with respect to Managed Fund Shares under Nasdaq Rule 5735(b). This will avoid unnecessary overlap and potential inconsistency between the quarterly reports and the reporting requirements of Rule 6c–11(d). It will also avoid unnecessary, duplicative burdens on authorized participants and their firms in providing and maintaining information regarding creation and redemption activity.

For the above reasons, the Exchange believes that the proposal is consistent with the requirements of Section 6(b)(5) of the Act.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. Rather, the Exchange believes that the proposed rule change would facilitate the listing and trading of Exchange Traded Fund Shares and result in a significantly more efficient process surrounding the listing and trading of ETFs, which will enhance competition among market participants, to the benefit of investors and the marketplace.

The Exchange believes that this would reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Exchange Traded Fund Shares more competitive by applying uniform listing standards with respect to Exchange Traded Fund Shares.

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. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[48] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with Section 6(b)(5) of the Act,[49] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[45] *Id.* at 57166.

[46] *Id.* at 57220.

[47] *See supra* note 33.

[48] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[49] 15 U.S.C. 78f(b)(5).

A. Proposed Nasdaq Rule 5704

As an initial matter, the Commission notes that the Exchange currently has generic listing standards for Index Fund Shares, Managed Fund Shares, and Portfolio Depositary Receipts,[50] and therefore proposed Rule 5704 would not permit the Exchange to generically list any novel product types. The Commission also notes that a number of the provisions of proposed Rule 5704 are substantively identical to provisions of other Nasdaq listing rules.[51]

The Commission believes that proposed Nasdaq Rule 5704 is reasonably designed to help prevent fraudulent and manipulative acts and practices. A central qualification for listing under the proposed rule is ongoing compliance with Rule 6c–11 under the 1940 Act, which requires, among other things, ETFs to prominently disclose the portfolio holdings that will form the basis for each calculation of net asset value per share.[52] Because initial and ongoing compliance with Rule 6c–11 of the 1940 Act is a condition for listing and trading on the Exchange, the proposed rule would permit Nasdaq to list and trade shares of an investment company with a fully transparent portfolio,[53] and the Commission believes that portfolio transparency should help prevent manipulation of the price of Exchange Traded Fund Shares.[54] Additionally, proposed Nasdaq Rule 5704 includes requirements relating to fire walls and procedures to prevent the use and dissemination of material, non-public information regarding the applicable ETF index and portfolio,[55] all such requirements of which are designed to prevent fraudulent and manipulative acts and practices.[56] The Commission specifically notes that certain of these requirements relating to such fire walls and procedures, which are substantively identical to Nasdaq's rules governing the listing and trading of index-based and actively managed ETFs, apply in addition to what is already required under the Act and the 1940 Act and respective rules and regulations thereunder, and the Commission believes that such requirements collectively provide additional protections against the potential misuse of material, non-public information. Therefore, the Commission concludes that the proposed requirements relating to such fire walls and procedures, combined with ETF portfolio transparency and the existing requirements under the Act and 1940 Act, should help to protect against fraudulent and manipulative acts and practices under Section 6(b)(5) of the Act.

Proposed Nasdaq Rule 5704(c) requires that the Exchange implement and maintain written surveillance procedures for Exchange Traded Fund Shares. The Exchange will employ its existing surveillance procedures to trading in Exchange Traded Fund Shares, and represents that its surveillance procedures are adequate to (a) properly monitor the trading of such securities during all trading sessions and (b) deter and detect violations of Exchange rules and the applicable federal securities laws.[57] Further, the Exchange represents that it, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in Exchange Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which Nasdaq has a CSSA in place. The Exchange represents that its surveillance procedures for monitoring compliance with Rule 6c–11 under the 1940 Act will be consistent with the manner in which the Exchange conducts its trading surveillance for ETFs. The Exchange will require issuers of Exchange Traded Fund Shares listed under proposed Nasdaq Rule 5704 to notify the Exchange of instances of non-compliance. Additionally, the Exchange will require periodic certifications from the issuer that it has maintained compliance with Rule 6c–11, and Nasdaq will also check the ETF's website on a periodic basis for the inclusion of proper disclosure in compliance with Rule 6c–11. Finally, proposed Nasdaq Rule 5704(b)(2)(b) requires that the Exchange delist a series of Exchange Traded Fund Shares if, following the initial 12-month period after commencement of trading, there are fewer than 50 beneficial holders of such series.

Consistent with the requirement of Section 6(b)(5) of the Act[58] that the Exchange's rules be designed to remove impediments to and perfect the mechanism of a free and open market, the Exchange's rules regarding trading halts will help to ensure the maintenance of fair and orderly markets for Exchange Traded Fund Shares. Specifically, as discussed above, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in a series of Exchange Traded Fund Shares. Nasdaq states that trading in Exchange Traded Fund Shares will be halted if the circuit breaker parameters in Nasdaq Rule 4120 have been reached or when the Exchange becomes aware that the net asset value for a series of Exchange Traded Fund Shares is not being disseminated to all market participants

[50] *See* Nasdaq Rules.

[51] *See supra* notes 15, 19, 20, and 28 and accompanying text, respectively.

[52] *See* Adopting Release, *supra* note 10, at 57180–81.

[53] *See supra* note 9. The Commission also noted that, with respect to ETF portfolio transparency, the disclosures are designed to promote an effective arbitrage mechanism and inform investors about the risks of deviation between market price and net asset value when deciding whether to invest in ETFs generally or in a particular ETF. *See* Adopting Release, *supra* note 10, at 57166.

[54] *See* Adopting Release, *supra* note 10, at 57169 (concluding that portfolio transparency combined with existing requirements should be sufficient to protect against certain abuses).

[55] For example, proposed Nasdaq Rule 5704(b)(1)(B)(i) states that if the investment adviser to an ETF is affiliated with a broker-dealer, such investment adviser will erect and maintain a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to the underlying portfolio. In addition, personnel who make decisions on the ETF's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable ETF portfolio. Proposed Nasdaq Rule 5704(b)(1)(B)(ii) states that the Reporting Authority that provides the ETF's portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio. Proposed Nasdaq Rule 5704(b)(1)(B)(iii) states that if the index underlying a series of Exchange Traded Fund Shares is maintained by a broker-dealer or fund adviser, the broker-dealer or fund adviser shall erect and maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the index and the index will be calculated by a third party who is not a broker-dealer or fund adviser. Additionally, proposed Nasdaq Rule 5704(b)(1)(B)(iv) states that any advisory committee, supervisory board, or similar entity that advises a Reporting Authority or that makes decisions on the index composition, methodology and related matters, must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the applicable index. *See generally* proposed Nasdaq Rule 5704(b)(1)(B).

[56] In adopting Rule 6c–11, the Commission determined that the safeguards in the existing regulatory regime adequately address ''special concerns that self-indexed ETFs present, including the potential ability of an affiliated index provider to manipulate an underlying index to the benefit or detriment of a self-indexed ETF.'' Adopting Release, *supra* note 10, 84 FR at 57168.

[57] The Commission also finds that the proposed rule change, as modified by Amendment No. 4, is consistent with Section 6(b)(1) of the Act, which requires (among other things) that a national securities exchange be organized and have the capacity to comply with its own rules. The Exchange represents that it will: (1) Monitor for compliance with Rule 6c–11 to ensure that the continued listing standards are being met; (2) periodically review the website of series of Exchange Traded Fund Shares to ensure that the requirements of Rule 6c–11 are being met; (c) obtain a representation from each issuers of a series of Exchange Traded Fund Shares that the requirements of proposed Nasdaq Rule 5704 will be satisfied.

[58] 15 U.S.C. 78f(b)(5).

at the same time.[59] Additionally, trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in Exchange Traded Fund Shares inadvisable. As Nasdaq represents in the proposal, examples of such market conditions or reasons may be: (1) If the value of the index or portfolio of securities on which the series of Exchange Traded Fund Shares is based is no longer calculated or available or an interruption to the dissemination persists past the trading day in which it occurred; (2) when certain information about the Exchange Traded Fund Shares that is required to be disclosed under Rule 6c–11 of the 1940 Act is not being made available; (3) if trading in the underlying securities comprising the index or portfolio applicable to such series of Exchange Traded Fund Shares has been halted; (4) if Nasdaq becomes aware that the net asset value for a series of Exchange Traded Fund Shares is not being disseminated to all market participants at the same time; or (5) in the presence of other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market. Further, Nasdaq will employ intraday alerts, which will notify Exchange personnel of unusual trading activity throughout the day that could be indicative of unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market.[60]

B. Discontinuance of Quarterly Reports of Generically Listed Managed Fund Shares

In support of its proposal to adopt generic listing standards for Managed Fund Shares, the Exchange proposed to submit quarterly reports to the Commission disclosing certain information.[61] These reports were designed to identify problems associated with generically listed Managed Fund Shares. In adopting Rule 6c–11 under the 1940 Act, the Commission largely eliminated prior distinctions between actively managed and index-based ETFs, and Nasdaq does not submit quarterly reports regarding the shares of index-based ETFs that it generically lists. In addition, the Commission recognizes that, since the adoption of the Managed Fund Shares generic listing standards, the marketplace for ETFs has matured and developed, an increased number of actively managed ETFs have been listed and are trading on national securities exchanges, and market participants have become more familiar with such securities. Moreover, proposed Nasdaq Rule 5704(c) requires Nasdaq to implement and maintain written surveillance procedures for Exchange Traded Fund Shares.[62] The Exchange represents that it intends to utilize its existing surveillance procedures applicable to equity securities, which will include Exchange Traded Fund Shares, to monitor trading in the Exchange Traded Fund Shares, and will perform ongoing surveillance of Exchange Traded Fund Shares listed on the Exchange in order to ensure compliance with Rule 6c–11 and the 1940 Act on an ongoing basis. The Commission notes that manipulation concerns are mitigated by a combination of the Exchange's surveillance procedures, Nasdaq's ability to halt trading under proposed Nasdaq Rule 5704, Nasdaq Rules 4120(a)(9) and 4120(a)(10), and the Exchange's ability to commence delisting proceedings under proposed Nasdaq Rule 5704(b)(2)(B). In light of these reasons, as well as the Commission's experience with the quarterly reports, the Commission believes that this proposal is consistent with Section 6(b)(5) of the Act, and it therefore finds that it is no longer necessary for Nasdaq to continue to submit such quarterly reports.

C. Other Related Rule Changes

The Exchange proposes to incorporate Exchange Traded Fund Shares into the definitions of ''Exchange Traded Derivative Securities'' in Nasdaq Rule 5735(c)(6) and ''Derivative Securities Products'' in Nasdaq Rule 5705(b)(3)(A)(i) so that the exclusions applicable to those defined terms also will apply to Exchange Traded Fund Shares. The Exchange also proposes to amend Nasdaq Rule 4120 to incorporate Exchange Traded Fund Shares into Nasdaq Rules 4120(a)(9) and 4120(a)(10) so that these trading halt rules will apply to Exchange Traded Fund Shares listed on Nasdaq and traded on Nasdaq pursuant to unlisted trading privileges. Lastly, the Exchange proposes to incorporate Exchange Traded Fund Shares into the definition of ''Derivative Securities'' in Nasdaq Rule 5615 so that exemptions from certain corporate governance requirements will be applicable to Exchange Traded Fund Shares. The Exchange states that these changes will subject Exchange Traded Fund Shares to the same requirements currently applicable to other 1940 Act-registered investment company securities (*i.e.,* Index Fund Shares, Managed Fund Shares, and Portfolio Depositary Receipts).

The Commission believes that these proposed changes simply incorporate proposed Rule 5704 into the existing framework of Nasdaq's rules, and therefore finds that such changes are consistent with Section 6(b)(5) of the Act.

D. Exchange Representations

In support of this proposal, the Exchange has made the following representations:

(1) Nasdaq deems Exchange Traded Fund Shares to be equity securities, thus rendering trading in Exchange Traded Fund Shares subject to the Exchange's existing rules governing the trading of equity securities.[63] The Exchange notes that Exchange Traded Fund Shares will be subject to rules governing Exchange member disclosure obligations in connection with equities trading, and that Rule 6c–11 does not change the applicability of these Exchange rules with respect to these securities.[64]

(2) Nasdaq will (a) monitor for compliance with Rule 6c–11 to ensure that the continued listing standards are being met; (b) periodically review the website of series of Exchange Traded Fund Shares to ensure that the requirements of Rule 6c–11 are being met; and (c) employ intraday alerts that will notify Exchange personnel of unusual trading activity throughout the day that could be indicative of unusual conditions or circumstances that could be detrimental to the maintenance of a fair and orderly market.[65]

(3) Nasdaq will obtain a representation from the ETF that the net asset value per share for each series of

[59] *See supra* note 22 and accompanying text.

[60] *See* Amendment No. 4, *supra* note 8, at 26.

[61] The information included in these reports is summarized above. *See supra* note 32.

[62] Moreover, Nasdaq Rule 5735(b)(4) requires that the Exchange implement and maintain written surveillance procedures for Managed Fund Shares.

[63] *See* Amendment No. 4, *supra* note 8, at 29.

[64] With respect to trading in Exchange Traded Fund Shares, the Exchange represents that all of the Nasdaq member obligations relating to product description and prospectus delivery requirements will continue to apply in accordance with the Exchange rules and federal securities laws, and Nasdaq will continue to monitor its members for compliance with such requirements, which are not changing as a result of Rule 6c–11 under the 1940 Act.

[65] *See* Amendment No. 4, *supra* note 8, at 14. The Exchange also notes that Nasdaq Rule 5701(d) would require an issuer of Exchange Traded Fund Shares to notify Nasdaq promptly after the issuer becomes aware of any non-compliance with the requirements of the Nasdaq Rule 5700 Series, which would encompass any failure of the issuer to comply with Rule 6c–11 or the 1940 Act. Failure by an issuer to notify the Exchange of non-compliance pursuant to Nasdaq Rule 5701(d) would itself be considered non-compliance with the requirements of the Nasdaq Rule 5700 Series and subject to potential trading halts and the delisting process in the Nasdaq Rule 5800 Series.

Exchange Traded Fund Shares will be calculated daily and will be made available to all market participants at the same time. Nasdaq will also obtain a representation from the issuers of each series of Exchange Traded Fund Shares that the requirements of proposed Nasdaq Rule 5704 will be satisfied.[66]

(4) Nasdaq's surveillance procedures are adequate to properly monitor the trading of the Exchange Traded Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[67]

(5) The Exchange, or FINRA on behalf of the Exchange, will communicate as needed regarding trading in Exchange Traded Fund Shares and certain of their applicable underlying components with other markets that are members of the ISG or with which Nasdaq has in place a CSSA. Additionally, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities that may be held by a series of Exchange Traded Fund Shares reported to TRACE. FINRA also can access data obtained from the EMMA system relating to municipal bond trading activity for surveillance purposes in connection with trading in a series of Exchange Traded Fund Shares, to the extent that a series of Exchange Traded Fund Shares holds municipal securities.[68]

(6) Each issuer of a series of Exchange Traded Fund Shares will be required to comply with Rule 10A–3 under the Act (17 CFR 240.10A–3) for the initial and continued listing of Exchange-Traded Fund Shares.[69]

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment No. 4. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 4, is consistent with Sections 6(b)(1) and 6(b)(5) of the Act [70] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments to the Proposed Rule Change, as Modified by Amendment No. 4

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 4 to 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–NASDAQ–2019–090 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–090. 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–NASDAQ–2019–090, and should be submitted on or before April 30, 2020.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 4

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 4, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 4 in the **Federal Register**. In Amendment No. 4, the Exchange (among other things): (1) Modified the circumstances in which it will commence delisting of, and consider suspending trading in, a series of Exchange Traded Fund Shares; (2) broadened its undertakings with respect to ensuring compliance with the proposed generic listing standard; and (3) clarified that Exchange Traded Fund Shares would be subject to all Exchange rules applicable to equities trading, including rules governing Exchange member disclosure obligations. Amendment No. 4 also provides other clarifications and additional information in support of the proposed rule change.[71] These changes, as well as additional information in Amendment No. 4, assisted the Commission in finding that the proposal is consistent with the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[72] to approve the proposed rule change, as modified by Amendment No. 4, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [73] that the proposed rule change (SR–NASDAQ–2019–090), as modified by Amendment No. 4, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07440 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[66] *See id.* at 15, n.20.

[67] *See id.* at 14–15.

[68] *See id.* at 15.

[69] *See id.*

[70] 15 U.S.C. 78f(b)(1) and 15 U.S.C. 78f(b)(5), respectively.

[71] *See* Amendment No. 4, *supra* note 8.

[72] 15 U.S.C. 78s(b)(2).

[73] *Id.*

[74] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88553; File No. SR–CboeEDGX–2020–014]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Expand the Trading Hours Applicable to Managed Portfolio Shares To Include All Trading Sessions

April 3, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2020, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the

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

[2] 17 CFR 240.19b–4.

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

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to expand the trading hours applicable to Managed Portfolio Shares to include all trading sessions instead of just Regular Trading Hours.[3] The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, 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

The Exchange adopted new Rule 14.11 for the purpose of permitting trading, pursuant to unlisted trading privileges,[4] of Managed Portfolio Shares, which are securities issued by an actively managed open-end management investment company,[5] on January 21, 2020.[6] Rule 14.11(b)(2) currently provides that transactions in Managed Portfolio Shares will occur only during Regular Trading Hours. On March 23, 2020, Cboe BZX Exchange, Inc. (''BZX''), the listing market for Managed Portfolio Shares, amended its rules to allow Managed Portfolio Shares to trade during all sessions.[7] Accordingly, the Exchange is now proposing to change rule 14.11(b)(2) in order to allow for trading in Managed Portfolio Shares during all trading sessions on the Exchange.

The proposed amendment would allow trading in Managed Portfolio Shares during all sessions including the Early Trading Session,[8] the Pre-Opening Session,[9] Regular Trading Hours, and the Post-Closing Session.[10] The Exchange notes that Managed Portfolio Shares are currently the only product-type that is not available for trading during all trading sessions on the Exchange. As such, this proposal would allow Managed Portfolio Shares to be traded, pursuant to unlisted trading privileges, on the Exchange in a manner identical to all other products traded on the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the Exchange believes that allowing Managed Portfolio Shares to trade during all trading sessions on the Exchange will remove impediments to and perfect a national market system by reducing the complexity and potential investor confusion that could be associated with limiting the trading hours for one product type. Furthermore, the proposal is consistent with a recent change made by the listing market for Managed Portfolio Shares, BZX, and thus would eliminate complexity and potential investor confusion related to which platforms are offering trading in Managed Portfolio Shares at different times of the day.

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 notes that the proposed rule change, rather, will facilitate the trading of Managed Portfolio Shares in a manner that is consistent with other product types traded on the Exchange as well as on other trading platforms, enhancing competition among market participants, product types, and platforms, to the benefit of investors and the marketplace.

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

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

[3] As defined in Rule 1.5(y), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[4] As noted in Exchange Rule 14.1(a), the Exchange does not list any Equity Securities, as defined in Rule 14.1(a). Therefore, the provisions of Rules 14.2 through 14.11 only allow the trading of such Equity Securities pursuant to unlisted trading privileges.

[5] As defined in Rule 14.11(c)(1), the term ''Managed Portfolio Share'' means a security that (a) represents an interest in an investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a Creation Unit (as defined in Rule 14.11(c)(6)), or multiples thereof, in return for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value and delivered to the Authorized Participant (as defined in the Investment Company's Form N–1A filed with the Commission) through a Confidential Account; (c) when aggregated into a Redemption Unit (as defined in Rule 14.11(c)(7)), or multiples thereof, may be redeemed for a designated portfolio of instruments (and/or an amount of cash) with a value equal to the next determined net asset value delivered to the Confidential Account (as defined in Rule 14.11(c)(4)) for the benefit of the Authorized Participant; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.

[6] *See* Securities Exchange Act Release No. 88110 (February 3, 2020), 85 FR 7339 (February 7, 2020) (SR–CboeEDGX–2020–003).

[7] *See* Securities Exchange Act Release No. 88468 (March 25, 2020) 85 FR 17908 (March 31, 2020) (SR–CboeBZX–2020–028).

[8] As defined in Rule 1.5(ii), the term ''Early Trading Session'' shall mean the time between 7:00 a.m. and 8:00 a.m. Eastern Time.

[9] As defined in Rule 1.5(s), the term ''Pre-Opening Session'' shall mean the time between 8:00 a.m. and 9:30 a.m. Eastern Time.

[10] As defined in Rule 1.5(r), the term ''Post-Closing Session'' shall mean the time between 4:00 p.m. and 8:00 p.m. Eastern Time.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

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.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would allow trading of Managed Portfolio Shares on the Exchange during all trading sessions as soon as possible, making the treatment of Managed Portfolio Shares consistent with all other product types as well as the listing market, and reducing confusion and complexity associated with Managed Portfolio Shares. In addition, the Exchange states that the proposal raises no novel or unique issues in that it would allow Managed Portfolio Shares to trade in a manner identical to all other products traded on the Exchange and consistent with the exemptive relief granted by the Commission. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission waives the 30-day operative delay and designates the proposed rule change operative upon filing.[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 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–CboeEDGX–2020–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2020–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–CboeEDGX–2020–014 and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

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BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88554; File No. SR–PEARL–2020–05]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Fee Schedule

April 3, 2020.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2020, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL'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 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

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

[2] 17 CFR 240.19b–4.

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

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

1. Purpose

The Exchange proposes to amend the Add/Remove Tiered Rebates/Fees set forth in Section (1)(a) of the Fee Schedule to: (i) Increase Taker (as defined below) fees in certain Tiers for options transactions in Penny classes (including SPY, QQQ, and IWM options classes) and non-Penny classes (as defined below) for Priority Customers;[3] (ii) increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for MIAX PEARL Market Makers;[4] and (iii) increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Non-Priority Customers, Firms, Broker-Dealers and Non-MIAX PEARL Market Makers (collectively herein ''Professional Members'').

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon the total monthly volume executed by the Member[5] on MIAX PEARL in the relevant, respective origin type (not including Excluded Contracts)[6] expressed as a percentage of TCV.[7] In addition, the per contract transaction rebates and fees are applied retroactively to all eligible volume for that origin type once the respective threshold tier (''Tier'') has been reached by the Member. The Exchange aggregates the volume of Members and their Affiliates.[8] Members that place resting liquidity, *i.e.,* orders resting on the book of the MIAX PEARL System,[9] are paid the specified ''maker'' rebate (each a ''Maker''), and Members that execute against resting liquidity are assessed the specified ''taker'' fee (each a ''Taker''). For opening transactions and ABBO uncrossing transactions, per contract transaction rebates and fees are waived for all market participants. Finally, Members are assessed lower transaction fees and receive lower rebates for order executions in standard option classes in the Penny Pilot Program[10] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''non-Penny classes''), where Members are assessed higher transaction fees and receive higher rebates.

Transaction rebates and fees in Section (1)(a) of the Fee Schedule are currently assessed according to the following tables:

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker	Taker *	SPY taker	QQQ, IWM taker	Maker	Taker
Priority Customer	1	0.00%–0.10%	($0.25)	$0.48	$0.43	$0.44	($0.85)	$0.84
	2	Above 0.10%–0.35%	(0.40)	0.48	0.43	0.44	(0.95)	0.84
	3	Above 0.35%–0.50%	(0.45)	0.46	0.42	0.44	(1.00)	0.84
	4	Above 0.50%–0.75%	(0.51)	0.45	0.41	0.43	(1.03)	0.84
	5	Above 0.75%–1.25%	(0.52)	0.44	0.40	0.42	(1.04)	0.84
	6	Above 1.25%	(0.52)	0.43	0.38	0.40	(1.04)	0.84

* For all Penny Classes other than SPY, QQQ, and IWM.

[3] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100, including Interpretation and Policy .01.

[4] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[7] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange believes that it is reasonable and appropriate to select two consecutive hours as the amount of time necessary to constitute an Exchange System Disruption, as two hours equates to approximately 1.4% of available trading time per month. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[8] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[9] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[10] *See* Securities Exchange Act Release No. 84865 (December 19, 2018), 83 FR 66813 (December 27, 2018) (SR–PEARL–2018–26).

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker **	Taker **
All MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40% or Above 0.45% in SPY/QQQ/IWM.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.49	0.50	(0.60)	1.09
	4	Above 0.65%–1.00% or Above 2.25% in SPY.	(0.47)	(0.45)	0.48	0.49	(0.65)	1.08
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.46	0.47	(0.70)	1.07
	6	Above 1.40%	(0.48)	(0.47)	0.45	0.46	(0.85)	1.06

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker ^ (contra origins ex priority customer)	Maker ^ (contra priority customer origin)	Taker ◊ (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker **^	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.49	0.50	(0.60)	1.10
	4	Above 0.65%–1.00%.	(0.47)	(0.45)	0.49	0.50	(0.65)	1.09
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.48	0.50	(0.70)	1.08
	6	Above 1.40%	(0.48)	(0.46)	0.48	0.50	(0.85)	1.07

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 2.00% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

◊ Members may qualify for Taker Fees of $0.48 for Penny classes for their Firm Origin when trading against Origins not Priority Customer if the Member and their Affiliates execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes.

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator).

In Tier 2 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 0.45% in SPY/QQQ/IWM) is calculated based on the total monthly volume executed by the Market Maker collectively in SPY, QQQ, and IWM options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY/QQQ/IWM TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

Priority Customer Taker Fees

The Exchange proposes to increase Taker fees in certain Tiers for options transactions in Penny classes (including SPY, QQQ, and IWM options classes) and non-Penny classes for Priority Customers. Specifically, the Exchange proposes to increase the Taker fees for Priority Customer orders in options in certain Penny classes (excluding SPY, QQQ, and IWM) in Tier 1 from $0.48 to $0.50, in Tier 2 from $0.48 to $0.50, in Tier 3 from $0.46 to $0.48, in Tier 4 from $0.45 to $0.47, in Tier 5 from $0.44 to $0.46, and in Tier 6 from $0.43 to $0.45. The Exchange next proposes to increase the Taker fees for Priority Customer orders for SPY options in Tier 1 from $0.43 to $0.46, in Tier 2 from $0.43 to $0.46, in Tier 3 from $0.42 to $0.45, in Tier 4 from $0.41 to $0.44, in Tier 5 from $0.40 to $0.43, and in Tier 6 from $0.38 to $0.42. The Exchange next proposes to increase the Taker fees for Priority Customer orders for QQQ and IWM options in Tier 1 from $0.44 to $0.50, in Tier 2 from $0.44 to $0.50, in Tier 3 from $0.44 to $0.48, in Tier 4 from $0.43 to $0.47, in Tier 5 from $0.42

to $0.46, and in Tier 6 from $0.40 to $0.45. The Exchange next proposes to increase the Taker fees for Priority Customer orders in options in non-Penny classes in Tiers 1–6 from $0.84 to $0.85.

Market Maker Taker Fees

Next, the Exchange proposes to increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Market Makers. Specifically, the Exchange proposes to increase the Taker fees for Market Makers for orders contra Origins ex Priority Customer in Penny classes in Tier 3 from $0.49 to $0.50, in Tier 4 from $0.48 to $0.49, in Tier 5 from $0.46 to $0.47, and in Tier 6 from $0.45 to $0.46. The Exchange next proposes to increase the Taker fees for Market Makers for orders contra Priority Customer in Penny classes in Tier 4 from $0.49 to $0.50, in Tier 5 from $0.47 to $0.48, and in Tier 6 from $0.46 to $0.47. The Exchange next proposes to increase the Taker fees for Market Maker orders in options in non-Penny classes in Tier 3 from $1.09 to $1.10, in Tier 4 from $1.08 to $1.09, in Tier 5 from $1.07 to $1.08, and in Tier 6 from $1.06 to $1.07.

Professional Customer Taker Fees

Next, the Exchange proposes to increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Professional Members. Specifically, the Exchange proposes to increase the Taker fees for Professional Members for orders contra Origins ex Priority Customer in Penny classes in Tier 3 from $0.49 to $0.50, in Tier 4 from $0.49 to $0.50, in Tier 5 from $0.48 to $0.49, and in Tier 6 from $0.48 to $0.49. The Exchange next proposes to increase the Taker fees for Professional Member orders in options in non-Penny classes in Tier 4 from $1.09 to $1.10, in Tier 5 from $1.08 to $1.09, and in Tier 6 from $1.07 to $1.09.

The purpose of the proposed changes to adjust the specified Taker fees is for business and competitive reasons. In order to attract order flow, the Exchange initially set its Taker fees so that they were meaningfully lower than other options exchanges that operate comparable maker/taker pricing models.[11] The Exchange now believes that it is appropriate to further adjust these specified Taker fees so that they are more in line with other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[12]

With all proposed changes, Section (1)(a) of the Fee Schedule shall be the following:

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker	Taker *	SPY taker	QQQ, IWM taker	Maker	Taker
Priority Customer	1	0.00%–0.10%	($0.25)	$0.50	$0.46	$0.50	($0.85)	$0.85
	2	Above 0.10%–0.35%	(0.40)	0.50	0.46	0.50	(0.95)	0.85
	3	Above 0.35%–0.50%	(0.45)	0.48	0.45	0.48	(1.00)	0.85
	4	Above 0.50%–0.75%	(0.51)	0.47	0.44	0.47	(1.03)	0.85
	5	Above 0.75%–1.25%	(0.52)	0.46	0.43	0.46	(1.04)	0.85
	6	Above 1.25%	(0.52)	0.45	0.42	0.45	(1.04)	0.85

* For all Penny Classes other than SPY, QQQ, and IWM.

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker **	Taker **
All MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40% or Above 0.45% in SPY/QQQ/IWM.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.50	0.50	(0.60)	1.10
	4	Above 0.65%–1.00% or Above 2.25% in SPY.	(0.47)	(0.45)	0.49	0.50	(0.65)	1.09
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.47	0.48	(0.70)	1.08
	6	Above 1.40%	(0.48)	(0.47)	0.46	0.47	(0.85)	1.07

[11] *See* Securities Exchange Act Release Nos. 80915 (June 13, 2017), 82 FR 27912 (June 19, 2017) (SR–PEARL–2017–29); 80914 (June 13, 2017), 82 FR 27910 (June 19, 2017) (SR–PEARL–2017–30).

[12] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees.''

Origin	Tier	Volume criteria	Per contract rebates/fees for penny classes				Per contract rebates/fees for non-penny classes	
			Maker ^ (contra origins ex priority customer)	Maker ^ (contra priority customer origin)	Taker ◊ (contra origins ex priority customer)	Taker (contra priority customer origin)	Maker ** ^	Taker **
Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.	1	0.00%–0.15%	($0.25)	($0.23)	$0.50	$0.50	($0.30)	$1.10
	2	Above 0.15%–0.40%.	(0.40)	(0.38)	0.50	0.50	(0.30)	1.10
	3	Above 0.40%–0.65%.	(0.40)	(0.38)	0.50	0.50	(0.60)	1.10
	4	Above 0.65%–1.00%.	(0.47)	(0.45)	0.50	0.50	(0.65)	1.10
	5	Above 1.00%–1.40%.	(0.48)	(0.46)	0.49	0.50	(0.70)	1.09
	6	Above 1.40% ..	(0.48)	(0.46)	0.49	0.50	(0.85)	1.09

** Members may qualify for the Maker Rebate and the Taker Fee associated with the highest Tier for transactions in Non-Penny classes if the Member executes more than 0.30% volume in Non-Penny classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes. For purposes of qualifying for such rates, the Exchange will aggregate the volume transacted by Members and their Affiliates in the following Origin types in Non-Penny classes: MIAX PEARL Market Makers, and Non-Priority Customer, Firm, BD, and Non-MIAX PEARL Market Makers.

^ Members may qualify for Maker Rebates equal to the greater of: (A) ($0.40) for Penny Classes and ($0.65) for Non-Penny Classes, or (B) the amount set forth in the applicable Tier reached by the Member in the relevant Origin, if the Member and their Affiliates execute at least 2.00% volume in the relevant month, in Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL listed option classes.

◊ Members may qualify for Taker Fees of $0.48 for Penny classes for their Firm Origin when trading against Origins not Priority Customer if the Member and their Affiliates execute at least 2.00% of TCV in the relevant month in the Priority Customer Origin type, in all options classes, not including Excluded Contracts, as compared to TCV in all MIAX PEARL listed option classes.

Except as otherwise set forth herein, the Volume Criteria is calculated based on the total monthly volume executed by the Member in all options classes on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) TCV (as the denominator).

In Tier 2 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 0.45% in SPY/QQQ/IWM) is calculated based on the total monthly volume executed by the Market Maker collectively in SPY, QQQ, and IWM options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY/QQQ/IWM TCV (as the denominator). In Tier 4 for MIAX PEARL Market Makers, the alternative Volume Criteria (above 2.25% in SPY) is calculated based on the total monthly volume executed by the Market Maker solely in SPY options on MIAX PEARL in the relevant Origin type, not including Excluded Contracts, (as the numerator) expressed as a percentage of (divided by) SPY TCV (as the denominator). The per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the threshold has been reached by Member. The Exchange aggregates the volume of Members and their Affiliates in the Add/Remove Tiered Fees. The per contract transaction rebates and fees shall be waived for transactions executed during the opening and for transactions that uncross the ABBO.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% market share.[14] Therefore, no exchange possesses significant pricing power. More specifically, as of March 24, 2020, the Exchange had an approximately 4.03% market share of executed volume of multiply-listed equity and exchange traded fund (''ETF'') options for the month of March 2020.[15] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[16] The Exchange experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that the March 1, 2019 fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain MIAX PEARL's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The proposed changes are scheduled to become operative April 1, 2020.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [17] in general, and furthers the objectives of Section 6(b)(4) of the Act,[18] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[19] in that it is designed to prevent fraudulent and manipulative

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[14] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[15] *See id.*

[16] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4).

[19] 15 U.S.C. 78f(b)(1) and (b)(5).

acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes its proposal to increase Taker fees in certain Tiers for options transactions in Penny classes (including SPY, QQQ, and IWM options classes) and non-Penny classes for Priority Customers, increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Market Makers, and increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Professional Members provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20] There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% of the market share of executed volume of multiply-listed equity and ETF options trades as of March 24, 2020, for the month of March 2020.[21] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of March 24, 2020, the Exchange had an approximately 4.03% market share of executed volume of multiply-listed equity and ETF options for the month of March 2020.[22]

The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to transaction and/or non-transaction fee changes. For example, on February 28, 2019, the Exchange filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[23] The Exchange experienced a decrease in total market share between the months of February and March of 2019, after the fees were in effect. Accordingly, the Exchange believes that the March 1, 2019 fee change may have contributed to the decrease in the Exchange's market share and, as such, the Exchange believes competitive forces constrain options exchange transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes that its proposal to increase Taker fees in certain Tiers for options transactions in Penny classes (including SPY, QQQ, and IWM options classes) and non-Penny classes for Priority Customers, increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Market Makers, and increase Taker fees in certain Tiers for options transactions in Penny and non-Penny classes for Professional Members is reasonable, equitably allocated and not unfairly discriminatory because these changes are for business and competitive reasons. The Exchange cannot predict with certainty the number of market participants that would qualify for the higher Taker fees for each of the proposed changes as Members may continually shift among the different Tiers from month to month. The Exchange further believes that it is appropriate to increase the Taker fees for Priority Customers in SPY, QQQ and IWM options classes because these select products are generally more liquid than other options classes.

Further, the Exchange believes the proposed Taker fee adjustments in certain specified Tiers applicable to certain orders submitted by Priority Customers in Penny classes and non-Penny classes, Market Makers in Penny classes and non-Penny classes, and Professional Members in Penny classes and non-Penny classes are reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange initially set its Taker fees for such orders generally lower than certain other options exchanges that operate comparable maker/taker pricing models.[24] The Exchange now believes that it is appropriate to further increase those specified Taker fees so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share. The Exchange believes for these reasons that increasing certain Taker fees for transactions in the specified Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

Furthermore, the proposed adjustments to the Taker fees promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the increases to Taker fees, the Exchange's proposed Taker fees for such orders still remain highly competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and maintain market share.[25] The Exchange believes that the amount of such fees, as proposed to be adjusted, will continue to encourage those market participants to send orders to the Exchange.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes in the specified Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all participants who will be able to compete for such opportunities. The proposed rule changes should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[21] *See supra* note 15.

[22] *See id.*

[23] *See supra* note 16.

[24] *See supra* notes 11 and 12.

[25] *See id.*

participants the opportunity to receive the benefit of competitive pricing.

The proposed Taker fee adjustments are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[26] and Rule 19b–4(f)(2)[27] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2020–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–PEARL–2020–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–PEARL–2020–05, and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

J. Matthew DeLesDernier,

Assistant Secretary.

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

[27] 17 CFR 240.19b–4(f)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88562; File No. SR–NYSE–2020–29]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Commentary .03 to Rule 7.35C

April 3, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on April 3, 2020, New York Stock Exchange LLC (''NYSE'' 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 add Commentary .03 to Rule 7.35C to provide that, for a temporary period that begins April 6, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, certain DMM Interest would not be cancelled following an Exchange-facilitated Auction. 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.

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

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

[3] 17 CFR 240.19b–4.

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

1. Purpose

The Exchange proposes to add Commentary .03 to Rule 7.35C to provide that, for a temporary period that begins April 6, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, if the Exchange facilitates an Auction, DMM Interest [4] (i) would not be eligible to participate if an Exchange-facilitated Auction [5] results in a trade, and would be eligible to participate if such Auction results in a quote, and (ii) would not be cancelled following such Auction, unless the limit price of such DMM Interest would be priced through the Auction Price or Auction Collar, or such DMM Interest would be marketable against other unexecuted orders.

Background

Since March 9, 2020, markets worldwide have been experiencing unprecedented market-wide declines and volatility because of the ongoing spread of COVID–19. Beginning on March 16, 2020, to slow the spread of COVID–19 through social-distancing measures, significant limitations were placed on large gatherings throughout the country. On March 18, 2020, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading.[6]

Because the Trading Floor facilities are now temporarily closed, Designated Market Makers (''DMMs'') are not on the Trading Floor and therefore cannot facilitate Auctions manually. While the Trading Floor is temporarily closed, DMMs participate electronically both intraday and for Auctions. As provided for under Rule 7.35C, any Auctions that cannot be facilitated electronically by the DMM will be facilitated by the Exchange.

Rule 7.35C sets forth the procedures for Exchange-facilitated Auctions. Among other things, if the Exchange facilitates an Auction, DMM Interest would not be eligible to participate in such Auction and previously-entered DMM Interest would be cancelled.[7]

DMM Interest does not participate in an Exchange-facilitated Auction and is cancelled following such Auction in part to reduce DMM units' risk should their automated systems be impaired. When a DMM cannot facilitate an Auction because the DMM unit is experiencing a system issue that prevents it from communicating with Exchange systems, it is particularly important to cancel DMM Interest following an Exchange-facilitated Auction to ensure that DMM Interest that may be at stale prices does not participate in trading on the Exchange. On the other hand, by canceling DMM Interest when the DMM units' systems are operating normally, DMMs may be limited in their ability to maintain price continuity with reasonable depth, *i.e.,* provide passive liquidity at the Exchange best bid and offer and at depth, immediately following an Exchange-facilitated Auction.

The first time the Exchange facilitated any Auctions pursuant to Rule 7.35C was on March 19, 2020, when two DMM firms implemented their own business continuity plans and temporarily left the Trading Floor. Beginning on March 23, 2020, the Exchange began facilitating Auctions on behalf of all DMM firms.[8]

Now that the Exchange has experience operating Exchange-facilitated Auctions, during the temporary period while the Trading Floor is closed, the Exchange has identified a way to provide DMMs with a greater opportunity to provide passive liquidity immediately following an Auction, thereby dampening volatility while still limiting DMM risk.

Proposed Rule Change

The Exchange proposes to add Commentary .03 to Rule 7.35C to provide that, for a temporary period that begins April 6, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, if the Exchange facilitates an Auction, DMM Interest (i) would not be eligible to participate if such Auction results in a trade, and would be eligible to participate if such Auction results in a quote, and (ii) would not be cancelled unless the limit price of such DMM Interest would be priced through the Auction Price or Auction Collars, as applicable, or such DMM Interest would be marketable against other unexecuted orders. The Exchange is proposing to make this change so that DMMs can provide passive liquidity in order to maintain continuity with reasonable depth in their assigned securities immediately following a Core Open Auction or Trading Halt Auction.

To effect this change, the Exchange proposes that subparagraph (a) of Commentary .03 would provide that, during this temporary period, Rule 7.35(a)(1) would be replaced with the following text:

> If the Exchange facilitates an Auction, DMM Interest will not be eligible to participate if such Auction results in a trade, and will be eligible to participate if such Auction results in a quote.

With this proposed rule change, during the temporary period while the Trading Floor is closed, DMM Interest would not participate in any Exchange-facilitated Auctions that would result in a trade. When a DMM facilitates an Auction, the DMM determines whether to participate on the buy or sell side. Because a DMM may have entered both buy and sell interest in advance of an Auction, when the Exchange facilitates that Auction, the DMM would not be able to control whether the DMM's buy or sell interest would participate in a trade. Accordingly, the Exchange proposes that DMM Interest would not participate in an Exchange-facilitated Auction that would result in a trade.

However, if an Auction does not result in a trade, the Exchange believes that DMM Interest should be included in the Exchange's quote as a result of such Auction. Including DMM Interest in the Exchange's quote would assist the DMMs in meeting their obligation to maintain continuity and depth in their assigned securities.

[4] For purposes of Auctions, the term ''DMM Interest'' is defined in Rule 7.35(a)(8) to mean all buy and sell interest entered by a DMM unit in its assigned securities and includes: ''DMM Auction Liquidity,'' which is non-displayed buy and sell interest that is designated for an Auction only (see Rule 7.35(a)(8)(A)); ''DMM Orders'' which are orders, as defined under Rule 7.31, entered by a DMM unit (see Rule 7.35(a)(8)(B)); and ''DMM After-Auction Orders,'' which are orders entered by a DMM unit before either the Core Open Auction or Trading Halt Auction that do not participate in an Auction and are intended instead to maintain price continuity with reasonable depth following an Auction (see Rule 7.35(a)(8)(C)).

[5] As defined in Rule 7.35(a)(1), an ''Auction'' refers to the process for opening, reopening, or closing of trading of Auction-Eligible Securities on the Exchange, which can result in either a trade or a quote.

[6] The Exchange's current rules establish how the Exchange will function fully-electronically. The CEO also closed the NYSE American Options Trading Floor, which is located at the same 11 Wall Street facilities, and the NYSE Arca Options Trading Floor, which is located in San Francisco, CA. *See* Press Release, dated March 18, 2020, available here: *https://ir.theice.com/press/press-releases/all-categories/2020/03-18-2020-204202110.* Pursuant to Rule 7.1(e), the CEO notified the Board of Directors of the Exchange of this determination.

[7] *See* Rule 7.35C(a)(1).

[8] Over the first four days of the temporary Trading Floor closure, DMMs have facilitated over 90% of the Core Open Auctions and Closing Auctions. *See* ''NYSE Auctions and Price Collars,'' NYSE Equities/Options Data Insights, dated March 26, 2020, available here: *https://www.nyse.com/data-insights#20200326.*

In addition, during this temporary period, following a Core Open Auction or Trading Halt Auction that was facilitated by the Exchange, the Exchange proposes to process DMM Interest in the same way that unexecuted orders are processed following such Auctions, as described in Rule 7.35C(g).

Rule 7.35C(g)(1) currently describes how unexecuted orders are processed if a security opens or reopens on a trade via an Exchange-facilitated Auction. Rule 7.35C(g)(2) currently describes how unexecuted orders are processed if a security opens or reopens on a quote that is above (below) the upper (lower) Auction Collar via an Exchange-facilitated Auction. During the temporary period, the Exchange proposes that these two subparagraphs would be replaced with the following text, which would be set forth in paragraphs (b)(1) and (b)(2) to Commentary .03 to Rule 7.35C, to reference DMM Interest (difference noted in italicized text):

(1) If a security opens or reopens on a trade, Market Orders (including sell short Market Orders during a Short Sale Period) and Limit Orders*, including DMM Interest,* with a limit price that is better-priced than the Auction Price and were not executed in the applicable Auction will be cancelled.

(2) If a security opens or reopens on a quote that is above (below) the upper (lower) Auction Collar, Market Orders (including sell short Market Orders during a Short Sale Period) and Limit Orders*, including DMM Interest,* with a limit price that is better-priced than the upper (lower) Auction Collar will be cancelled before such quote is published.

Finally, as noted above, the Exchange does not believe that DMM Interest should be included in an Exchange-facilitated Auction that results in a trade. Because DMM Interest would not participate in such an Exchange-facilitated Auction, it is possible that previously-entered DMM Interest could be marketable against either other DMM Interest or contra-side unexecuted orders.

In such case, during this temporary period, the Exchange proposes to cancel any DMM Interest that is marketable against unexecuted contra-side orders. If the contra-side unexecuted order is DMM Interest, the Exchange proposes to cancel the DMM Interest with the earlier working time.

For example, if for a security, the Auction Reference Price is $10.00, the lower Auction Collar is $9.00 and the upper Auction Collar is $11.00, and the orders on the Exchange Book in advance of the Auction are as follows:

- Order 1—Buy DMM Order 1000 shares at $10.05,
- Order 2—Sell DMM Order 1000 shares at $10.00,
- Order 3—Buy DMM Order 1000 shares at $10.02,
- Order 4—Sell Limit Order at $10.03,

the Exchange would process the orders as follows:

- Order 1 would be cancelled (because DMM Interest would not be eligible to participate in Auction trade, and here, Order 1 is marketable with Orders 2 and 4),
- Order 2 would be cancelled (because DMM Interest would not be eligible to participate in an Auction trade, and here Order 2 is marketable with Order 3), and
- Order 3 would not be cancelled because it is no longer marketable with any other interest, *i.e.,* it no longer locks or crosses the price of any other contra-side interest in the Exchange Book.

In this example, the Exchange-facilitated Auction would not result in a trade and the security would be opened on a quote that would be $10.02 (Order 3—DMM Order) × $10.03 (Order 4—Limit Order).

The proposed rule text that would describe this temporary functionality would be set forth in paragraph (b)(3) to Commentary .03 to Rule 7.35C as follows:

The Exchange will cancel DMM Interest that is marketable against contra-side unexecuted orders. If the contra-side unexecuted order against which such DMM Interest is marketable is DMM Interest, the DMM Interest with the earlier working time will be canceled.

The Exchange believes that these proposed rule changes would promote fair and orderly markets whenever the Exchange facilitates an Auction under Rule 7.35C during the temporary period while the Trading Floor is closed by supporting DMMs in maintaining continuity with reasonable depth in their assigned securities immediately following an Exchange-facilitated Core Open Auction or Trading Halt Auction that was facilitated by the Exchange.

There are technology changes associated with this proposed rule change that the Exchange anticipates will be implemented on April 6, 2020.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5) of the Act,[10] 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As a result of uncertainty related to the ongoing spread of COVID–19, the U.S. equities markets are experiencing unprecedented market volatility. In addition, social-distancing measures have been implemented throughout the country, including in New York City, to reduce the spread of COVID–19. Directly related to such social-distancing measures, the CEO of the Exchange made a determination under Rule 7.1(c)(3) that beginning March 23, 2020, the Trading Floor facilities located at 11 Wall Street in New York City would close and the Exchange would move, on a temporary basis, to fully electronic trading.

Beginning March 19, 2020, the Exchange began facilitating auctions as provided for under Rule 7.35C for the first time. The Exchange has identified a change that, during the period while the Trading Floor is temporarily closed, would provide DMMs with a greater opportunity to provide passive liquidity immediately following an Exchange-facilitated Auction, thereby reducing volatility while still limiting DMM risk.

The Exchange believes that the proposed rule change to provide that, during this temporary period while the Trading Floor is closed, if the Exchange facilitates an Auction, DMM Interest (i) would not be eligible to participate if such Auction results in a trade, and would be eligible to participate if such Auction results in a quote, and (ii) would not be cancelled unless the limit price of such DMM Interest would be priced through the Auction Price or Auction Collars, as applicable, or such DMM Interest would be marketable against other orders that were not executed in the Auction would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would allow DMMs to maintain continuity with reasonable depth in their assigned securities immediately following an Auction.

The Exchange further believes that, during this temporary period while the Trading Floor is closed, it would remove impediments to and perfect the mechanism of a free and open market and a national market system to process DMM Interest that, following an Exchange-facilitated Auction, would be priced through the Auction Price or Auction Collars, as applicable, in the same manner that other unexecuted

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

[10] 15 U.S.C. 78f(b)(5).

orders are processed, by cancelling such interest. In addition, because during this period, DMM Interest would not be participating in an Exchange-facilitated Auction that results in a trade, the Exchange similarly believes it would remove impediments to and perfect the mechanism of a free and open market and a national market system to cancel DMM Interest that would be marketable against unexecuted orders because, if not cancelled, such interest could trade at a price that would not be consistent with the Auction Price or opening or reopening quote determined in the Exchange-facilitated Auction.

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

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather is designed to provide the DMMs with additional functionality to allow them to maintain price continuity with reasonable depth in their assigned securities following an Exchange-facilitated Auction during a temporary period when the Trading Floor has been closed in response to social-distancing measures designed to reduce the spread of the COVID–19.

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

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

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] 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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately.

The Exchange has proposed that certain DMM Interest would not be cancelled following an Exchange-facilitated Auction, during the temporary period when the Trading Floor is closed. Specifically, the Exchange has proposed that, if the Exchange facilitates an Auction, DMM Interest will not be eligible to participate if the Auction results in a trade, but will be eligible to participate if the Auction results in a quote. The Exchange states that including DMM Interest in the Exchange's quote resulting from the Auction would assist the DMMs in meeting their obligation to maintain price continuity with reasonable depth in their assigned securities immediately following the Auction. However, under the proposal, DMM Interest would be cancelled if it is priced through either the Auction Price or the Auction Collars, or if it would be marketable with contra-side orders that were not executed in the Auction. The Exchange believes that, by not cancelling DMM Interest that would be marketable against unexecuted orders, DMM Interest could then trade at a price that would be inconsistent with the Auction Price or opening or reopening quote determined in the Exchange-facilitated Auction. The Exchange anticipates that it will be able to implement these proposed rule changes by April 6, 2020. The Commission notes that the proposed rule change would allow DMM Interest to participate in an Exchange-facilitated Auction that results in a quote, provided that the DMM Interest does not price through either the Auction Price or the Auction Collars and would not be marketable against contra-side orders that were not executed in the Auction. The Commission also notes that the proposal should assist DMMs in maintaining price continuity with reasonable depth in their assigned securities immediately following an Exchange-facilitated Auction. Moreover, the Commission notes that the proposal is a temporary measure designed to respond to current, unprecedented market conditions. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2020–29 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–2020–29. 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/*

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2020–29, and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07433 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88560; File No. SR–EMERALD–2020–04]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Fee Schedule

April 3, 2020.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2020, MIAX Emerald, LLC (''MIAX Emerald'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

[2] 17 CFR 240.19b–4.

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

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/emerald,* at MIAX's [sic] 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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The Exchange proposes to amend Section (1)(a)(i) of the Fee Schedule to: (i) Decrease Simple Maker (as defined below) rebates in certain Tiers for options transactions in Penny classes (as defined below) (including SPY, QQQ, and IWM options classes) for Priority Customers;[3] and (ii) increase Simple Taker (as defined below) fees in certain Tiers for options transactions in Penny classes and non-Penny classes for Priority Customers, Market Makers,[4] and Non-MIAX Emerald Market Makers, Firms, Broker-Dealers, and Non-Priority Customers.

Background

The Exchange currently assesses transaction rebates and fees to all market participants which are based upon a threshold tier structure (''Tier'') that is applicable to transaction fees. Tiers are determined on a monthly basis and are based on three alternative calculation methods, as defined in Section (1)(a)(ii) of the Fee Schedule. The calculation method that results in the highest Tier achieved by the Member[5] shall apply to all Origin types by the Member. The monthly volume thresholds for each method, associated with each Tier, are calculated as the total monthly volume executed by the Member in all options classes on MIAX Emerald in the relevant Origins and/or applicable liquidity, not including Excluded Contracts,[6] (as the numerator) expressed as a percentage of (divided by) Customer Total Consolidated Volume (''CTCV'') (as the denominator). CTCV means Customer Total Consolidated Volume calculated as the total national volume cleared at The Options Clearing Corporation (''OCC'') in the Customer range in those classes listed on MIAX Emerald for the month for which fees apply, excluding volume cleared at the OCC in the Customer range executed during the period of time in which the Exchange experiences an ''Exchange System Disruption''[7] (solely in the option classes of the affected Matching Engine).[8] In addition, the per contract transaction rebates and fees shall be applied retroactively to all eligible volume once the Tier has been reached by the Member. Members that place resting liquidity, *i.e.,* orders on the MIAX Emerald System, will be assessed the specified ''maker'' rebate or fee (each a ''Maker'') and Members that execute against resting liquidity will be assessed the specified ''taker'' fee or rebate (each a ''Taker'').[9] Members are

[3] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Exchange Rule 100, including Interpretation and Policy .01.

[4] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[5] ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* the Definitions Section of the Fee Schedule and Exchange Rule 100.

[6] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[7] The term ''Exchange System Disruption'' means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hour or more, during trading hours. *See* the Definitions Section of the Fee Schedule.

[8] A ''Matching Engine'' is a part of the MIAX Emerald electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. *See* the Definitions Section of the Fee Schedule.

[9] For a Priority Customer complex order taking liquidity in both a Penny class and non-Penny class against Origins other than Priority Customer, the

also assessed lower transaction fees and smaller rebates for order executions in standard option classes in the Penny Pilot Program [10] (''Penny classes'') than for order executions in standard option classes which are not in the Penny Pilot Program (''non-Penny classes''), for which Members will be assessed a higher transaction fees and larger rebates.

Currently, transaction rebates and fees for Penny and Non-Penny classes are assessed according to the following tables:

MEMBERS AND THEIR AFFILIATES IN PENNY CLASSES SIMPLE/COMPLEX/PRIME/CPRIME

Origin	Tier	Simple		Complex #			PRIME/cPRIME◊		
		Maker	Taker ^	Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker	Agency	Contra	Responder
Market Maker	1	($0.35)	$0.50	$0.10	$0.47	$0.50	$0.05	$0.05	$0.05
	2	(0.35)	0.50	0.10	0.47	0.50	0.05	0.05	0.05
	3	(0.35)	0.50	0.10	0.47	0.50	0.05	0.05	0.05
	4	(0.45)	0.48	0.10	0.47	0.50	0.05	0.05	0.05
Non-MIAX Emerald Market Maker	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.48	0.20	0.50	0.50	0.05	0.05	0.05
Firm Proprietary/Broker-Dealer	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.49	0.20	0.50	0.50	0.05	0.05	0.05
Non-Priority Customer	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.49	0.20	0.50	0.50	0.05	0.05	0.05
Priority Customer *	1	▽ (0.48)	0.47	(0.25)	(0.25)	(0.25)	0.00	0.05	0.05
	2	▽ (0.48)	0.47	(0.40)	(0.40)	(0.40)	0.00	0.05	0.05
	3	▽ (0.48)	0.47	(0.45)	(0.45)	(0.45)	0.00	0.05	0.05
	4	(0.53)	0.45	(0.50)	(0.50)	(0.50)	0.00	0.05	0.05

MEMBERS AND THEIR AFFILIATES IN NON-PENNY CLASSES SIMPLE/COMPLEX/PRIME/CPRIME

Origin	Tier	Simple		Complex #			PRIME/cPRIME◊		
		Maker	Taker ^	Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker ~	Agency	Contra	Responder
Market Maker	1	($0.45)	$0.99	$0.20	$0.86	$0.88	$0.05	$0.05	$0.05
	2	(0.45)	0.99	0.20	0.86	0.88	0.05	0.05	0.05
	3	(0.45)	0.99	0.20	0.86	0.86	0.05	0.05	0.05
	4	(0.75)	0.94	0.20	0.86	0.86	0.05	0.05	0.05
Non-MIAX Emerald Market Maker	1	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	0.94	0.20	0.88	0.88	0.05	0.05	0.05
Firm Proprietary/Broker-Dealer	1	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	0.94	0.20	0.88	0.88	0.05	0.05	0.05
Non-Priority Customer	1	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	0.99	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	0.94	0.20	0.88	0.88	0.05	0.05	0.05
Priority Customer *	1	(0.85)	0.85	(0.40)	(0.40)	(0.40)	0.00	0.05	0.05
	2	(0.85)	0.85	(0.60)	(0.60)	(0.60)	0.00	0.05	0.05
	3	(0.85)	0.85	(0.70)	(0.70)	(0.75)	0.00	0.05	0.05
	4	(1.05)	0.82	(0.87)	(0.87)	(0.85)	0.00	0.05	0.05

^ Contra to Priority Customer Simple Orders, Origins ex Priority Customer Simple Orders will be charged $0.50 and Priority Customer Simple Orders will be charged $0.49 in Penny classes, and Origins ex Priority Customer Simple Orders will be charged $1.10 and Priority Customer Simple Orders will be charged $0.85 in Non-Penny classes.

Priority Customer order will receive a rebate based on the Tier achieved.

[10] *See* Securities Exchange Act Release No. 85225 (March 1, 2019), 84 FR 68353 (March 7, 2019) (SR–EMERALD–2019–06).

* Priority Customer Complex Orders contra to Priority Customer Complex Orders are neither charged nor rebated. Priority Customer Complex Orders that leg into the Simple book are neither charged nor rebated.

~ A $0.05 Complex surcharge for Origins ex Priority Customer for Complex Orders that take liquidity from the Complex Order Book in Non-Penny classes.

For orders in a Complex Auction, Priority Customer Complex Orders will receive the Complex Taker rebate based on the tier achieved when contra to an Origin that is not a Priority Customer. Origins that are not a Priority Customer will be charged the applicable Maker fee depending on the contra, based on the tier achieved.

◊ For PRIME and cPRIME, the per contract rebate or fee for the preexisting contra-side interest that trades with the Agency side will be waived. PRIME/cPRIME Responder side interest that trades with unrelated Agency side interest trades as Taker will be subject to Simple or Complex rates, as applicable.

▽ Simple Maker rebate in SPY, QQQ and IWM is ($0.50) for Priority Customer Origin in Tiers 1, 2 and 3.

Notes Accompanying Tables Above

During the Opening Rotation and the ABBO uncrossing, the per contract rebate or fee will be waived for all Origins.

Simple Maker Rebates for Priority Customers

First, the Exchange proposes to decrease the Simple Maker rebates in certain Tiers for options transactions in Penny classes (including SPY, QQQ, and IWM options classes) for Priority Customers. Specifically, the Exchange proposes to decrease the Simple Maker rebates for Priority Customer orders in options in certain Penny classes (excluding SPY, QQQ, and IWM) in Tier 1 from (0.48) to (0.43), in Tier 2 from (0.48) to (0.43), and in Tier 3 from (0.48) to (0.43). The Exchange next proposes to amend footnote ''∇'' in Section (1)(a)(i) of the Fee Schedule to decrease the Simple Maker rebate for Priority Customer orders in SPY, QQQ and IWM options classes in Tiers 1, 2 and 3 from (0.50) to (0.45).

Simple Taker Fees for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firm, Broker-Dealers, and Non-Priority Customers in Penny Classes

The Exchange next proposes to increase the Simple Taker fees in certain Tiers for options transactions in Penny classes for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers, and Non-Priority Customers. Specifically, the Exchange proposes to increase the Simple Taker fees for Market Maker orders in options in all Penny classes in Tier 4 from 0.48 to 0.50. The Exchange next proposes to increase the Simple Taker fees for Non-MIAX Emerald Market Maker orders in options in all Penny classes in Tier 4 from 0.48 to 0.50. The Exchange next proposes to increase the Simple Taker fees for Firm Proprietary and Broker-Dealer orders in options in all Penny classes in Tier 4 from 0.49 to 0.50. The Exchange next proposes to increase the Simple Taker fees for Non-Priority Customer orders in options in all Penny classes in Tier 4 from 0.49 to 0.50. The Exchange next proposes to increase the Simple Taker fees for Priority Customer orders contra Origins ex Priority Customer in options in all Penny classes in Tiers 1–3 from 0.47 to 0.50, and in Tier 4 from 0.45 to 0.50. The Exchange next proposes to amend footnote ''∧'' in Section (1)(a)(i) of the Fee Schedule to increase the Taker fees for Simple Priority Customer orders contra Priority Customer in options in Penny classes from 0.49 to 0.50.

Simple Taker Fees for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers, and Non-Priority Customers in Non-Penny Classes

The Exchange next proposes to increase the Simple Taker fees in certain Tiers for options transactions in non-Penny classes for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers and Non-Priority Customers. Specifically, the Exchange proposes to increase the Simple Taker fees for Market Maker orders in options in non-Penny classes in Tiers 1–3 from 0.99 to 1.05, and in Tier 4 from 0.94 to 1.05. The Exchange next proposes to increase the Simple Taker fees for Non-MIAX Emerald Market Maker orders in options in non-Penny classes in Tiers 1–3 from 0.99 to 1.05, and in Tier 4 from 0.94 to 1.05. The Exchange next proposes to increase the Simple Taker fees for Firm Proprietary and Broker-Dealer orders in options in non-Penny classes in Tiers 1–3 from 0.99 to 1.05, and in Tier 4 from 0.94 to 1.05. The Exchange next proposes to increase the Simple Taker fees for Non-Priority Customer orders in options in non-Penny classes in Tiers 1–3 from 0.99 to 1.05, and in Tier 4 from 0.94 to 1.05. Finally, the Exchange proposes to increase the Simple Taker fees for Priority Customer orders contra Origins ex Priority Customer in options in non-Penny classes in Tier 4 from 0.82 to 0.85.

The purpose of adjusting the specified Simple Taker fees and the specified Simple Maker rebates is for business and competitive reasons. In order to attract order flow, the Exchange initially set its Maker rebates and Taker fees so that they were meaningfully higher/lower than other options exchanges that operate comparable maker/taker pricing models.[11] The Exchange now believes that it is appropriate to further adjust these specified Maker rebates and Taker fees so that they are more in line with other exchanges, but will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[12]

With all the proposed changes, Section (1)(a)(i) of the Fee Schedule shall be the following:

MEMBERS AND THEIR AFFILIATES IN PENNY CLASSES SIMPLE/COMPLEX/PRIME/CPRIME

Origin	Tier	Simple		Complex #			PRIME/cPRIME ◊		
		Maker	Taker ∧	Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker	Agency	Contra	Responder
Market Maker	1	($0.35)	$0.50	$0.10	$0.47	$0.50	$0.05	$0.05	$0.05

[11] *See* Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR–EMERALD–2019–15).

[12] *See* Cboe BZX Options Exchange Fee Schedule, under ''Transaction Fees.''

MEMBERS AND THEIR AFFILIATES IN PENNY CLASSES SIMPLE/COMPLEX/PRIME/CPRIME—Continued

Origin	Tier	Simple		Complex #			PRIME/cPRIME ◊		
		Maker	Taker ^	Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker	Agency	Contra	Responder
	2	(0.35)	0.50	0.10	0.47	0.50	0.05	0.05	0.05
	3	(0.35)	0.50	0.10	0.47	0.50	0.05	0.05	0.05
	4	(0.45)	0.50	0.10	0.47	0.50	0.05	0.05	0.05
Non-MIAX Emerald Market Maker	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
Firm Proprietary/Broker-Dealer	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
Non-Priority Customer	1	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	2	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	3	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
	4	(0.25)	0.50	0.20	0.50	0.50	0.05	0.05	0.05
Priority Customer *	1	▽ (0.43)	0.50	(0.25)	(0.25)	(0.25)	0.00	0.05	0.05
	2	▽ (0.43)	0.50	(0.40)	(0.40)	(0.40)	0.00	0.05	0.05
	3	▽ (0.43)	0.50	(0.45)	(0.45)	(0.45)	0.00	0.05	0.05
	4	(0.53)	0.50	(0.50)	(0.50)	(0.50)	0.00	0.05	0.05

MEMBERS AND THEIR AFFILIATES IN NON-PENNY CLASSES SIMPLE/COMPLEX/PRIME/CPRIME

Origin	Tier	Simple		Complex #			PRIME/cPRIME ◊		
		Maker	Taker ^	Maker (contra origins ex priority customer)	Maker (contra priority customer origin)	Taker ~	Agency	Contra	Responder
Market Maker	1	(0.45)	1.05	0.20	0.86	0.88	0.05	0.05	0.05
	2	(0.45)	1.05	0.20	0.86	0.88	0.05	0.05	0.05
	3	(0.45)	1.05	0.20	0.86	0.86	0.05	0.05	0.05
	4	(0.75)	1.05	0.20	0.86	0.86	0.05	0.05	0.05
Non-MIAX Emerald Market Maker	1	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
Firm Proprietary/Broker-Dealer	1	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
Non-Priority Customer	1	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	2	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	3	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
	4	(0.25)	1.05	0.20	0.88	0.88	0.05	0.05	0.05
Priority Customer *	1	(0.85)	0.85	(0.40)	(0.40)	(0.40)	0.00	0.05	0.05
	2	(0.85)	0.85	(0.60)	(0.60)	(0.60)	0.00	0.05	0.05
	3	(0.85)	0.85	(0.70)	(0.70)	(0.75)	0.00	0.05	0.05
	4	(1.05)	0.85	(0.87)	(0.87)	(0.85)	0.00	0.05	0.05

^ Contra to Priority Customer Simple Orders, Origins ex Priority Customer Simple Orders will be charged 0.50 and Priority Customer Simple Orders will be charged 0.50 in Penny classes, and Origins ex Priority Customer Simple Orders will be charged 1.10 and Priority Customer Simple Orders will be charged 0.85 in Non-Penny classes.

* Priority Customer Complex Orders contra to Priority Customer Complex Orders are neither charged nor rebated. Priority Customer Complex Orders that leg into the Simple book are neither charged nor rebated.

~ A 0.05 Complex surcharge for Origins ex Priority Customer for Complex Orders that take liquidity from the Complex Order Book in Non-Penny classes.

For orders in a Complex Auction, Priority Customer Complex Orders will receive the Complex Taker rebate based on the tier achieved when contra to an Origin that is not a Priority Customer. Origins that are not a Priority Customer will be charged the applicable Maker fee depending on the contra, based on the tier achieved.

◊ For PRIME and cPRIME, the per contract rebate or fee for the preexisting contra-side interest that trades with the Agency side will be waived. PRIME/cPRIME Responder side interest that trades with unrelated Agency side interest trades as Taker will be subject to Simple or Complex rates, as applicable.

▽ Simple Maker rebate in SPY, QQQ and IWM is (0.45) for Priority Customer Origin in Tiers 1, 2 and 3.

Notes Accompanying Tables Above

During the Opening Rotation and the ABBO uncrossing, the per contract rebate or fee will be waived for all Origins

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [13]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% market share.[14] Therefore, no exchange possesses significant pricing power. More specifically, as of March 24, 2020, the Exchange had an approximately 3.42% market share of executed volume of multiply-listed equity and exchange traded fund (''ETF'') options for the month of March 2020.[15] The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can discontinue or reduce use of certain categories of products and services, terminate an existing membership or determine to not become a new member, and/or shift order flow, in response to transaction fee changes. For example, on February 28, 2019, the Exchange's affiliate, MIAX PEARL, LLC (''MIAX PEARL'') filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[16] MIAX PEARL experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that the MIAX PEARL March 1, 2019 fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX PEARL's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The proposed changes are scheduled to become operative April 1, 2020.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [17] in general, and furthers the objectives of Section 6(b)(4) of the Act,[18] in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using its facilities, and 6(b)(5) of the Act,[19] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes its proposal to decrease Simple Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers and increase Simple Taker fees in certain Tiers for options transactions in Penny classes and non-Penny classes for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers and Non-Priority Customers provides for the equitable allocation of reasonable dues and fees and is not unfairly discriminatory for the following reasons. The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20] There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than approximately 15% of the market share of executed volume of multiply-listed equity and ETF options trades as of March 24, 2020, for the month of March 2020.[21] Therefore, no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, as of March 24, 2020, the Exchange had an approximately 3.42% market share of executed volume of multiply-listed equity and ETF options for the month of March 2020.[22] The Exchange cannot predict with certainty the number of market participants that would qualify for the higher Simple Taker fees or lower Simple Maker rebates for each of the proposed changes as Members may continually shift among the different Tiers from month to month.

The Exchange believes that the ever-shifting market shares among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to transaction and/or non-transaction fee changes. For example, on February 28, 2019, the Exchange's affiliate, MIAX PEARL, filed with the Commission a proposal to increase Taker fees in certain Tiers for options transactions in certain Penny classes for Priority Customers and decrease Maker rebates in certain Tiers for options transactions in Penny classes for Priority Customers (which fee was to be effective March 1, 2019).[23] MIAX PEARL experienced a decrease in total market share for the month of March 2019, after the proposal went into effect. Accordingly, the Exchange believes that the MIAX PEARL March 1, 2019 fee change, to increase certain transaction fees and decrease certain transaction rebates, may have contributed to the decrease in MIAX PEARL's market share and, as such, the Exchange believes competitive forces constrain the Exchange's, and other options exchanges, ability to set transaction fees and market participants can shift order flow based on fee changes instituted by the exchanges.

The Exchange believes its proposal to decrease Simple Maker rebates in

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[14] The Options Clearing Corporation (''OCC'') publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/market-data/volume/default.jsp.*

[15] *See id.*

[16] *See* Securities Exchange Act Release No. 85304 (March 13, 2019), 84 FR 10144 (March 19, 2019) (SR–PEARL–2019–07).

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(4).

[19] 15 U.S.C. 78f(b)(1) and (b)(5).

[20] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[21] *See supra* note 14.

[22] *See id.*

[23] *See supra* note 16.

certain Tiers for options transactions in Penny classes for Priority Customers and increase Simple Taker fees in certain Tiers for options transactions in Penny classes and non-Penny classes for Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers and Non-Priority Customers is reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Maker rebates and Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes it is equitable and not unfairly discriminatory to reduce the Simple Maker rebate to Priority Customer orders in Penny classes for competitive and business reasons because the Exchange initially set its Simple Maker rebates for such orders higher than certain other options exchanges that operate comparable maker/taker pricing models.[24] The Exchange now believes that it is appropriate to further decrease those specified Simple Maker rebates so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share.[25]

Furthermore, the proposed decreases to the Simple Maker rebates for Priority Customers promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in facilitating transactions in securities, and protects investors and the public interest, because even with the decreases, the Exchange's proposed Simple Maker rebates for such orders still remain highly competitive with certain other options exchanges offering comparable pricing models, and should enable the Exchange to continue to attract order flow and maintain market share.[26] The Exchange believes that the amount of such fees, as proposed to be decreased, will continue to encourage those market participants to send orders to the Exchange. The Exchange further believes that it is appropriate to decrease the Simple Maker rebates for Priority Customers in SPY, QQQ and IWM options classes because these select products are generally more liquid than other options classes.

The proposed Simple Taker fee adjustments in certain specified Tiers applicable to certain orders submitted by Priority Customers, Market Makers, Non-MIAX Emerald Market Makers, Firms, Broker-Dealers and Non-Priority Customers in Penny and non-Penny classes are reasonable, equitable and not unfairly discriminatory because all similarly situated market participants in the same Origin type are subject to the same tiered Taker fees and access to the Exchange is offered on terms that are not unfairly discriminatory. For competitive and business reasons, the Exchange initially set its Simple Taker fees for such orders generally lower than certain other options exchanges that operate comparable maker/taker pricing models.[27] The Exchange now believes that it is appropriate to further increase those specified Simple Taker fees so that they are more in line with other exchanges, and will still remain highly competitive such that they should enable the Exchange to continue to attract order flow and maintain market share. The Exchange believes for these reasons that increasing certain Simple Taker fees for transactions in the specified Tiers is equitable, reasonable and not unfairly discriminatory, and thus consistent with the Act.

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

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes in the specified Simple Maker rebates and Simple Taker fees for the applicable market participants should continue to encourage the provision of liquidity that enhances the quality of the Exchange's market and increases the number of trading opportunities on the Exchange for all participants who will be able to compete for such opportunities. The proposed rule changes should enable the Exchange to continue to attract and compete for order flow with other exchanges. However, this competition does not create an undue burden on competition but rather offers all market participants the opportunity to receive the benefit of competitive pricing.

The proposed Simple Maker rebate decreases and Simple Taker fee adjustments are intended to keep the Exchange's fees highly competitive with those of other exchanges, and to encourage liquidity and should enable the Exchange to continue to attract and compete for order flow with other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its rebates and fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that encourages market participants to continue to provide liquidity and to send order flow to the Exchange.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[28] and Rule 19b–4(f)(2)[29] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EMERALD–2020–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–EMERALD–2020–04. This file number should be included on the

[24] *See supra* note 11.

[25] *See supra* note 12.

[26] *See id.*

[27] *See supra* notes 11 and 12.

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

[29] 17 CFR 240.19b–4(f)(2).

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–EMERALD–2020–04, and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07435 Filed 4–8–20; 8:45 am]

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[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88558; File No. SR–CboeBZX–2020–007]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Eliminate the Requirement That an Intraday Indicative Value Be Disseminated as Set Forth Under Rule 14.11(c) for Certain Series of Index Fund Shares and Under Rule 14.11(i) for All Series of Managed Fund Shares

April 3, 2020.

I. Introduction

On February 14, 2020, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to eliminate the requirements that an intraday indicative value be disseminated under Rule 14.11(c) (Index Fund Shares) for certain series of Index Fund Shares and under Rule 14.11(i) (Managed Fund Shares) for all series of Managed Fund Shares. The proposed rule change was published for comment in the **Federal Register** on February 27, 2020.[3] On March 18, 2020, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comments on the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1

BZX Rules 14.11(c) and 14.11(i) govern the listing and trading of Index Fund Shares and Managed Fund Shares, respectively, on the Exchange. BZX Rules 14.11(c)(3)(C), (c)(6)(A), and (c)(9)(B)(i)(e) as well as BZX Rules 14.11(i)(4)(B)(i) and (i)(4)(B)(iii)(b) require that an intraday estimate of the value of a share of each series (''IIV'') be disseminated and updated at least every 15 seconds. The Exchange proposes to eliminate the requirement to disseminate an IIV for all series of Managed Fund Shares and for each series of Index Fund Shares that publishes its ''Portfolio Holdings''[5] on its website on a daily basis. The Exchange also proposes to make corresponding changes to the Managed Fund Shares listing standards to remove the term ''Intraday Indicative Value'' from the definitional section and to eliminate the provisions relating to halting trading in a series of Managed Fund Shares when there is an interruption to the dissemination of the shares' IIV.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act and rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,[7] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As discussed above, BZX proposes to eliminate the IIV dissemination requirement for all series of Managed Fund Shares, all of which are subject to a portfolio dissemination requirement,[8]

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 88259 (February 21, 2020), 85 FR 11419 (''Notice'').

[4] In Amendment No. 1, the Exchange made various technical changes. Accordingly, Amendment No. 1 is not subject to notice and comment. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-cboebzx-2020-007/srcboebzx2020007-6993239-214728.pdf.*

[5] The Exchange is proposing to define ''Portfolio Holdings'' as the holdings of a particular series of Index Fund Shares that will form the basis for the calculation of its net asset value at the end of the business day, and includes the following information, to the extent applicable: (i) Ticker symbol; (ii) CUSIP or other identifier; (iii) description of the holding; (iv) identity of the security, commodity, index, or other asset upon which the derivative is based; (v) the strike price for any options; (vi) the quantity of each security or other asset held as measured by: (a) Par value; (b) notional value; (c) number of shares; (d) number of contracts; and (e) number of units; (vii) maturity date; (viii) coupon rate; (ix) effective date; (x) market value; and (xi) percentage weighting of the holding in the portfolio. *See* proposed BZX Rule 14.11(c)(1)(F).

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* BZX Rule 14.11(i)(4)(B)(ii)(a) (requiring that the Disclosed Portfolio for a series of Managed Fund Shares be disseminated at least once daily and be made available to all market participants at the same time; and BZX Rule 14.11(i)(4)(B)(iii)(b) (requiring that the Exchange consider suspension of trading in and commence delisting proceedings for a series of Managed Fund Shares where the

and for those series of Index Fund Shares that publish their Portfolio Holdings on a daily basis.[9] The Exchange's proposal is narrowly tailored to series of exchange-traded funds (''ETFs'') with daily portfolio holdings disclosure. The Commission believes that the transparency that comes from daily portfolio holdings disclosure should provide market participants with sufficient information to facilitate the intraday valuation of the shares of a series of Managed Fund Shares or Index Fund Shares without the additional requirement to disseminate an IIV.[10]

Accordingly, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is designed to, among other things, remove impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act[11] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CboeBZX–2020–007), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

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Disclosed Portfolio is not made available to all market participants at the same time).

[9] Under BZX's Index Fund Shares listing rule, only certain series of Index Fund Shares are required to disclose their portfolio holdings daily. *See* BZX Rule 14.11(c)(1)(B)(iv).

[10] The Commission notes that last year it adopted Rule 6c–11 under the Investment Company Act of 1940 (''1940 Act'') to permit ETFs that satisfy certain conditions to operate without obtaining an exemptive order from the Commission under the 1940 Act. *See* Investment Company Act Release No. 33646 (September 25, 2019), 84 FR 57162, 57180 (October 24, 2019) (''Adopting Release''). *See also* 17 CFR 270.6c–11. Rule 6c–11 does not require ETFs to disseminate an IIV as a condition for reliance on the rule. In the Adopting Release, the Commission stated that dissemination of an IIV ''is not necessary to support the arbitrage mechanism for ETFs that provide daily portfolio holdings disclosure.'' *See* Adopting Release at 57179–80. Instead, the daily portfolio holdings disclosure required by the rule ''will provide market participants with the relevant data to input into their internal algorithms and thus allow them to determine if arbitrage opportunities exist.'' *See id.*

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88556; File No. SR–FINRA–2020–010]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Compliance Date for SR–FINRA–2019–014

April 3, 2020.

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 April 1, 2020, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

FINRA is proposing to provide members with additional time to comply with the amendments adopted by SR–FINRA–2019–014 related to transactions in U.S. Treasury Securities executed to hedge certain primary market transactions.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

On June 21, 2019, the SEC approved SR–FINRA–2019–014, which amended FINRA Rule 6730 (Transaction Reporting) to: (a) provide members until the close of TRACE System Hours on the next business day (*i.e.,* until 6:29:59 p.m. ET on T+1) to report transactions in U.S. Treasury Securities[4] executed to hedge a P1[5] transaction, and (b) require members to append a new trade modifier when reporting TRACE transactions in U.S. Treasury Securities that are executed to hedge a P1 transaction.[6] On September 19, 2019, FINRA published *Regulatory Notice* 19–30 announcing SEC approval of the proposed rule change and establishing an effective date of June 1, 2020.[7]

In light of significant impacts that the spread of coronavirus disease (COVID–19) may have on member firms, FINRA is extending the effective date of the amendments adopted by SR–FINRA–2019–014 related to U.S. Treasury

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

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Rule 6710(p) defines a ''U.S. Treasury Security'' as ''a security, other than a savings bond, issued by the U.S. Department of the Treasury to fund the operations of the federal government or to retire such outstanding securities.'' The term ''U.S. Treasury Security'' also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (''STRIPS'') program operated by the U.S. Department of Treasury.

[5] ''List or Fixed Offering Price Transactions'' and ''Takedown Transactions,'' which are identified with the ''P1'' modifier, generally are primary market sale transactions on the first day of trading of a security: (i) By a sole underwriter, syndicate manager, syndicate member or selling group member at the published or stated list or fixed offering price (or, for Takedown Transactions, at a discount from the published or stated list or fixed offering price) or (ii) in the case of primary market sale transactions effected pursuant to Securities Act Rule 144A, by an initial purchaser, syndicate manager, syndicate member or selling group member at the published or stated fixed offering price (or, for Takedown Transactions, at a discount from the published or stated fixed offering price). *See* Rule 6710(q) and (r).

[6] *See* Securities Exchange Act Release No. 86178 (June 21, 2019), 84 FR 30783 (June 27, 2019) (Order Approving File No. SR–FINRA–2019–014).

[7] *See Regulatory Notice* 19–30 (SEC Approves Amendments Relating to Transactions in U.S. Treasury Securities Executed to Hedge a Primary Market Transaction) (September 19, 2019).

Security hedge transactions to allow members additional time to prepare for implementation of the new requirements. FINRA believes that, given the need for members to reallocate resources in response to COVID–19, members would benefit from additional time to, among other things, implement and test technology changes, update policies and procedures, and perform staff training related to implementation of the U.S. Treasury Security hedge amendments. FINRA notes that the implementation delay will not impact transparency because transactions in U.S. Treasury Securities currently are not disseminated.

FINRA has filed the proposed rule change for immediate effectiveness. The new operative date of the amendments adopted by SR–FINRA–2019–014 will be August 3, 2020.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest and Section 15A(b)(9) of the Act,[9] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

FINRA believes that providing members with additional time to comply with the changes adopted by SR–FINRA–2019–014 will ease compliance burdens for members as they reallocate resources in response to COVID–19. FINRA notes that the implementation delay will not impact transparency because transactions in U.S. Treasury Securities currently are not disseminated.

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

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would provide all affected members additional time to prepare for the implementation of the new U.S. Treasury Security hedging requirements, which should ease members' implementation burdens given the need to reallocate resources in response to COVID–19.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] 15 U.S.C. 78o–3(b)(9).

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

Written comments were neither solicited nor received.

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act [12] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form *http://www.sec.gov;/rules/sro.shtml;* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2020–010 on the subject line.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived the pre-filing requirement.

[12] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2020–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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 FINRA. 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–FINRA–2020–010 and should be submitted on or before April 30, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–07436 Filed 4–8–20; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16412 and #16413; OREGON Disaster Number OR–00100]

Presidential Declaration of a Major Disaster for the State of Oregon

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Oregon (FEMA–4519–DR), dated 04/03/2020.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/05/2020 through 02/09/2020.

DATES: Issued on 04/03/2020.

Physical Loan Application Deadline Date: 06/02/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 01/04/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/03/2020, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Umatilla and the Confederated Tribes of the Umatilla Indian Reservation.

Contiguous Counties (Economic Injury Loans Only):

Oregon: Grant, Morrow, Union, Wallowa.

Washington: Benton, Columbia, Walla Walla.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.125
Homeowners without Credit Available Elsewhere	1.563
Businesses with Credit Available Elsewhere	7.500
Businesses without Credit Available Elsewhere	3.750
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.750
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 164126 and for economic injury is 164130.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2020–07479 Filed 4–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16414 and #16415; OREGON Disaster Number OR–00102]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Oregon

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of OREGON (FEMA–4519–DR), dated 04/03/2020.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/05/2020 through 02/09/2020.

DATES: Issued on 04/03/2020.

Physical Loan Application Deadline Date: 06/02/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 01/04/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/03/2020, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Umatilla, Union, Wallowa, and the Confederated Tribes of the Umatilla Indian Reservation.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	2.750
Non-Profit Organizations without Credit Available Elsewhere	2.750
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.750

The number assigned to this disaster for physical damage is 164146 and for economic injury is 164150.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2020–07486 Filed 4–8–20; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

Disaster Declarations of Economic Injury for the Coronavirus (COVID–19); Administrative Declarations of Economic Injury Disasters for the Entire United States and U.S. Territories

AGENCY: U.S. Small Business Administration.

ACTION: Correction.

SUMMARY: This is a correction of the notice of Economic Injury Disaster Loan (EIDL) declarations issued for each State and Territory of the U.S.

Incident: Coronavirus (COVID–19).

Incident Period: 01/31/2020 and continuing.

DATES: Issued between 03/16/2020 to 03/21/2020.

Economic Injury (EIDL) Loan Application Deadline Date: 12/31/2020.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: This Notice is to correct the deadline date to file an application until 12/31/2020. This Notice is also corrected to remove the credit elsewhere limitation. As a result of the Administrator's EIDL declarations, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations. For additional information, please visit *SBA.gov/disaster.* For questions, please contact

the SBA disaster assistance customer service center at 1–800–659–2955 (TTY: 1–800–877–8339) or email *disastercustomerservice@sba.gov.*

The following United States and U.S. Territories have been determined to be adversely affected by the disaster:

CORONAVIRUS (COVID–19) EIDL DISASTER DECLARATIONS

State	Declaration #	Disaster #	Disaster description	Declaration date	Deadline date
ALABAMA	16364	AL–00104	Coronavirus (COVID–19)	03/20/2020	12/31/2020
ALASKA	16386	AK–00046	Coronavirus (COVID–19)	03/21/2020	12/31/2020
AMERICAN SAMOA	16389	AS–00008	Coronavirus (COVID–19)	03/21/2020	12/31/2020
ARIZONA	16350	AZ–00065	Coronavirus (COVID–19)	03/19/2020	12/31/2020
ARKANSAS	16372	AR–00109	Coronavirus (COVID–19)	03/20/2020	12/31/2020
CALIFORNIA	16332	CA–00313	Coronavirus (COVID–19)	03/16/2020	12/31/2020
COLORADO	16367	CO–00113	Coronavirus (COVID–19)	03/19/2020	12/31/2020
CONNECTICUT	16335	CT–00046	Coronavirus (COVID–19)	03/16/2020	12/31/2020
DELAWARE	16342	DE–00024	Coronavirus (COVID–19)	03/18/2020	12/31/2020
DISTRICT OF COLUMBIA	16336	DC–00008	Coronavirus (COVID–19)	03/17/2020	12/31/2020
FLORIDA	16353	FL–00152	Coronavirus (COVID–19)	03/18/2020	12/31/2020
GEORGIA	16347	GA–00116	Coronavirus (COVID–19)	03/18/2020	12/31/2020
GUAM	16388	GU–00008	Coronavirus (COVID–19)	03/21/2020	12/31/2020
HAWAII	16369	HI–00056	Coronavirus (COVID–19)	03/20/2020	12/31/2020
IDAHO	16379	ID–00079	Coronavirus (COVID–19)	03/20/2020	12/31/2020
ILLINOIS	16370	IL–00059	Coronavirus (COVID–19)	03/19/2020	12/31/2020
INDIANA	16348	IN–00073	Coronavirus (COVID–19)	03/18/2020	12/31/2020
IOWA	16382	IA–00091	Coronavirus (COVID–19)	03/21/2020	12/31/2020
KANSAS	16385	KS–00132	Coronavirus (COVID–19)	03/21/2020	12/31/2020
KENTUCKY	16377	KY–00080	Coronavirus (COVID–19)	03/20/2020	12/31/2020
LOUISIANA	16351	LA–00101	Coronavirus (COVID–19)	03/19/2020	12/31/2020
MAINE	16334	ME–00052	Coronavirus (COVID–19)	03/16/2020	12/31/2020
MARYLAND	16376	MD–00041	Coronavirus (COVID–19)	03/19/2020	12/31/2020
MASSACHUSETTS	16344	MA–00078	Coronavirus (COVID–19)	03/18/2020	12/31/2020
MICHIGAN	16356	MI–00081	Coronavirus (COVID–19)	03/19/2020	12/31/2020
MINNESOTA	16365	MN–00080	Coronavirus (COVID–19)	03/20/2020	12/31/2020
MISSISSIPPI	16362	MS–00122	Coronavirus (COVID–19)	03/20/2020	12/31/2020
MISSOURI	16387	MO–00104	Coronavirus (COVID–19)	03/21/2020	12/31/2020
MONTANA	16340	MT–00129	Coronavirus (COVID–19)	03/17/2020	12/31/2020
NEBRASKA	16371	NE–00081	Coronavirus (COVID–19)	03/20/2020	12/31/2020
NEVADA	16341	NV–00057	Coronavirus (COVID–19)	03/17/2020	12/31/2020
NEW HAMPSHIRE	16343	NH–00049	Coronavirus (COVID–19)	03/18/2020	12/31/2020
NEW JERSEY	16349	NJ–00057	Coronavirus (COVID–19)	03/18/2020	12/31/2020
NEW MEXICO	16339	NM–00064	Coronavirus (COVID–19)	03/17/2020	12/31/2020
NEW YORK	16346	NY–00197	Coronavirus (COVID–19)	03/19/2020	12/31/2020
NORTH CAROLINA	16345	NC–00115	Coronavirus (COVID–19)	03/18/2020	12/31/2020
NORTH DAKOTA	16366	ND–00080	Coronavirus (COVID–19)	03/20/2020	12/31/2020
COMMONWEALTH of NORTHERN MARIANA ISLANDS.	16390	MP–00013	Coronavirus (COVID–19)	03/21/2020	12/31/2020
OHIO	16355	OH–00077	Coronavirus (COVID–19)	03/19/2020	12/31/2020
OKLAHOMA	16373	OK–00135	Coronavirus (COVID–19)	03/20/2020	12/31/2020
OREGON	16378	OR–00101	Coronavirus (COVID–19)	03/20/2020	12/31/2020
PENNSYLVANIA	16360	PA–00104	Coronavirus (COVID–19)	03/19/2020	12/31/2020
PUERTO RICO	16380	PR–00036	Coronavirus (COVID–19)	03/20/2020	12/31/2020
RHODE ISLAND	16337	RI–00021	Coronavirus (COVID–19)	03/17/2020	12/31/2020
SOUTH CAROLINA	16352	SC–00067	Coronavirus (COVID–19)	03/19/2020	12/31/2020
SOUTH DAKOTA	16374	SD–00102	Coronavirus (COVID–19)	03/20/2020	12/31/2020
TENNESSEE	16375	TN–00119	Coronavirus (COVID–19)	03/20/2020	12/31/2020
TEXAS	16381	TX–00544	Coronavirus (COVID–19)	03/20/2020	12/31/2020
US VIRGIN ISLANDS	16383	VI–00015	Coronavirus (COVID–19)	03/21/2020	12/31/2020
UTAH	16338	UT–00066	Coronavirus (COVID–19)	03/17/2020	12/31/2020
VERMONT	16361	VT–00040	Coronavirus (COVID–19)	03/20/2020	12/31/2020
VIRGINIA	16359	VA–00087	Coronavirus (COVID–19)	03/19/2020	12/31/2020
WASHINGTON	16333	WA–00083	Coronavirus (COVID–19)	03/16/2020	12/31/2020
WEST VIRGINIA	16354	WV–00052	Coronavirus (COVID–19)	03/19/2020	12/31/2020
WISCONSIN	16363	WI–00072	Coronavirus (COVID–19)	03/20/2020	12/31/2020
WYOMING	16368	WY–00049	Coronavirus (COVID–19)	03/20/2020	12/31/2020

The Interest Rates are:

	Percent
Small Businesses and Small Agricultural Cooperatives	3.750
Non-Profit Organizations	2.750

(Catalog of Federal Domestic Assistance Number 59008)

Jovita Carranza,

Administrator.

[FR Doc. 2020–07501 Filed 4–8–20; 8:45 am]

BILLING CODE 8026–03–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Fiscal Year 2020 Allocation of Additional Tariff-Rate Quota Volume for Raw Cane Sugar and Refined Sugar

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice of the allocations of additional Fiscal Year (FY) 2020 in-quota quantities of the tariff-rate quotas (TRQ) for imported raw cane and refined sugars as announced by the Secretary of Agriculture on April 3, 2020.

DATES: This notice is applicable on April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Erin Nicholson, Office of Agricultural Affairs, at (202) 395–9419 or *Erin.H.Nicholson@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), the United States maintains TRQs for imports of raw cane and refined sugar. Section 404(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3601(d)(3)) authorizes the President to allocate the in-quota quantity of a TRQ for any agricultural product among supplying countries or customs areas. The President delegated this authority to the United States Trade Representative under Presidential Proclamation 6763 (60 FR 1007, January 4, 1995).

On April 3, 2020, the Secretary of Agriculture announced an additional in-quota quantity of the TRQ for raw cane sugar for the remainder of FY 2020 (ending September 30, 2020) in the amount of 317,515 metric tons raw value (MTRV). *See* 85 FR 18913. The conversion factor is 1 metric ton equals 1.10231125 short tons. This quantity is in addition to the minimum amount to which the United States is committed under the World Trade Organization Uruguay Round Agreements (1,117,195 MTRV). USTR is allocating this additional quantity of 317,515 MTRV to the following countries in the amounts specified below:

Country	FY 2020 raw sugar TRQ increase allocation (MTRV)
Argentina	19,185
Australia	37,032
Barbados	3,123
Belize	4,908
Bolivia	3,569
Brazil	64,694
Colombia	10,708
Costa Rica	6,692
DR	30,000
Ecuador	4,908
El Salvador	11,600
Eswatini (Swaziland)	7,139
Fiji	4,015
Guatemala	21,417
Guyana	5,354
Honduras	4,462
India	3,569
Malawi	4,462
Mauritius	5,354
Mozambique	5,800
Nicaragua	9,369
Panama	10,000
Peru	18,293
South Africa	10,262
Thailand	6,246
Zimbabwe	5,354
Total	317,515

USTR based these allocations on the countries' historical shipments to the United States. The allocations of the raw cane sugar TRQ to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications of origin, and certificates for quota eligibility must accompany imports from any country for which an allocation has been provided.

The Secretary of Agriculture also announced an increase in the FY 2020 refined sugar TRQ of 181,437 MTRV. USTR is allocating 5,000 MTRV of the additional quantity to Canada and the rest of the increase (176,437 MTRV) to the global tariff-rate quota, which may be supplied by any country on a first-come, first-served basis in seven tranches as follows:

Month	Day	FY 2020 refined sugar TRQ increased allocation (MTRV)
April	13	95,000
April	27	20,000
May	11	15,000
May	18	12,000
June	1	12,000
June	15	12,000
June	29	10,437

No certificate for quota eligibility is required for sugar entering under the global TRQ for refined sugar.

Gregory Doud,

Chief Agricultural Negotiator. Office of the United States Trade Representative.

[FR Doc. 2020–07502 Filed 4–8–20; 8:45 am]

BILLING CODE 3290–F0–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2020–0014]

Program Approval; Canadian National Railway

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of approval.

SUMMARY: FRA is issuing this notice to explain its rationale for approving a Canadian National Railway (CN) petition for a Test Program designed to test track inspection technologies (*i.e.,* an autonomous track geometry measurement system) and new operational approaches to track inspections and its rationale for granting a limited, temporary suspension of a substantive FRA rule that is necessary to facilitate the conduct of the Test Program.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track Division, Office of Railroad Safety, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6460 or email *yujiang.zhang@dot.gov*; Aaron Moore, Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–7009 or email *aaron.moore@dot.gov.*

SUPPLEMENTARY INFORMATION: On December 11, 2019, CN petitioned FRA under Title 49 Code of Federal Regulations (CFR) Section 211.51 to suspend certain requirements of FRA's track safety regulations to conduct a program to test new track inspection technologies (*i.e.,* an autonomous track geometry measurement system) and new operational approaches to track

inspections. CN also submitted a written Test Program providing a description of the proposed tests and the geographic scope of the testing territory.

The Test Program specifies that the tests will be conducted on approximately 1,204 miles of main line and siding tracks on CN's corridor between Chicago and New Orleans, spanning 11 subdivisions.

The Test Program is designed to test autonomous track geometry measurement systems and gradually decrease manual visual inspections as an alternative to FRA's inspection frequency requirements. CN indicates that it will continue to use other inspection technologies during the Test Program, including: (1) Vehicle Track Interaction monitoring systems; (2) ultrasonic rail inspection systems; and (3) optical joint bar inspection systems. The Test Program will be carried out in four separate phases over the course of 12 months, as detailed in Exhibit C of the Test Program (available for review at *www.regulations.gov* (docket number FRA–2020–0014)).

After review and analysis of CN's petition for a Test Program, subject to certain conditions designed to ensure safety, FRA approved CN's Test Program and suspended the requirements of 49 CFR 213.233(b)(3) [1] and (c) as necessary to carry out the Test Program. A copy of FRA's letter approving CN's Test Program and granting the requested limited temporary suspension of 49 CFR 213.233(b)(3) and (c), as well as a complete copy of the Test Program, is available in docket number FRA–2020–0014 at *www.regulations.gov.* FRA's letter approving CN's Test Program and granting the requested limited temporary suspension of certain regulations specifically details the conditions CN will need to undertake during the Test Program. As required by 49 CFR 211.51(c), FRA is providing this explanatory statement describing the Test Program.

As explained more fully in its approval letter, FRA finds that the temporary, limited suspension of 49 CFR 213.233(b)(3) and (c) is necessary to the conduct of the approved Test Program, which is specifically designed to evaluate the effectiveness of new automated track inspection technologies and operational methods. Furthermore, FRA also finds that the scope and application of the granted suspension of 49 CFR 213.233(b)(3) and (c) as applied to the Test Program are limited to that necessary to conduct the Test Program. Finally, FRA's approval letter outlines the conditions of the Test Program that will ensure standards sufficient to assure safety.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2020–07427 Filed 4–8–20; 8:45 am]

BILLING CODE 4910–06–P

[1] The suspension of 49 CFR 213.233(b)(3) only applies to Phases 3 and 4 of the Test Program.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Notice of Funding Opportunity for America's Marine Highway Projects

AGENCY: Maritime Administration, DOT.

ACTION: Notice of funding opportunity.

SUMMARY: This notice announces the availability of funding for grants and establishes selection criteria and application requirements for the Short Sea Transportation Program, commonly referred to as the America's Marine Highway Program (AMHP). The purpose of this program is to make grants available to previously designated Marine Highway Projects that support the development and expansion of documented vessels, or port and landside infrastructure. The U.S. Department of Transportation (Department) will award Marine Highway Grants to implement projects or components of projects previously designated by the Secretary of Transportation (Secretary) under AMHP. Only Marine Highway Projects the Secretary designated before the Notice of Funding Opportunity closing date are eligible for funding as described in this notice.

DATES: Applications must be received by the Maritime Administration by 5 p.m. EDT on April 24, 2020.

ADDRESSES: Grant applications must be submitted electronically using *Grants.gov* (*https://www.grants.gov*). Please be aware that you must complete the *Grants.gov* registration process before submitting your application, and that the registration process usually takes 2 to 4 weeks to complete. Applicants are strongly encouraged to make submissions in advance of the deadline.

FOR FURTHER INFORMATION CONTACT: Fred Jones, Office of Ports & Waterways Planning, Room W21–311, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, phone 202–366–1123, or email *Fred.Jones@dot.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Each section of this Notice contains information and instructions relevant to the application process for these Marine Highway Grants, and all applicants should read this Notice in its entirety so that they have the information they need to submit eligible and competitive applications. Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties as outlined below in Section D.4.

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A. Program Description

The Secretary, in accordance with 46 U.S.C. 55601, established a short sea transportation grant program to implement projects or components of designated Marine Highway Projects. The grant funds currently available are for projects related to documented vessels and port and landside infrastructure.

The America's Marine Highway Program Office (Program Office) follows a three-step approach when supporting investment opportunities for Marine Highway services. The first step is designation of a Marine Highway Route by the Secretary. The Department accepts Marine Highway Route Designation requests at any time from Route Sponsors. Once a Route is designated, the second step is designation as a Marine Highway Project by the Secretary. Marine Highway Projects represent concepts for new services or expansions of existing marine highway services on designated Marine Highway Routes that use documented vessels and mitigate land congestion or promote short sea transportation. MARAD will announce by notice in the **Federal Register** open season periods to allow Project Applicants opportunities to submit Marine Highway Project Designation applications. A Project Applicant must receive a Project Designation for that project to then become eligible for Marine Highway Grant funding, the

third step referenced above. Marine Highway Grant funding (the subject of this NOFO) is provided to successful public and private sector applicants as funds are appropriated by Congress.

The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) appropriated $9,775,000 for Marine Highway Grants.

B. Federal Award Information

The total funding available for awards under this NOFO is $9,481,750, after $293,250 is set aside for MARAD grant administration and oversight.

MARAD will seek to obtain the maximum benefit from the available funding by awarding grants to as many qualified projects as possible; however, in accordance with 46 U.S.C. 55601(g)(3), MARAD shall give preference to those projects or components that present the most financially viable transportation services and require the lowest percentage of Federal share of the costs. Depending on the characteristics of the pool of qualified applications, it is possible MARAD may award all funds to a single project. MARAD may also award grants supporting a portion of a project described in an application by selecting discrete components. The start date and period of performance for each award will be determined by mutual agreement of MARAD and each grant recipient. MARAD will administer each Marine Highway Grant pursuant to a grant agreement with the Marine Highway Grant recipient, and funds will be administered on a reimbursable basis.

Prior recipients of Marine Highway Grants may apply for funding to support additional phases of a designated project. However, to be competitive, the grant applicant should demonstrate the extent to which the previously funded project phase has met estimated project schedules and budget, as well as the ability to realize the benefits expected for the new award.

C. Eligibility Information

To be selected for a Marine Highway Grant, an applicant must be an Eligible Applicant, and the project must be an Eligible Project.

1. Eligible Applicants

Eligible applicants for funding available under this Notice are an original Project Applicant of a project that the Secretary has previously designated as a Marine Highway Project or a substitute (which can be either a public entity or a private-sector entity who has been referred to the Program Office by the original Project Applicant, with a written explanation, as part of the application). Original Project Applicants are defined as those public entities named by the Secretary in the original designated project. Grant applicants must have operational, or administrative areas of responsibility, that are adjacent to or near the relevant designated Marine Highway Project. Eligible grant applicants include State governments (including State departments of transportation), metropolitan planning organizations, port authorities, and tribal governments, or private sector operators of marine highway services within designated Marine Highway Projects.

Grant applicants are encouraged to develop coalitions and public/private partnerships, which might include vessel owners and operators; third-party logistics providers; trucking companies; shippers; railroads; port authorities; state, regional, and local transportation planners; environmental organizations; impacted communities; or any combination of entities working in collaboration on a single grant application that can be submitted by the original Project Applicant or their designated substitute. All successful grant applicants, whether they are public or private entities, must comply with all Federal requirements.

If multiple applicants submit a joint grant application, they must identify a lead grant applicant as the primary point of contact. Joint grant applications must include a description of the roles and responsibilities of each applicant, including designating the one entity that will receive the Federal funds directly from MARAD, and must be signed by each applicant.

2. Cost Sharing or Matching

An applicant must provide at least 20 percent of project costs from non-Federal sources. The application should demonstrate, such as through a letter or other documentation, the sources of these funds. Preference will be given to those projects that provide a larger percentage of costs from non-Federal sources. Matching funds are subject to the same Federal requirements described in Section F.2 as Federally-awarded funds, including applicable Buy American requirements.

3. Other

Eligible Projects

The purpose of this grant program is to create new marine highway services or to expand existing marine highway services. Only projects or their components that the Secretary has previously designated as Marine Highway Projects, are eligible for this round of grant funding. Projects proposed for funding must support the development and expansion of documented vessels or port and landside infrastructure. Grant funds may be requested for eligible project planning activities; however, market-related studies are ineligible to receive Marine Highway Grants.

The current list of designated Marine Highway Projects can be found on the Marine Highway website at: *https://www.maritime.dot.gov/grants/marine-highways/marine-highway-project-description-pages.*

D. Application and Submission Information

1. Address To Request Application Package

Applications may be found at and must be submitted through *Grants.gov*. Applications must include the Standard Form 424 (Application for Federal Assistance), which is available on the *Grants.gov* website at *https://www.grants.gov/web/grants/forms/sf-424-family.html.*

2. Content and Form of Application Submission

In addition to the SF–424, the application should include the Project Narrative. MARAD recommends that the Project Narrative follows the basic outline below to address the program requirements and assist evaluators in locating relevant information.

I. First Page of Project Narrative.	See D.2.i.
II. Project Description.	See D.2.ii.
III. Project Location	See D.2.iii.
IV. Grant Funds, Sources and Uses of all Project Funding.	See D.2.iv.
V. Selection Criteria	See D.2.v and E.1.
VI. Other Application Requirements.	See D.2.vi.

The Project Narrative should include the information necessary for MARAD to determine that the project satisfies the requirements described in Sections B and C, and to assess the selection criteria specified in Section E.1. This includes a detailed project description, location, and budget. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by MARAD. Applicants are strongly encouraged to provide quantitative information, including baseline information, that demonstrates the project's merits and economic viability. MARAD may ask any applicant to

supplement data in its application, but expects applications to be complete upon submission. Incomplete applications may not be considered for an award.

Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department encourages applicants to describe how activities proposed in their application would address the unique challenges facing rural transportation networks, regardless of the geographic location of those activities.

The Project Narrative should also include a table of contents, maps and graphics, as appropriate, to make the information easier to review. MARAD recommends that the Project Narrative be prepared with standard formatting preferences (a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins, and the narrative text in one column only). The Project Narrative may not exceed 10 pages in length, excluding the table of contents and appendices. The only substantive portions that may exceed the 10-page limit are documents supporting assertions or conclusions made in the 10-page Project Narrative. If possible, website links to supporting documentation should be provided rather than copies of these supporting materials, though it is important to ensure that the website links are currently active and working. If supporting documents are submitted, applicants should clearly identify within the Project Narrative the relevant portion of the Project Narrative that each supporting document supports. At the applicant's discretion, relevant materials provided previously in support of a Marine Highway Project application may be referenced, updated, or described as unchanged. To the extent documents provided previously are referenced, they need not be resubmitted in support of a Marine Highway Grant application.

To ensure the Project Narrative is sufficiently detailed and informative, MARAD recommends applications include the following sections:

i. First Page of Project Narrative

The first page of the Project Narrative should provide the following items of information:

(A) Marine Highway Project name and the original Project Applicant (as stated on the Marine Highway Program's list of Designated Projects);

(B) Primary point of contact. An application must include the name, phone number, email address, and business address of the primary point of contact for the grant applicant;

(C) Total amount of the proposed grant project cost in dollars and the amount of grant funds the applicant is seeking, along with sources and share of matching funds;

(D) Executive Summary, which should include an outline of the background of the project, the need for the project, and how the grant funding will be applied in the context of the service referenced in the original Project Designation application;

(E) Project parties. The public and private partners engaged in the Marine Highway Project;

(F) The Data Universal Numbering System (DUNS) number associated with the application. Marine Highway Grants and their first-tier sub-awardees must obtain DUNS numbers, which are available at *https://fedgov.dnb.com/webform;* and

(G) Evidence of registration with the System for Award Management (SAM) at *https://www.SAM.gov.*

ii. Project Description

The next section of the application should provide a concise description of the project. The project description must be in paragraph form providing a high-level view of the overall project and its major components. This section should discuss the project's history, including a description of any previously completed components. The applicant may use this section to place the project into a broader context of other transportation infrastructure investments being pursued by the grant applicant, and, if applicable, how it will benefit communities in rural areas. This section should also include a timeline for implementing the project.

iii. Project Location

This section of the application should describe the project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, and geospatial data describing the project location.

The application should also state whether the project is located in an urban area (UA) or rural area (RA) as designated by the U.S. Census Bureau at *http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/.*

The Department will consider a project to be in a RA if the majority of the project (determined by geographic location(s) where the majority of the money is to be spent) is located in a RA. Grant funds utilized in an UA border, including an intersection with an UA, will be considered urban for the purposes of the FY 2020 Marine Highway Grants.

Applicants should state whether the project is located in a Qualified Opportunity Zone designated pursuant to 26 U.S.C. 1400Z–1.

iv. Grant Funds, Sources and Uses of Project Funds

This section of the application should describe the project's budget. The budget should not include any previously incurred expenses. At a minimum, it should include:

(A) Project costs;

(B) The source and amount of those funds to be used for project costs;

(C) For non-Federal funds to be used for eligible project costs, documentation of funding commitments should be referenced here and included as an appendix to the application;

(D) For Federal funds to be used for eligible project costs, the amount, nature, and source of any required non-Federal match for those funds;

(E) A budget showing how each source of funds will be spent. The budget should show how each funding source will share in each project component, and present that data in dollars and percentages. Funding sources should be grouped into three categories: Non-Federal; Marine Highway Grant funding; and other Federal. A letter of commitment from each funding source should be an attachment to the application. If the project contains individual components, the budget should separate the costs of each project component. The budget should sufficiently demonstrate that the project satisfies the statutory cost-sharing requirements described in Section C.2.

v. Selection Criteria

This section of the application should demonstrate how the project proposed for grant funding aligns with the criteria described below and in Section E.1. MARAD encourages applicants to address each criterion, or expressly state that the project does not address the criterion. Applicants are not required to follow a specific format, but MARAD recommends applicants address each criterion separately using the outline suggested below, which provides a clear discussion that assists project evaluators. Guidance describing how MARAD will evaluate projects against the Selection Criteria is in Section E.1 of this Notice. Applicants also should review that section before considering how to organize and complete their application. To minimize redundant information in the application, MARAD

encourages applicants to cross-reference from this section of their application to relevant substantive information in other sections of the application.

(A) Primary Selection Criteria

(1) This section of the application should demonstrate the extent to which the project is financially viable. Pet 46 U.S.C. 55601(g)(3), preference will be given to projects or components that present the most financially viable transportation services.

(2) This section of the application should demonstrate that the funds received will be spent efficiently and effectively.

(3) This section of the application should demonstrate that a market exists for the services of the proposed project as evidenced by contracts or written statements of intent from potential customers.

(4) This section of the application should describe the public benefits anticipated by the proposed grant project, as outlined in 46 CFR 393.3(c)(8), and described below. The public benefits described in the relevant Marine Highway Project Designation application may be referenced, updated, or described as unchanged. Applicants will need to clearly demonstrate that the original public benefits outlined in the original project designation application apply to the specific grant funding request associated with this Notice, and provide any updates or supplement the original public benefits, as necessary. To the extent referenced, this information need not be resubmitted in support of a Marine Highway Grant application. Applicants should organize their external net cost savings and public benefits of the proposed grant project based on the following six categories:

(i) Emissions benefits;

(ii) Energy savings;

(iii) Landside transportation infrastructure maintenance savings;

(iv) Economic competitiveness;

(v) Safety improvements;

(vi) System resiliency and redundancy.

vi. Other Application Requirements

(A) National Environmental Policy Act (NEPA) Requirements

Projects selected for grant award must comply with NEPA and any other applicable environmental laws. The application should provide information about the NEPA status of the project. If the environmental review process is underway but not complete at the time of the application, the application must detail where the project is in the process, indicate the anticipated date of completion, and provide a website link or other reference to copies of any environmental documents prepared.

(B) Other Federal, State, and Local Actions

An application must indicate whether the proposed project is likely to require actions by other agencies (*e.g.,* permits), indicate the status of such actions, provide a website link or other reference to materials submitted to the other agencies, and demonstrate compliance with other Federal, state, or local regulations and permits as applicable.

(C) Certification Requirements

For an application to be considered for a grant award, the Chief Executive Officer, or equivalent, of the applicant is required to certify, in writing, the following:

1. That, except as noted in this grant application, nothing has changed from the original application for formal designation as a Marine Highway Project; and

2. The grant applicant will administer the project and any funds received will be spent efficiently and effectively; and

3. The grant applicant will provide information, data, and reports as required.

(D) Protection of Confidential Commercial Information

Grant applicants should submit, as part of or in support of an application, publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards to the extent possible. If the application includes information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: Note on the front cover that the submission contains ''Confidential Commercial Information (CCI)''; mark each affected page ''CCI''; and highlight or otherwise denote the CCI portions. MARAD will protect such information from disclosure to the extent allowed under applicable law. In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

(E) Additional Application Information Needed From Private-Sector Applicants

1. Written referral from the original successful Project Applicant stating that the private entity has been referred by the original Project Applicant for the relevant designated Marine Highway Project.

2. A description of the entity including location of the headquarters; a description of the entity's assets (tugs, barges, etc.); years in operation; ownership; customer base; and website address, if any.

3. Unique entity identifier of the parent company (when applicable): Data Universal Numbering System (DUNS + 4 number) (when applicable).

4. The most recent year-end audited, reviewed or compiled financial statements, prepared by a certified public accountant (CPA), per U.S. generally accepted accounting principles (not tax-based accounting financial statements). If CPA prepared financial statements are not available, provide the most recent financial statement for the entity. Do not provide tax returns.

5. Statement regarding the relationship between applicants and any parents, subsidiaries or affiliates, if any such entity is going to provide a portion of the match.

6. Evidence documenting applicant's ability to make proposed matching requirement (loan agreement, commitment from investors, cash on balance sheet, etc.).

7. Pro-forma financial statements reflecting financial condition at beginning of period; effect on balance sheet of grant and matching funds (*e.g.,* a decrease in cash or increase in debt, additional equity and an increase in fixed assets); and impact on company's projected financial condition (balance sheet) of completion of project, showing that company will have sufficient financial resources to remain in business.

8. Statement whether during the past five years, the applicant or any predecessor or related company has been in bankruptcy or in reorganization under Chapter 11 of the Bankruptcy Code, or in any insolvency or reorganization proceedings, and whether any substantial property of the applicant or any predecessor or related company has been acquired in any such proceeding or has been subject to foreclosure or receivership during such period. If so, give details.

9. Additional information may be requested as deemed necessary by MARAD to facilitate and complete its review of the application. If such information is not provided, MARAD may deem the application incomplete and cease processing it.

10. Company Officer's certification of each of the following:

a. That the company operates in the geographic location of the designated Marine Highway Project;

b. That the applicant has the authority to carry out the proposed project; and

c. That the applicant has not, and will not make any prohibited payments out of the requested grant, in accordance with the Department of Transportation's regulation restricting lobbying, 49 CFR part 20.

3. Unique Entity Identifier and System for Award Management (SAM)

MARAD will not make an award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements. Each applicant must be registered in SAM before applying, provide a valid Unique Entity Identifier number in its application, and maintain an active SAM registration with current information throughout the period of the award. Applicants may register with the SAM at *www.SAM.gov.* Applicants can obtain a DUNS number at *http://fedgov.dnb.com/webform.* If an applicant has not fully complied with the requirements by the time MARAD is ready to make an award, MARAD may determine that the applicant is not qualified to receive a Federal award under this program.

4. Submission Dates and Times

Applications must be received by 5 p.m. EDT on April 24, 2020. Late applications that are the result of failure to register or comply with *Grants.gov* application requirements in a timely manner will not be considered. Applicants experiencing technical issues with *Grants.gov* that are beyond the applicant's control must contact *MH@dot.gov* or Fred Jones at 202–366–1123 prior to the deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide: Details of the technical issue experienced; screen capture(s) of the technical issue experienced along with the corresponding ''Grant tracking number'' that is provided via *Grants.gov*; the ''Legal Name'' for the applicant that was provided in the SF–424; the name and contact information for the person to be contacted on matters involving submission that is included on the SF–424; the DUNS number associated with the application; and the *Grants.gov* Help Desk Tracking Number.

5. Funding Restrictions

MARAD will not allow reimbursement of any pre-award costs that may have been incurred by an applicant. Grant funds may only be used for the purposes described in this Notice and may not be used as an operating subsidy. Market-related studies are ineligible for Marine Highway Grant funds.

6. Other Submission Requirements

Grant applications must be submitted electronically using *Grants.gov* (*https://www.grants.gov*).

E. Application Review Information

1. Selection Criteria

This section specifies the criteria that MARAD will use to evaluate and award applications for Marine Highway Grants. These criteria incorporate the statutory requirements for this program, as well as Departmental and Programmatic priorities.

When reviewing grant applications, MARAD will consider how the proposed service could satisfy, in whole or in part, 46 U.S.C. 55601(b)(1) and (3) and the following criteria found at 46 U.S.C. 55601(g)(2)(B):

- The project is financially viable;
- The funds received will be spent efficiently and effectively; and
- A market exists for the services of the proposed project as evidenced by contracts or written statements of intent from potential customers.

MARAD will also consider how the proposed request for funding outlined in the grant application supports the elements of 46 CFR 393.3(c)(8) (Public benefits) as a key programmatic objective.

After applying the above preferences, MARAD will consider the following key Departmental objectives:

- Supporting economic vitality at the national and regional level;
- Utilizing alternative funding sources and innovative financing models to attract non-Federal sources of infrastructure investment;
- Accounting for the life-cycle costs of the project to promote the state of good repair;
- Using innovative approaches to improve safety and expedite project delivery; and,
- Holding grant recipients accountable for their performance and achieving specific, measurable outcomes identified by grant applicants.

In awarding grants under the program, MARAD will give preference to those projects or components that present the most financially viable marine highway transportation services and require the lowest total percentage Federal share of the costs. MARAD may also consider whether a project is located in a Qualified Opportunity Zone designated pursuant to 26 U.S.C. 1400Z–1.

Consistent with the Department's R.O.U.T.E.S. Initiative (*https://www.transportation.gov/rural*), the Department recognizes that rural transportation networks face unique challenges. To the extent that those challenges are reflected in the merit criteria listed in this section, the Department will consider how the activities proposed in the application will address those challenges, regardless of the geographic location of those activities.

2. Review and Selection Process

Upon receipt, MARAD will conduct a technical review to evaluate the application using the criteria outlined above. Upon completion of the technical review, MARAD will forward the applications to an inter-agency review team (Intermodal Review Team). The Intermodal Review Team will include members of MARAD, other Department of Transportation Operating Administrations, and representatives from the Office of the Secretary of Transportation. The Intermodal Review Team will assign ratings of ''highly recommended,'' ''recommended,'' ''not recommended,'' ''incomplete,'' or ''not eligible'' for each application based on the criteria set forth above. The Intermodal Review Team will provide its findings to the Program Office. The Program Office will use those findings to inform the recommendations that will be made to the Maritime Administrator and the Secretary.

3. FAPIIS Check

MARAD is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS) (*see* 41 U.S.C. 2313). An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM. MARAD will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notices

Following the evaluation outlined in Section E, the Secretary will announce

the selected grant award recipients. The award announcement will be posted on the MARAD website (*https://www.marad.dot.gov*).

2. Administrative and National Policy Requirements

All awards must be administered pursuant to the ''Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards'' found at 2 CFR part 200, as adopted by the Department at 2 CFR part 1201. Federal wage rate requirements included at 40 U.S.C. 3141–3148 apply to all projects receiving funds under this program and apply to all parts of the project, whether funded with Federal funds or non-Federal funds. Additionally, all applicable Federal laws and regulations will apply to projects that receive Marine Highway Grants.

MARAD and the applicant will enter into a written grant agreement after the applicant has satisfied applicable administrative requirements, such as environmental review requirements. The grant agreement is the fund-obligating document and will also describe the period of performance for the project as well as the schedule for construction or procurement. Funds will be administered on a reimbursable basis. MARAD reserves the right to revoke any award of Marine Highway Grant funds and to award such funds to another project to the extent that such funds are not expended in a timely or acceptable manner and in accordance with the project schedule.

As expressed in Executive Orders 13788 of April 18, 2017 and 13858 of January 31, 2019, it is the policy of the executive branch to maximize, consistent with law, the use of goods, products, and materials produced in the United States in the terms and conditions of Federal financial assistance awards. Consistent with the requirements of Section 410 of Division H—Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2020, of the Further Consolidated Appropriations Act, 2020, (Pub. L. 116–94), the Buy American requirements of 41 U.S.C. Chapter 83 apply to funds made available under this Notice, and all award recipients must apply, comply with, and implement all provisions of the Buy American Act and related provisions in the grant agreement when implementing Marine Highway Grants. Depending on other funding streams, the project may be subject to separate ''Buy America'' requirements.

If a project intends to use any product with foreign content or of foreign origin, this information should be listed and addressed in the application. Applications should expressly address how the applicant plans to comply with domestic-preference requirements and whether there are any potential foreign-content issues with their proposed project. Applications that use grant funds for domestic-content purchases will be viewed favorably. If certain foreign content is granted an exception or waiver from Buy American or Buy America requirements, a Cargo Preference requirement may apply.

3. Reporting

Award recipients are required to submit quarterly reports, signed by an officer of the recipient, to the Program Office to keep MARAD informed of all activities during the reporting period. The reports will indicate progress made, planned activities for the next reporting period, and a listing of any purchases made with grant funds during the reporting period. In addition, the report will include an explanation of any deviation from the projected budget and timeline. Quarterly reports will also contain, at a minimum, the following: a statement as to whether the award recipient has used the grant funds consistent with the terms contemplated in the grant agreement; if applicable, a description of the budgeted activities not procured by recipient; if applicable, the rationale for recipient's failure to execute the budgeted activities; if applicable, an explanation as to how and when recipient intends to accomplish the purposes of the grant agreement; and a budget summary showing funds expended since commencement, anticipated expenditures for the next reporting period, and expenditures compared to overall budget.

Grant award recipients will also collect information and report on the project's observed performance with respect to the relevant long-term outcomes that are expected to be achieved through the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the AMHP. Performance reporting continues for several years after project construction is completed, and MARAD does not provide Marine Highway Grant funding specifically for performance reporting.

G. Federal Awarding Agency Contacts

To ensure applicants receive accurate information about eligibility, the program, or in response to other questions, applicants are encouraged to contact MARAD directly, rather than through intermediaries or third parties. Please see contact information in the **FOR FURTHER INFORMATION CONTACT** section above.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–07511 Filed 4–8–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0020]

Denial of Motor Vehicle Defect Petition, DP13–001

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth NHTSA's decision and reasons for denying a petition, Defect Petition (DP) (DP 13–001), submitted by Mr. William Rosenbluth (petitioner) in a January 23, 2013 letter to the Administrator of NHTSA (the ''Agency''). The petitioner requested that the Agency open an investigation into the decoupling of the steering intermediate shaft assembly No. 2 from the steering column assembly on model year (MY) 2004–2009 Toyota Prius vehicles (the ''Subject Vehicles''). After reviewing materials furnished by the petitioner, the manufacturer, and those already in its possession, NHTSA has concluded that the evidence does not warrant further investigation of the issue raised in the petition. The Agency accordingly has denied the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Magno, Office of Defects Investigation (ODI), NHTSA; 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366–5226. Email: *gregory.magno@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Interested persons may petition NHTSA requesting that the Agency begin a proceeding to decide whether to issue an order determining that a vehicle or item of motor vehicle equipment contains a defect that relates to motor vehicle safety. 49 U.S.C. 30162;

49 CFR part 552. Upon receipt of a properly filed petition, the Agency conducts a review of the petition, material submitted with the petition, and any additional information. 49 U.S.C. 30162; 49 CFR 552.8. The review may consist solely of a review of information already in the possession of the Agency, or it may include the collection of information from the motor vehicle manufacturer and/or other sources. After considering the review and taking into account appropriate factors, which may include, among others, allocation of Agency resources, Agency priorities, the likelihood of uncovering sufficient evidence to establish a safety-related defect, and the likelihood of success in any necessary enforcement litigation, the Agency will grant or deny the petition. *See* 49 U.S.C. 30162; 49 CFR 552.8.

II. Petition Background Information

On January 30, 2013, NHTSA received a petition requesting that the Agency open a defect investigation submitted by Mr. William Rosenbluth of Automotive Systems Analysis, Inc., located in Reston, Virginia. The petition requested that the Agency investigate decoupling of the steering intermediate shaft assembly No. 2 [1] from the steering column assembly in the Subject Vehicles. Mr. Rosenbluth's petition asserted that his client's MY 2005 Toyota Prius (the ''Petition Vehicle'') steering column linkage was improperly assembled at the time the vehicle was manufactured by Toyota. Included with the letter were a narrative from the Petitioner's client, Mr. Rosenbluth's documentation relating to the Petition Vehicle, and a comparison to an exemplar vehicle.

The Petition Vehicle—2011 Complaint to NHTSA

The owner of the Petition Vehicle previously filed a complaint in a Vehicle Owner's Questionnaire (VOQ) submitted to NHTSA (ODI Complaint No. 10437229) on November 25, 2011, that was subsequently amended by a December 7, 2011 email with attachments from the complainant. The complainant stated that he heard a snapping sound coming from the steering wheel while attempting to park at 5 mph on November 23, 2011. The steering wheel then became loose and he could not steer the vehicle, and the driver's airbag and all of the steering wheel mounted controls were disabled.

On October 19, 2012, an ODI investigator contacted the Petition Vehicle owner by email regarding the VOQ he had filed and requested a status update. The Agency has no record of receiving a response.

III. Summary of the Petition

The narrative of events relied upon by the petitioner was reported by the Petition Vehicle owner as follows:

I had just turned left, and was straightening the wheels (turning the wheel back right) [to enter a parking spot] when I heard, and felt, a loud 'snap' in the steering wheel, immediately upon which I knew the steering wheel was disconnected and I could no longer steer the car. Very, very fortunately, and only because I was already nearly stopped, I was able to stop the vehicle without incident. However, I immediately recognized that, had this happened in almost any other scenario than being nearly parked, the outcome would have been markedly different. The steering wheel is completely loose, not controlling anything, and all the many steering wheel controls are equally disconnected, including the driver's air bag (SRS), something that I would have needed, but wouldn't have worked, had I crashed into oncoming traffic or an Interstate median.

Had I not decided to run a frivolous and unnecessary errand, I would have otherwise been on the Interstate, rushing home for Thanksgiving like many others, but now am merely stranded, in a motel, far from home in Jacksonville, FL, wondering what to do next. My low mileage (just 27,773 mi), seven year old Prius is still parked, undriveable.

On January 4, 2013, at the request of the vehicle owner, the petitioner inspected the Petition Vehicle and observed that the steering wheel could rotate multiple turns, in both directions, without resistance or any change in the angle of the front wheels. Further inspection revealed that the steering intermediate shaft assembly No. 2 was decoupled from the steering column assembly. The petitioner concluded that the steering intermediate shaft assembly No. 2 ''had not been properly installed on the spline output of the steering column assembly,'' leading to wear on the internal splines of the steering intermediate shaft assembly No. 2. According to the petition, the spline wear, evidenced by shards of spline material, allowed the shaft to decouple from the steering column assembly.

Subject Power Steering System

The subject power steering system is assisted by an electric motor linked to the steering column assembly. Steering torque is transmitted to a manual steering rack via a pair of intermediate shafts and a sliding yoke assembly. Image 1 below illustrates the Toyota Prius steering system and the components subjected to the two recalls.

[1] Toyota Motor Engineering & Manufacturing North America, Inc. (Toyota) used the terms ''intermediate shaft,'' ''steering intermediate shaft,'' ''steering intermediate shaft assembly,'' ''steering intermediate shaft No.2,'' ''steering intermediate shaft assembly No. 2,'' and ''intermediate shaft No. 2 (upper)'' to refer to the same part. The petitioner used the terms ''upper steering intermediate shaft,'' ''steering upper intermediate shaft #2'', ''steering intermediate shaft No. 2'', ''upper steering column intermediate shaft #2'' and ''upper steering intermediate shaft assembly No. 2'' to refer to the same part. For consistency, the Agency refers to the subject part as the ''steering intermediate shaft assembly No. 2.''

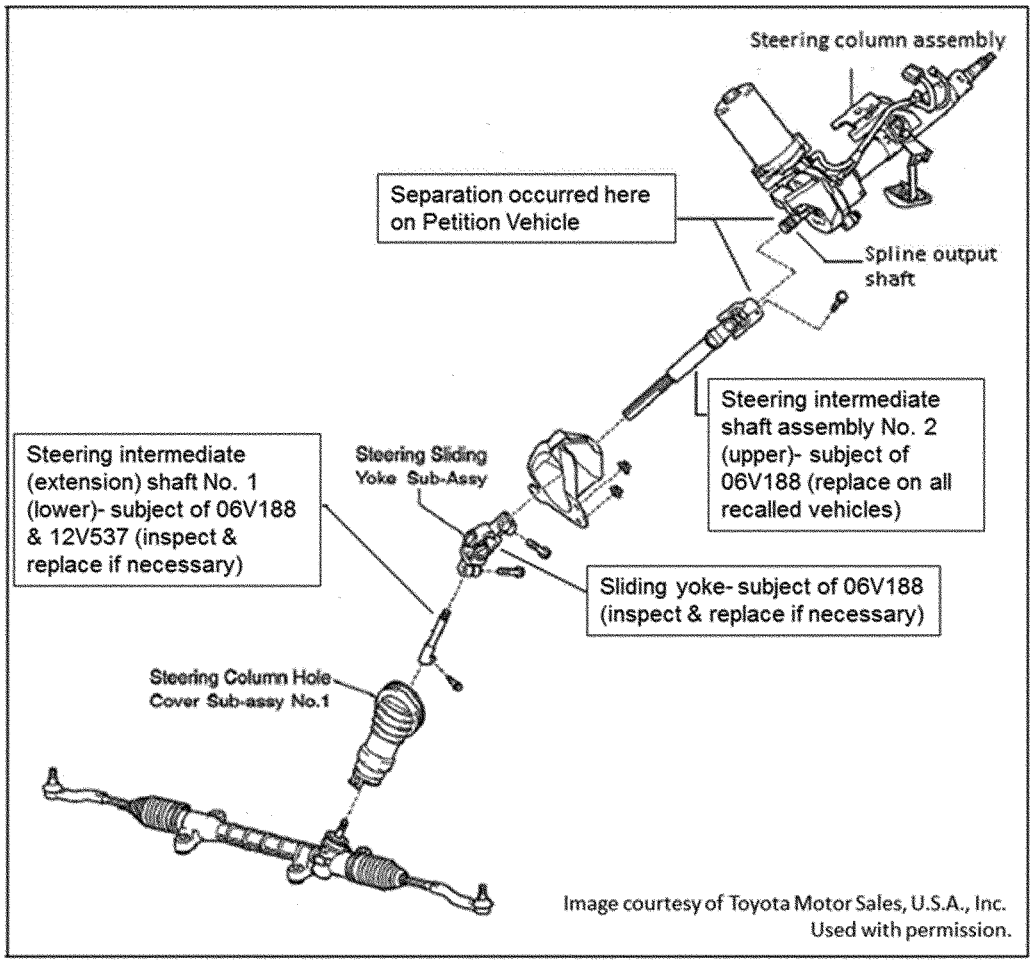

Image 1

Toyota's First Related Recall (06V188—Intermediate Shaft No. 2)

On May 30, 2006, Toyota submitted a Defect Information Report to notify NHTSA of Special Service Campaign (SSC) 60C (NHTSA Recall 06V188) to recall 170,856 MY 2004–2006 Toyota Prius vehicles produced between August 5, 2003, and November 10, 2005. The ''Description of Problem'' contained in the report stated as follows:

In the subject Prius vehicles equipped with an electric power steering system, due to insufficient strength at the steering intermediate shaft assembly No. 2 and sliding yoke which connects the steering wheel to the steering gear box, there is a possibility that the connection at the steering intermediate shaft assembly No. 2 or the intermediate extension shaft may become loose or the steering intermediate shaft assembly No. 2 sleeve may develop a crack under certain operating conditions where a large force is repeatedly applied to the connection (such as when the wheel is turned forcefully to the locked position at low speed or the tire contacts roadside curbs while driving). In the worst case, if the vehicle continues to be operated in this condition, the connection may separate or the shaft sleeve may fracture, which could result in the loss of steering control.

Vehicle owners were notified to return their vehicles to any Toyota dealer for replacement of the steering intermediate shaft assembly No. 2. The repair under SSC 60C (NHTSA Recall 06V188) required the old shaft to be decoupled from the steering column assembly so that the new replacement shaft could be connected to the steering column assembly. As of Toyota's submission of its sixth and final required quarterly report in 2007, the completion rate for this recall stood at 90%.

Toyota's Second Related Recall (12V537—Intermediate Shaft No. 1)

On November 14, 2012, Toyota submitted a Defect Information Report to notify NHTSA of Safety Recall C0T (NHTSA Recall 12V537), to recall 669,705 MY 2004–2009 Toyota Prius vehicles produced from August 5, 2003, through March 30, 2009. This recall included vehicles within the scope of NHTSA Recall 06V188, but also expanded the scope. The Description of Problem contained in Toyota's submission is as follows:

The steering shaft system of the subject vehicles consists of a steering intermediate shaft assembly No. 2, steering sliding yoke sub-assembly, and steering intermediate (extension) shaft No. 1. Due to insufficient hardness of the extension shaft supplied by JTEKT, the splines which connect the extension shaft to the steering gear box may deform if the steering wheel is frequently and forcefully turned to the full-lock position while driving at a slow speed. This may

create an increased backlash, and splines may eventually wear out over time, which could result in loss of steering ability.

Vehicle owners were notified by first-class mail to return their vehicles to any Toyota dealer, which would ''inspect the extension shaft, and, if the vehicle is equipped with an extension shaft produced by JTEKT, the dealer will replace it with an improved one.''

According to the Defect Information Report, only the steering intermediate extension shaft No. 1 was affected by Safety Recall C0T. The steering intermediate shaft assembly No. 2 was not affected and no repairs to or removal of the steering intermediate shaft assembly No. 2 were specified in the recall procedure. As of Toyota's submission of its sixth and final required quarterly report in 2014, the completion rate for this recall was 78%. The vehicle service history provided by Toyota to ODI indicates that this corrective action was not completed on the Petition Vehicle.

IV. Toyota Response to ODI's Information Request

To further assess the scope of the subject problem and to review the recall remedy procedures for both safety recalls, ODI requested information from Toyota. On June 4, 2013, ODI sent an Information Request (IR) letter to Toyota concerning decoupling or separation of the steering intermediate shaft assembly No. 2 from the steering column assembly in the Subject Vehicles. The petition and twelve potentially related VOQs were enclosed. Twelve additional VOQs were received during the Agency's review of the petition.

With the exception of the vehicles referenced in the twelve ODI VOQs enclosed with the IR letter and this petition, Toyota's IR response indicated that it had not located any other information that indicates a decoupling or separation of the steering intermediate shaft assembly No. 2 from the steering column assembly in the Subject Vehicles.

V. ODI's Analysis

To assess whether the Subject Vehicles demonstrate a risk of steering detachment, ODI's review and analysis of this petition included the following:

- Review of the petition and its enclosures;
- Review of the subject steering system layout;
- Analysis of the Petition Vehicle's history, including its repair history;
- Review and follow-up of potentially related VOQs;
- Review and analysis of NHTSA Recalls 06V188 and 12V537; and,
- Requests for and analysis of complaint, claim, field report, service history, and warranty information from Toyota.

ODI's analysis of these factors is outlined below.

Petition Vehicle History

Oct 2004		Vehicle built (from Petition).
Nov 2004	7 mi	Shipped to dealer, titled (from Vehicle History Report).
Dec 2006	10,623 mi	Recall 06V188 conducted, unrelated brake inspection (from Petition).
Feb 2009	20,666 mi	''Body elec- minor'' repairs (from Petition).
Nov 2010	22,698 mi	Floor mat recall, multiple repairs (from Petition).
Nov 2011	27,773 mi	Steering incident, complaint to NHTSA (from VOQ).

Potentially Related VOQs

Excluding the petition (which duplicates the original complaint), ODI identified twenty-five potentially related VOQs received from 2011 to date (averaging three annually with three received in 2019). Eighteen of the complaints cited a complete decoupling between the steering wheel and steering system. The seven additional complaints cited precursor symptoms (clanking noises and play in the steering) without the separation. Four of the seven received dealer diagnoses that a portion of the steering shaft needed replacement. Two additional complaints advised that they had experienced the symptom but were uninterested in seeking repairs. Fourteen of the complaints (all of which involved separations) were reported during parking maneuvers (at or below 5 mph) with the remaining separation complaints taking place at speeds between 10 and 25 mph. The complaints with the precursor symptoms did not cite a specific vehicle speed. Seven of the most recent nine complaints (CY16–19) involved vehicles with over 150,000 miles of service or prior collisions or salvage titles.[2]

In addition to the petition vehicle, four complaints (three separations and one precursor) were attributed to Steering Shaft #2 separation and all took place an average of five years after receiving the remedy for the 06V188 recall. Three of these occurred between recall remedies, with the fourth occurring after both recall remedies. All related incidents were compared (Table 1) to recall remedy dates for the related safety recalls with no apparent pattern emerging to point to a particular procedure or set of circumstances.

TABLE 1—INCIDENT TIMING RELATIVE TO RECALL REMEDY PROCEDURES

06V188 performed?	Incident timing	Symptom		Total
		Precursor (noise/play)	Steering wheel free-spin	
No	After 12V537 remedy (no 06V188)	1	3	4
	Prior to any remedy		4	4
Yes	Between 06V188 & 12V537 remedies	2	4	6

[2] Specifically, these vehicles had the following mileage/history: 161,000; 193,000; 217,029; 120,000; 146,000; mileage unknown (salvage title); 101,000 (previous frontal collision damage); 140,400 (previous rear collision damage); 186,600 (salvage title).

TABLE 1—INCIDENT TIMING RELATIVE TO RECALL REMEDY PROCEDURES—Continued

06V188 performed?	Incident timing	Symptom		Total
		Precursor (noise/play)	Steering wheel free-spin	
	After both remedies	4	7	11
Total		7	18	25

Three potentially related crashes were considered and excluded from these figures. The first incident involved a 2007 Prius losing control on a curve while driving. It occurred in late 2013 not long after receiving the 12V537 remedy. Multiple ODI follow-ups with the complainant produced no further information. Circumstances and damage descriptions of the vehicle indicate that a steering shaft was unlikely to have caused the incident. The second collision occurred in late 2016 and the driver reported hearing a warning chime while driving followed by the steering ''seizing to the right,'' leading to frontal impact of a roadside pole. The subject vehicle was a 2007 Prius and the incident took place over three years after receiving the 12V537 remedy. A follow-up interview uncovered no further information. In the third, a 2009 Prius drove off the road in icy conditions in January 2017. Neither the complaint description nor follow-up information gathered from the complainant point to a steering shaft separation.

Safety Recall Procedures

Recalls 06V188 and 12V537 were also reviewed to assess whether the remedy procedures could have contributed to the condition experienced and to assess the impact of any revisions. No discernible impact to steering shaft integrity was identified in any of the procedures.

Additional Data From Toyota

In addition to the VOQs, ODI asked Toyota in an IR letter to identify any additional incidents of steering intermediate shaft assembly No. 2 having decoupled or separated from the steering column assembly on MY 2004–2009 Toyota Prius vehicles that were contained in Toyota's complaint, claim, field report and warranty data. No additional incidents were identified.

Discussion

A review of the petition indicates that the Petition Vehicle's coupler for steering intermediate shaft assembly No. 2 was partially engaged to the steering column output shaft. The connection between the output shaft and intermediate shaft No. 2 lacked integrity because the output shaft was not fully engaged in the coupler and did not capture the coupler pinch bolt. The petitioner stated that he had no knowledge of any ''. . . intervening repair to the steering intermediate shaft assembly No. 2 between the time of vehicle manufacture and my inspection. The recall procedure [for the lower intermediate steering shaft No. 1] specifically instructs technicians to avoid any operations on the steering intermediate shaft assembly No. 2.'' The petitioner also stated, ''the steering column intermediate shaft assembly No. 2 separation is not part of the Toyota steering recall 12V537 or any of its predecessor versions.'' The petitioner concluded, in his opinion, that ''the Petition Vehicle steering column linkage was improperly assembled at its original manufacturing point and thus contained a latent manufacturing defect.''

Toyota's vehicle service history for the Petition Vehicle shows that NHTSA Recall 06V188 (SSC 60C) for steering intermediate shaft assembly No. 2 replacement was completed on December 12, 2006. Evidence from the petition indicates that the coupler joining intermediate shaft assembly No. 2 and the steering column output shaft may have been improperly installed so the coupler pinch bolt was not engaged in the corresponding notch in column output shaft when the recall remedy was performed. This improper installation would lead to the kind of abnormal and excessive wear shown in photographs attached to the petition. When this wear reached a certain point, it would allow the intermediate shaft coupler to separate from the steering column output shaft. Since this occurred in the Petition Vehicle after performance of the recall remedy for NHTSA Recall 06V188 and not before, the incident is likely the result of a poorly performed recall repair and not the assembly failure asserted by the petitioner.

NHTSA also observes that the rate of related consumer complaints (twenty-five over an eight-year period from a population of over 600,000 vehicles) is relatively low and does not appear to be attributable to either recall action. ODI's review of consumer complaints did not indicate any apparent trend regarding the alleged failures occurring, relative to when the two recalls were performed, or the circumstances under which the failures occurred. Post-Recall 12V537, the subject vehicle population has not exhibited a safety defect trend relating to its steering shaft, with the few complaints received involving high-mileage or damaged vehicles, suggesting isolated vehicle repair errors. Given these conditions, the safety recalls appear to have adequately addressed the safety defects within the subject vehicles related to the steering shaft assembly, and further investigation of the issue is not warranted at this time.

VI. Conclusion

NHTSA is authorized to issue an order requiring notification and remedy of a defect if the Agency's investigation shows a defect in design, construction, or performance of a motor vehicle that presents an unreasonable risk to safety. 49 U.S.C. 30102(a)(9), 30118. Given the absence of a defect trend in the complaint data and a thorough assessment of the potential risks to safety presented in the petition, it is unlikely that an order concerning the notification and remedy of a safety-related defect would be issued due to any investigation opened as a result of granting this petition. Therefore, and upon full consideration of the information presented in the petition and the potential risks to safety, the petition is denied.

The Agency retains the authority to revisit these issues if warranted in the future if conditions change or new evidence arises.

(Authority: 49 U.S.C. 30162; 49 CFR part 552; delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey Mark Giuseppe,

Associate Administrator for Enforcement.

[FR Doc. 2020–07400 Filed 4–8–20; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen

Douglas Poms,

International Tax Counsel (Tax Policy).

[FR Doc. 2020–07513 Filed 4–8–20; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

United States Mint

Request for Nominations; Citizens Coinage Advisory Committee

ACTION: Request for Citizens Coinage Advisory Committee membership applications.

SUMMARY: Pursuant to United States Code, the United States Mint is accepting applications for membership to the Citizens Coinage Advisory Committee (CCAC) for a new member specially qualified to serve on the CCAC by virtue of his or her education, training, or experience in *Numismatic Curation.* The CCAC was established to:

- Advise the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals produced by the United States Mint.
- Advise the Secretary of the Treasury with regard to the events, persons, or places that the CCAC recommends to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Make recommendations with respect to the mintage level for any commemorative coin recommended.

Total membership consists of 11 voting members appointed by the Secretary of the Treasury:

- One person specially qualified by virtue of his or her education, training, or experience as nationally or internationally recognized curator in the United States of a numismatic collection;
- One person specially qualified by virtue of his or her experience in the medallic arts or sculpture;
- One person specially qualified by virtue of his or her education, training, or experience in American history;
- One person specially qualified by virtue of his or her education, training, or experience in numismatics;
- Three persons who can represent the interests of the general public in the coinage of the United States; and
- Four persons appointed by the Secretary of the Treasury on the basis of the recommendations by the House and Senate leadership.

Members are appointed for a term of four years. No individual may be appointed to the CCAC while serving as an officer or employee of the Federal Government.

The CCAC is subject to the direction of the Secretary of the Treasury. Meetings of the CCAC are open to the public and are held approximately four to six times per year. The United States Mint is responsible for providing the necessary support, technical services, and advice to the CCAC. CCAC members are not paid for their time or services, but, consistent with Federal Travel Regulations, members are reimbursed for their travel and lodging expenses to attend meetings. Members are Special Government Employees and are subject to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2653).

The United States Mint will review all submissions and will forward its recommendations to the Secretary of the Treasury for appointment consideration. Candidates should include specific skills, abilities, talents, and credentials to support their applications. The United States Mint is interested in candidates who in addition to their experience in numismatic curation, have demonstrated interest and a commitment to actively participate in meetings and activities, and a demonstrated understanding of the role of the CCAC and the obligations of a Special Government Employee; possess demonstrated leadership skills in their fields of expertise or discipline; possess a demonstrated desire for public service and have a history of honorable professional and personal conduct, as well as successful standing in their communities; and who are free of professional, political, or financial interests that could negatively affect their ability to provide impartial advice.

Application Deadline: 5 p.m. (EST), Friday, April 24, 2020.

Receipt of Applications: Any member of the public wishing to be considered for participation on the CCAC should submit a resume and cover letter describing his or her reasons for seeking and qualifications for membership, by email to *info@ccac.gov.* The deadline to email submissions is no later than 5 p.m. (EST) on Friday, April 24, 2020. Because of the COVID–19 national emergency, the Mint will not be accepting applications by mail.

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; *jennifer.warren@usmint.treas.gov* or 202–354–7208.

Dated: April 3, 2020.

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2020–07441 Filed 4–8–20; 8:45 am]

BILLING CODE 4810–37–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 32, 36, and 71

2020–2021 Station-Specific Hunting and Sport Fishing Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32, 36, and 71

[Docket No. FWS–HQ–NWRS–2020–0013; FXRS12610900000–201–FF09R20000]

RIN 1018–BE50

2020–2021 Station-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to open, for the first time, eight National Wildlife Refuges (NWRs) that are currently closed to hunting and sport fishing. In addition, we propose to open or expand hunting and sport fishing at 89 other NWRs, and add pertinent station-specific regulations for other NWRs that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2020–2021 season. We also propose to open hunting or sport fishing on nine units of the National Fish Hatchery System (NFHs). We also propose to add pertinent station-specific regulations that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing at these nine NFHs for the 2020–2021 season. Further, we propose to open 41 limited-interest easement NWRs in North Dakota for upland game and big game hunting, and sport fishing in accordance with State regulations. Access to these NWRs is controlled by the current landowners, and, therefore, they are not fully open to the public unless authorized by the landowner. We also propose to make regulatory changes to existing station-specific regulations in order to reduce the regulatory burden on the public, increase access for hunters and anglers on Service lands and waters, and comply with a Presidential mandate for plain language standards. Lastly, we propose to prohibit domestic sheep, goat, and camelid pack animals on the Arctic National Wildlife Refuge.

DATES:

Written comments: We will accept comments received or postmarked on or before June 8, 2020.

Information Collection Requirements: If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB, with a copy provided to the U.S. Fish and Wildlife Service Information Collection Clearance Officer, by June 8, 2020.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, type in FWS–HQ–NWRS–2020–0013, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting screen, find the correct document and submit a comment by clicking on ''Comment Now!''
- *By hard copy:* Submit by U.S. mail or hand delivery: Public Comments Processing, Attn: FWS–HQ–NWRS–2020–0013; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/PERMA (JAO); Falls Church, VA 22041–3803.

We will not accept email or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Comments, below, for more information). For information on specific refuges' or hatcheries' public use programs and the conditions that apply to them or for copies of compatibility determinations for any refuge(s), contact individual programs at the addresses/phone numbers given in Available Information for Specific Stations under **SUPPLEMENTARY INFORMATION**.

Information collection requirements: Send your comments on the requested revision of the information collection request (ICR) to the Desk Officer for the Department of the Interior at OMB–OIRA at 202–395–5806 (fax) or *oira_submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/PERMA (JAO), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–0140 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Katherine Harrigan, (703) 358–2440.

SUPPLEMENTARY INFORMATION:

Background

The National Wildlife Refuge System Administration Act of 1966 closes NWRs in all States except Alaska to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that the use is compatible with the purposes of the refuge and National Wildlife Refuge System mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review hunting and sport fishing programs to determine whether to include additional stations or whether individual station regulations governing existing programs need modifications. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to station-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of station purposes or the Service's mission.

Provisions governing hunting and sport fishing on refuges are in title 50 of the Code of Federal Regulations in part 32 (50 CFR part 32), and on hatcheries in part 71 (50 CFR part 71). We regulate hunting and sport fishing to:

- Ensure compatibility with refuge and hatchery purpose(s);
- Properly manage fish and wildlife resource(s);
- Protect other values;
- Ensure visitor safety; and
- Provide opportunities for fish- and wildlife-dependent recreation.

On many stations where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other stations, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined under Statutory Authority, below. We issue station-specific hunting and sport fishing regulations when we open wildlife refuges and fish hatcheries to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations may list the wildlife species that you may hunt or fish; seasons, bag

or creel (container for carrying fish) limits; methods of hunting or sport fishing; descriptions of areas open to hunting or sport fishing; and other provisions as appropriate.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966 (Administration Act; 16 U.S.C. 668dd–668ee, as amended by the National Wildlife Refuge System Improvement Act of 1997 [Improvement Act]) governs the administration and public use of refuges, and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) governs the administration and public use of refuges and hatcheries.

Amendments enacted by the Improvement Act were built upon the Administration Act in a manner that provides an ''organic act'' for the Refuge System, similar to organic acts that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Administration Act states first and foremost that we focus our Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible with the purpose for which the refuge was established and the mission of the Refuge System. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Improvement Act established six wildlife-dependent recreational uses as the priority general public uses of the Refuge System. These uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System and Hatchery System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge or hatchery lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop station-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge or hatchery and the Refuge and Hatchery System mission. We ensure initial compliance with the Administration Act and the Recreation Act for hunting and sport fishing on newly acquired land through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR parts 32 and 71. We ensure continued compliance by the development of comprehensive conservation plans and step-down management plans, and by annual review of hunting and sport fishing programs and regulations.

Proposed Amendments to Existing Regulations

Updates to Hunting and Fishing Opportunities on NWRs and NFHs

This document proposes to codify in the Code of Federal Regulations all of the Service's hunting and/or sport fishing regulations that we would update since the last time we published a rule amending these regulations (84 FR 47640; September 10, 2019) and that are applicable at Refuge System and Hatchery System units previously opened to hunting and/or sport fishing. We propose this to better inform the general public of the regulations at each station, to increase understanding and compliance with these regulations, and to make enforcement of these regulations more efficient. In addition to now finding these regulations in 50 CFR parts 32 and 71, visitors to our refuges and hatcheries may find them reiterated in literature distributed by each station or posted on signs.

TABLE 1—PROPOSED CHANGES FOR 2020–2021 HUNTING/SPORT FISHING SEASON

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Abernathy Fish Technology Center.	Washington	Closed	Closed	Closed	A.
Alamosa	Colorado	D	D	Already Open	B.
Arthur R. Marshall Loxahatchee.	Florida	D	Closed	C	D.
Assabet River	Massachusetts	C	C	C/D	Already Open.
Balcones Canyonlands	Texas	Already Open	Already Open	D	Closed.
Bamforth	Wyoming	Closed	A	A	Closed.
Banks Lake	Georgia	Closed	Closed	B	Already Open.
Berkshire NFH	Massachusetts	Closed	Closed	Closed	A.
Big Branch Marsh	Louisiana	E	C/E	Already Open	Already Open.
Bitter Lake	New Mexico	E	Already Open	D	Closed.
Black Bayou Lake	Louisiana	Already Open	Already Open	E	Already Open.
Blackwater	Maryland	D	Closed	D	Already Open.
Block Island	Rhode Island	B	Closed	D	Already Open.
Bogue Chitto	Louisiana and Mississippi	E	E	E	Already Open.
Bombay Hook	Delaware	C/D	C/D	D	B.
Bosque del Apache	New Mexico	C/D	C/D	C/D/E	Already Open.
Browns Park	Colorado	Already Open	Already Open	C	Already Open.
Buenos Aires	Arizona	C	C	C	Closed.
Buffalo Lake	Texas	B	C/D	Already Open	Closed.
Cabeza Prieta	Arizona	B	B	C	Closed.

TABLE 1—PROPOSED CHANGES FOR 2020–2021 HUNTING/SPORT FISHING SEASON—Continued

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Canaan Valley	West Virginia	D	D	D	B.
Carolina Sandhills	South Carolina	Already Open	C	Already Open	Already Open.
Catahoula	Louisiana	C	Already Open	Already Open	Already Open.
Cedar Island	North Carolina	E	Closed	Closed	Closed.
Cibola	Arizona and California	E	C/D	D	Already Open.
Clarks River	Kentucky	Already Open	C	Already Open	Already Open.
Cokeville Meadows	Wyoming	C	Already Open	Already Open	B.
Coldwater River	Mississippi	C	C	Already Open	Already Open.
Crab Orchard	Illinois	D/E	Already Open	D/E	Already Open.
Crescent Lake	Nebraska	C/D	D	C	E.
Dahomey	Mississippi	C	C	E	Already Open.
Deer Flat	Idaho and Oregon	Already Open	Already Open	Already Open	D.
Dwight D. Eisenhower NFH	Vermont	Closed	Closed	Closed	A.
Edwin B. Forsythe	New Jersey	Already Open	Already Open	Already Open	D.
Eufaula	Georgia and Alabama	E	Already Open	Already Open	Already Open.
Everglades Headwaters	Florida	A	A	A	A.
Fallon	Nevada	A	A	A	Closed.
Fish Springs	Utah	C	B	B	Closed.
Flint Hills	Kansas	Already Open	C	E	Already Open.
Fort Niobrara	Nebraska	B	B	C/E	Already Open.
Great Meadows	Massachusetts	D	B	C/D	Already Open.
Great River	Illinois and Missouri	C	Already Open	E	Already Open.
Hart Mountain	Oregon	B	C/D	Already Open	Already Open.
Horicon	Wisconsin	C	C	C	Already Open.
Hutton Lake	Wyoming	Already Open	B	B	Closed.
Iroquois	New York	D/E	E	E	Already Open.
John W. and Louise Seier	Nebraska	A	A	A	Closed.
John H. Chafee	Rhode Island	A	A	A	A.
Jordan River NFH	Michigan	A	A	A	Closed.
Kirwin	Kansas	C	C/E	D	E.
Kootenai	Idaho	C	Already Open	Already Open	D.
Lacreek	South Dakota	D	C/D	C/D	Already Open.
Laguna Atascosa	Texas	Closed	Closed	C	Already Open.
Lamar NFH	Pennsylvania	Closed	Closed	Closed	A.
Leavenworth NFH	Washington	B	B	B	Already Open.
Lee Metcalf	Montana	Already Open	B	D	D.
Leslie Canyon	Arizona	A	A	A	Closed.
Little White Salmon NFH	Washington	B	B	B	Already Open.
Lower Rio Grande Valley	Texas	D/E	B	C/D/E	Closed.
Marais des Cygnes	Kansas	C/E	C/E	E	Already Open.
Mattamuskeet	North Carolina	E	Closed	Already Open	Already Open.
Merced	California	C	Closed	Closed	Closed.
Middle Mississippi River	Illinois and Missouri	C	C	Already Open	Already Open.
Minidoka	Idaho	C/D	C/D	C/D/E	Already Open.
Monte Vista	Colorado	D	D	Already Open	Closed.
Montezuma	New York	C	B	E	D.
Muscatatuck	Indiana	B	C	E	Already Open.
Nestucca Bay	Oregon	C	Closed	Closed	Already Open.
Ninigret	Rhode Island	Closed	B	C/E	Already Open.
Northern Tallgrass Prairie	Minnesota	D	D	D	D.
North Platte	Nebraska	Closed	C/E	D/E	Already Open.
Ottawa	Ohio	D	D	D	Already Open.
Overflow	Arkansas	C	Already Open	Already Open	Already Open.
Oxbow	Massachusetts	D	C/D/E	C/D/E	Already Open.
Pahranagat	Nevada	Already Open	D	Closed	Already Open.
Pathfinder	Wyoming	C	Already Open	Already Open	Closed.
Patoka River	Indiana	C/D	C/D	D	D.
Quivira	Kansas	C	C	B	Already Open.
Rachel Carson	Maine	Already Open	Already Open	Already Open	D.
Rydell	Minnesota	B	B	E	Already Open.
Sachuest Point	Rhode Island	Closed	B	B	Already Open.
San Diego Bay	California	Closed	Closed	Closed	A.
San Luis	California	Already Open	E	Closed	Already Open.
Savannah	South Carolina and Georgia	Already Open	C	C	Already Open.
Seatuck	New York	Closed	Closed	B	Already Open.
Spring Creek NFH	Washington	B	B	B	Already Open.
Stewart B. McKinney	Connecticut	D/E	Closed	B	Closed.
Stillwater	Nevada	Already Open	Already Open	C	Closed.
St. Marks	Florida	Already Open	D/E	D/E	Already Open.
St. Vincent	Florida	Closed	E	E	Already Open.
Swan River	Montana	Already Open	Closed	C	Already Open.

TABLE 1—PROPOSED CHANGES FOR 2020–2021 HUNTING/SPORT FISHING SEASON—Continued

Station	State	Migratory bird hunting	Upland game hunting	Big game hunting	Sport fishing
Swanquarter	North Carolina	E	Closed	Closed	Closed.
Tallahatchie	Mississippi	C	C	E	Already Open.
Tennessee	Tennessee	C/D	C/E	E	Already Open.
Tensas River	Louisiana	Already Open	C	Already Open	Already Open.
Tishomingo	Oklahoma	Already Open	Closed	Already Open	E.
Trustom Pond	Rhode Island	C	B	B	Already Open.
Turnbull	Washington	E	Closed	Already Open	Closed.
Two Rivers	Illinois and Missouri	D	D	D	Already Open.
Umbagog	New Hampshire and Maine	Already Open	Already Open	Already Open	B.
Union Slough	Iowa	C	C	Already Open	Already Open.
Valentine	Nebraska	C/D	C	C	Already Open.
Wapato Lake	Oregon	A	Closed	Closed	Closed.
Wertheim	New York	Closed	Closed	C/E	Already Open.
Willapa	Washington	Already Open	Already Open	D	Already Open.
Willard NFH	Washington	Closed	Closed	Closed	A.

Key: A = New station opened (Opening).
B = New activity on a station previously open to other activities (Opening).
C = Station already open to activity but added new species to hunt (Opening).
D = Station already open to activity, but added new lands/waters or modified areas open to hunting or fishing (Expansion).
E = Station already open to activity, but existing opportunity expanded through season dates, method of take, bag limits, quota permits, youth hunt, etc. (Expansion).

The changes for the 2020–2021 hunting/fishing season noted in the table above are each based on a complete administrative record which, among other detailed documentation, also includes a hunt plan, a compatibility determination (for refuges), and the appropriate National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) analysis, all of which were the subject of a public review and comment process. These documents are available upon request.

Through these openings and expansions, we are proposing to open or expand hunting or sport fishing on 2,300,501 acres within the National Wildlife Refuge System and the National Fish Hatchery System.

Limited-Interest Openings in North Dakota

We are also proposing to open limited-interest NWRs (easement refuges) to hunting and fishing in accordance with State regulations and with access controlled by the current landowners. These easement refuges in North Dakota are a unique mix of government-owned and private property that were established during the 1930s in response to drought and economic depression in North Dakota. The Easement Refuge Program began in 1935 and executed agreements that granted the Federal Government migratory bird and flowage easements, many of them perpetual, for the purposes of water conservation, drought relief, and migratory bird and wildlife conservation. The overarching purpose of the program is management of migratory birds, with these easements serving as breeding grounds for many migratory waterfowl. The easements thus established were later formally designated NWRs and became the 41 easement refuges that the Service now administers (and which the Service retains the right to close to hunting/fishing, and later open, these easement refuges for wildlife, safety, or other reasons).

We propose to open all 41 of these easement refuges to upland game and big game hunting, with migratory bird hunting prohibited due to the migratory bird management purpose of these refuges. It would also open 38 of the easement refuges to sport fishing, as the remaining 3 are already open to sport fishing. This would open a total of 47,419 acres to hunting and fishing, subject to the permission of current landowners.

Other Updates to the Regulations for NWRs

We propose one change to 50 CFR part 36, the regulations concerning Alaska NWRs. Specifically, we propose to prohibit domestic sheep, goats, and camelids on the Arctic National Wildlife Refuge. The purpose of this prohibition is to prevent the spread of diseases and parasites to native wildlife populations, including mountain goats, musk oxen, and especially Dall's sheep. Dall's sheep in Alaska, including on the Arctic National Wildlife Refuge, are free of domestic livestock diseases and are believed to have very low immunity to many of these diseases. Domestic sheep, goats, and camelids (*e.g.,* llamas and alpacas) are recognized as being at high risk for carrying disease organisms, often asymptomatically, that are highly contagious and cause severe illness or death in Dall's sheep.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish-consumption advisories on the internet at: *http://www.epa.gov/fish-tech.*

Request for Comments

You may submit comments and materials on this proposed rule by any one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax or to an address not listed in **ADDRESSES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post your entire comment on *http://www.regulations.gov.* Before including personal identifying information in your comment, you should be aware that we may make your entire comment—including your personal identifying information—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. We will post all hardcopy comments on *http://www.regulations.gov.*

Required Determinations

Clarity of This Proposed Rule

Executive Orders 12866 and 12988 and the Presidential Memorandum of June 1, 1998, require us to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has determined that this rulemaking is not significant.

Executive Order (E.O.) 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. 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.

Executive Order 13771—Reducing Regulation and Controlling Regulatory Costs

This proposed rule is not an Executive Order (E.O.) 13771 (82 FR 9339, February 3, 2017) regulatory action because this proposed rule is not significant under E.O. 12866.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA] of 1996) (5 U.S.C. 601 *et seq.*), whenever a Federal 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 effect 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 an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

As a preface to this analysis, note that this proposed rule would open 41 easement refuges to hunting and/or sport fishing, but because these openings are subject to landowner permission, there is no direct economic impact of the regulatory action and the indirect effects are not reasonably foreseeable as they depend on the non-economic decisions of private individuals.

This proposed rule would open or expand hunting and sport fishing on 97 NWRs and 9 NFHs. As a result, visitor use for wildlife-dependent recreation on these stations will change. If the stations establishing new programs were a pure addition to the current supply of those activities, it would mean an estimated maximum increase of 24,763 user days (one person per day participating in a recreational opportunity; see Table 2). Because the participation trend is flat in these activities since 1991, this increase in supply will most likely be offset by other sites losing participants. Therefore, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity.

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2020–2021

[Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Abernathy Fish Technology Center (FTC)			
Alamosa	75	200	$9.4
Arthur R. Marshall (ARM) Loxahatchee	57	242	10.3
Assabet River	195		6.5
Balcones Canyonlands	30		1.0
Bamforth	25		0.8
Banks Lake	6		0.2
Berkshire NFH		365	12.6
Big Branch Marsh	38		1.3
Bitter Lake	16		0.5
Black Bayou Lake			
Blackwater			
Block Island	67		2.2
Bogue Chitto	75		2.5
Bombay Hook	50	365	14.3
Bosque del Apache	1,796		59.8
Browns Park	40		1.3
Buenos Aires	100		3.3
Buffalo Lake	12		0.4
Cabeza Prieta	1,525		50.7
Canaan Valley		365	12.6

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2020–2021—Continued

[Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Carolina Sandhills			
Catahoula			
Cedar Island	150		5.0
Cibola	800		26.6
Clarks River	760		25.3
Cokeville Meadows	5	30	1.2
Coldwater River			
Crab Orchard	21		0.7
Crescent Lake	200	600	27.4
Dahomey	15		0.5
Deer Flat		120	4.2
Dwight D. Eisenhower NFH		365	12.6
Edwin B. Forsythe			
Eufaula	1		
Everglades Headwater	140	365	17.3
Fallon	3,883		129.2
Fish Springs	21		0.7
Flint Hills	50		1.7
Fort Niobrara	60		2.0
Great Meadows	178		5.9
Great River	55		1.8
Hart Mountain	100		3.3
Horicon	110		3.7
Hutton Lake	100		3.3
Iroquois	160		5.3
John W. and Louise Seier	200		6.7
John H. Chafee	178	365	18.6
Jordan NFH	17		0.6
Kirwin	245		8.2
Kootenai		50	1.7
Lacreek	275		9.1
Laguna Atascosa	75		3.2
Lamar NFH		365	12.6
Leavenworth NFH			
Lee Metcalf	200		6.7
Leslie Canyon	116		3.9
Little White Salmon NFH	50		1.7
Lower Rio Grande Valley	48		1.6
Marais des Cygnes	25		0.8
Mattamuskeet	64		2.1
Merced	50		1.7
Middle Mississippi River	35		1.2
Minidoka	100		3.3
Monte Vista	25		0.8
Montezuma	211		7.0
Muscatatuck	53		1.8
Nestucca Bay	32		1.1
Ninigret	46		1.5
North Platte	27		0.9
Northern Tallgrass Prairie	82	7	3.0
Ottawa	20		0.7
Overflow			
Oxbow	207		6.9
Pahranagat	99		3.3
Pathfinder	20		0.7
Patoka River	89	15	3.5
Quivira	425		14.1
Rachel Carson			
Rydell	110		3.7
Sachuest Point	30		1.0
San Diego Bay		365	12.6
San Luis	50		1.7
Savannah	1,245		
Seatuck	90		3.0
Spring Creek NFH	20		0.7
St. Marks	520		17.3
St. Vincent	300		10.0
Stewart B. McKinney	262		8.7
Stillwater	63		2.1
Swan River	15		0.5

TABLE 2—ESTIMATED MAXIMUM CHANGE IN RECREATION OPPORTUNITIES IN 2020–2021—Continued

[Dollars in thousands]

Station	Additional hunting days	Additional fishing days	Additional expenditures
Swanquarter	75		2.5
Tallahatchie	15		0.5
Tennessee	265		8.8
Tensas			
Tishomingo		525	18.2
Trustom Pond			
Turnbull	120		4.0
Two Rivers	162		5.4
Umbagog		365	12.6
Union Slough	15		0.5
Valentine	750		25.0
Wapato Lake	2,304		76.7
Wertheim	81		2.7
Willapa	492		16.4
Willard NFH			
Total	19,689	5,074	830.8

To the extent visitors spend time and money in the area of the station that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses. Due to the unavailability of site-specific expenditure data, we use the national estimates from the 2016 National Survey of Fishing, Hunting, and Wildlife Associated Recreation to identify expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the maximum expected additional participation of the Refuge System and the Hatchery System yields approximately $830,800 in recreation-related expenditures (see Table 2, above). By having ripple effects throughout the economy, these direct expenditures are only part of the economic impact of these recreational activities. Using a national impact multiplier for hunting activities (2.51) derived from the report ''Hunting in America: An Economic Force for Conservation'' and for fishing activities (2.51) derived from the report ''Sportfishing in America'' yields a total maximum economic impact of approximately $3.3 million (2019 dollars) (Southwick Associates, Inc., 2018). Using a local impact multiplier would yield more accurate and smaller results. However, we employed the national impact multiplier due to the difficulty in developing local multipliers for each specific region.

Since we know that most of the fishing and hunting occurs within 100 miles of a participant's residence, then it is unlikely that most of this spending will be ''new'' money coming into a local economy; therefore, this spending will be offset with a decrease in some other sector of the local economy. The net gain to the local economies will be no more than $3.3 million, and likely less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and fishing activities, their spending patterns will not add new money into the local economy and, therefore, the real impact will be on the order of about $654,000 annually.

Small businesses within the retail trade industry (such as hotels, gas stations, taxidermy shops, bait-and-tackle shops, and similar businesses) may be affected by some increased or decreased station visitation. A large percentage of these retail trade establishments in the local communities around NWRs and NFHs qualify as small businesses (see Table 3, below). We expect that the incremental recreational changes will be scattered, and so we do not expect that the rule will have a significant economic effect on a substantial number of small entities in any region or nationally. As noted previously, we expect at most $830,800 to be spent in total in the refuges' local economies. The maximum increase will be less than two-tenths of 1 percent for local retail trade spending (see Table 3, below). Table 3 does not include entries for those NWRs and NFHs for which we project no changes in recreation opportunities in 2020–2021; see Table 2, above.

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2020–2021

[Thousands, 2019 dollars]

Station/county(ies)	Retail trade in 2012 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2012 [1]	Establishments with fewer than 10 employees in 2012 [1]
Alamosa:					
Alamosa, CO	$312,549	$4.7	<0.01%	85	62
Conejos, CO	40,009	4.7	0.01	18	12
ARM Loxahatchee:					
Palm Beach, FL	21,936,473	10.3	<0.01	5,236	3,925
Assabet River:					
Middlesex, MA	23,767,638	6.5	<0.01	5,156	3,594

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2020–2021—Continued

[Thousands, 2019 dollars]

Station/county(ies)	Retail trade in 2012 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2012 [1]	Establishments with fewer than 10 employees in 2012 [1]
Balcones Canyonlands:					
Travis, TX	17,352,705	0.3	<0.01	3,469	2,432
Burnet, TX	687,767	0.3	<0.01	182	148
Williamson, TX	9,559,523	0.3	<0.01	1,277	840
Bamforth:					
Albany, WY	533,993	0.8	<0.01	141	103
Banks Lake:					
Lanier, GA	D	0.2	D	21	17
Berkshire NFH:					
Berkshire, MA	2,134,074	12.6	<0.01	711	508
Big Branch Marsh:					
St. Tammany, LA	3,953,819	1.3	<0.01	915	656
Bitter Lake:					
Chaves, NM	996,707	0.5	<0.01	233	153
Block Island:					
Washington, RI	1,865,967	2.2	<0.01	548	394
Bogue Chitto:					
St. Tammany, LA	3,953,819	0.8	<0.01	915	656
Washington, LA	330,750	0.8	<0.01	138	104
Pearl River, MS	531,519	0.8	<0.01	172	128
Bombay Hook:					
Kent, DE	2,996,217	14.3	<0.01	561	368
Bosque del Apache:					
Socorro, NM	133,401	59.8	0.04	39	31
Browns Park:					
Moffat, CO	224,866	1.3	<0.01	72	58
Buenos Aires:					
Pima, AZ	12,668,688	3.3	<0.01	2,770	1,857
Buffalo Lake:					
Randall, TX	2,009,993	0.4	<0.01	352	247
Cabeza Prieta:					
Yuma, AZ	2,222,557	25.4	<0.01	449	302
Pima, AZ	12,668,688	25.4	<0.01	2,770	1,857
Canaan Valley:					
Tucker, WV	55,811	12.6	0.02	28	18
Cedar Island:					
Carteret, NC	1,083,228	5.0	<0.01	363	276
Cibola:					
La Paz, AZ	485,448	13.3	<0.01	81	57
Imperial, CA	1,867,209	13.3	<0.01	446	297
Clarks River:					
Marshall, KY	436,873	8.4	<0.01	103	54
Graves, KY	449,527	8.4	<0.01	123	90
McCracken, KY	1,824,502	8.4	<0.01	411	256
Cokeville Meadows:					
Lincoln, WY	201,089	1.2	<0.01	79	54
Crab Orchard:					
Williamson, IL	1,243,002	0.2	<0.01	271	185
Union, IL	186,073	0.2	<0.01	64	47
Jackson, IL	1,122,791	0.2	<0.01	225	143
Crescent Lake:					
Garden, NE	13,232	27.4	0.21	12	8
Dahomey:					
Bolivar, MS	413,290	0.5	<0.01	161	120
Deer Flat:					
Canyon, ID	2,393,412	2.1	<0.01	485	351
Malheur, OR	595,184	2.1	<0.01	120	78
Dwight D. Eisenhower NFH:					
Rutland, VT	1,205,694	12.6	<0.01	411	303
Eufaula:					
Quitman, GA	13,494	<0.1	<0.01	10	10
Stewart, GA	19,042	<0.1	<0.01	15	15
Barbour, AL	229,916	<0.1	<0.01	94	77
Russell, AL	556,440	<0.1	<0.01	155	120
Everglades Headwater:					

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2020–2021—Continued

[Thousands, 2019 dollars]

Station/county(ies)	Retail trade in 2012 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2012 [1]	Establishments with fewer than 10 employees in 2012 [1]
Polk, FL	7,232,622	8.7	<0.01	1,756	1,317
Okeechobee, FL	565,749	8.7	<0.01	157	120
Fallon:					
Churchill, NV	261,819	129.2	0.05	69	50
Fish Springs:					
Juab, UT	127,530	0.7	<0.01	33	23
Flint Hills:					
Coffey, KS	123,995	0.8	<0.01	50	35
Lyon, KS	549,988	0.8	<0.01	162	121
Fort Niobrara:					
Cherry, NE	97,237	2.0	<0.01	38	27
Great Meadows:					
Middlesex, MA	23,767,638	5.9	<0.01	5,156	3,594
Great River:					
Pike, IL	194,031	0.6	<0.01	53	36
Clark, MO	130,470	0.6	<0.01	36	28
Shelby, MO	65,630	0.6	<0.01	35	25
Hart Mountain:					
Lake, OR	83,366	3.3	<0.01	30	22
Horicon:					
Dodge, WI	927,521	1.8	<0.01	234	159
Fond du Lac, WI	1,561,559	1.8	<0.01	354	225
Hutton Lake:					
Albany, WY	533,993	3.3	<0.01	141	103
Iroquois:					
Genesee, NY	874,965	2.7	<0.01	219	163
Orleans, NY	281,049	2.7	<0.01	95	65
John W. and Louise Seier:					
Rock, NE	7,556	6.7	0.09	7	5
John H. Chafee:					
Washington, RI	1,865,967	18.6	<0.01	548	394
Jordan River NFH:					
Antrim, MI	188,903	0.6	<0.01	88	77
Kirwin:					
Phillips, KS	57,317	8.2	0.01	35	27
Kootenai:					
Boundary, ID	111,427	1.7	<0.01	47	37
Lacreek:					
Bennett, SD	36,017	9.1	0.03	15	9
Laguna Atascosa:					
Cameron, TX	4,593,067	3.2	<0.01	1,119	758
Lamar NFH:					
Clinton, PA	648,726	12.6	<0.01	121	82
Lee Metcalf:					
Ravalli, MT	368,170	6.7	<0.01	166	124
Leslie Canyon:					
Cochise, AZ	1,411,126	3.9	<0.01	408	301
Little White Salmon NFH:					
Skamania, WA	28,090	1.7	0.01	21	18
Lower Rio Grande Valley:					
Willacy, TX	131,872	0.5	<0.01	32	24
Hildalgo, TX	175,611	0.5	<0.01	26	20
Starr, TX	484,809	0.5	<0.01	135	98
Marais des Cygnes:					
Linn, KS	59,571	0.8	<0.01	35	25
Mattamuskeet:					
Hyde, NC	33,868	2.1	0.01	36	35
Merced:					
Merced, CA	2,181,912	1.7	<0.01	528	348
Middle Mississippi River:					
Monroe, IL	536,378	0.4	<0.01	96	72
Randolph, IL	415,738	0.4	<0.01	100	62
Jefferson, MO	435,265	0.4	<0.01	128	92
Minidoka:					
Power, ID	32,991	0.8	<0.01	16	13

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2020–2021—Continued

[Thousands, 2019 dollars]

Station/county(ies)	Retail trade in 2012 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2012 [1]	Establishments with fewer than 10 employees in 2012 [1]
Cassia, ID	360,659	0.8	<0.01	116	89
Blaine, ID	332,491	0.8	<0.01	183	153
Minidoka, ID	175,875	0.8	<0.01	62	47
Monte Vista:					
Alamosa, CO	312,549	0.4	<0.01	85	64
Rio Grande, CO	111,147	0.4	<0.01	48	41
Montezuma:					
Cayuga, NY	973,987	2.3	<0.01	260	195
Seneca, NY	545,489	2.3	<0.01	183	114
Wayne, NY	915,984	2.3	<0.01	267	181
Muscatatuck:					
Jackson, IN	660,019	0.9	<0.01	183	140
Jennings, IN	219,265	0.9	<0.01	66	58
Nestucca Bay:					
Lincoln, OR	646,693	1.1	<0.01	307	251
Ninigret:					
Washington, RI	1,865,967	1.5	<0.01	548	394
North Platte:					
Scotts Bluff, NE	D	0.9	D	178	128
Northern Tallgrass Prairie:					
Pipestone, MN	150,875	1.0	<0.01	52	40
Pope, MN	154,224	1.0	<0.01	41	32
Swift, MN	104,292	1.0	<0.01	45	32
Ottawa:					
Ottawa, OH	476,239	0.7	<0.01	144	109
Oxbow:					
Middlesex, MA	23,767,638	3.4	<0.01	5,156	3,594
Worcester, MA	12,155,780	3.4	<0.01	2,572	1,788
Pahranagat:					
Lincoln, NV	D	3.3	D	16	6
Pathfinder:					
Natrona, WY	1,656,388	0.3	<0.01	363	262
Carbon, WY	340,129	0.3	<0.01	86	73
Patoka River:					
Pike, IN	80,767	1.7	<0.01	31	23
Gibson, IN	620,865	1.7	<0.01	120	84
Quivira:					
Stafford, KS	38,722	4.7	0.01	17	13
Rice, KS	55,698	4.7	0.01	39	31
Reno, KS	911,013	4.7	<0.01	265	194
Rydell:					
Polk, MN	369,241	3.7	<0.01	109	74
Sachuest Point:					
Newport, RI	1,243,192	1.0	<0.01	430	332
San Diego Bay:					
San Diego, CA	44,302,582	12.6	<0.01	9,219	6,314
San Luis:					
Merced, CA	2,181,912	1.7	<0.01	528	348
Seatuck:					
Suffolk, NY	26,383,026	3.0	<0.01	6,524	3,904
Spring Creek NFH:					
Skamania, WA	28,090	0.3	<0.01	21	18
Klickitat, WA	71,785	0.3	<0.01	47	36
St. Marks:					
Wakulla, FL	186,734	5.8	<0.01	62	49
Jefferson, FL	98,784	5.8	0.01	43	35
Taylor, FL	230,580	5.8	<0.01	86	67
St. Vincent:					
Franklin, FL	108,995	10.0	0.01	67	52
Stewart B. McKinney:					
Fairfield, CT	16,888,208	2.9	<0.01	3,459	2,453
New Haven, CT	12,880,670	2.9	<0.01	2,901	2,015
Middlesex, CT	2,452,586	2.9	<0.01	659	455
Stillwater:					
Churchill, NV	261,819	2.1	<0.01	69	50

TABLE 3—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL STATION VISITATION FOR 2020–2021—Continued

[Thousands, 2019 dollars]

Station/county(ies)	Retail trade in 2012 [1]	Estimated maximum addition from new activities	Addition as % of total	Establishments in 2012 [1]	Establishments with fewer than 10 employees in 2012 [1]
Swan River:					
Lake, MT	66,984	0.5	<0.01	30	23
Swanquarter:					
Hyde, NC	33,868	2.5	0.01	36	35
Tallahatchie:					
Tallahatchie, MS	60,260	0.2	<0.01	40	36
Grenada, MS	462,248	0.2	<0.01	120	90
Tennessee:					
Henry, TN	545,041	2.2	<0.01	139	98
Benton, TN	167,976	2.2	<0.01	59	47
Decator, TN	85,132	2.2	<0.01	45	35
Hunphreys, TN	206,806	2.2	<0.01	65	54
Tishomingo:					
Johnston, OK	68,010	9.1	0.01	35	31
Marshall, OK	177,989	9.1	0.01	53	42
Turnbull:					
Spokane, WA	7,305,612	4.0	<0.01	1,617	1,108
Two Rivers:					
Jersey, IL	256,816	1.3	<0.01	69	49
Calhoun, IL	30,438	1.3	<0.01	15	9
Greene, IL	139,806	1.3	<0.01	49	32
St. Charlies, MO	5,536,064	1.3	<0.01	1,085	695
Umbagog:					
Oxford, ME	680,802	6.3	<0.01	222	163
Coos, NH	630,944	6.3	<0.01	184	143
Union Slough:					
Kossuth, IA	274,837	0.5	<0.01	93	69
Valentine:					
Cherry, NE	97,237	25.0	0.03	38	27
Wapato Lake:					
Washington, OR	9,342,147	38.3	<0.01	1,573	1,002
Yamhill, OR	987,290	38.3	<0.01	283	201
Wertheim:					
Suffolk, NY	26,383,026	2.7	<0.01	6,524	3,904
Willapa:					
Pacific, WA	120,098	16.4	0.01	89	68

[1] U.S. Census Bureau. "D" denotes sample size too small to report data.

With the small change in overall spending anticipated from this proposed rule, it is unlikely that a substantial number of small entities will have more than a small impact from the spending change near the affected stations. Therefore, we certify that this rule, as proposed, will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a small entity compliance guide is not required.

Small Business Regulatory Enforcement Fairness Act

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects. This proposed rule:

a. Would not have an annual effect on the economy of $100 million or more. The minimal impact would be scattered across the country and would most likely not be significant in any local area.

b. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This proposed rule would have only a slight effect on the costs of hunting opportunities for Americans. If the substitute sites are farther from the participants' residences, then an increase in travel costs would occur. The Service does not have information to quantify this change in travel cost but assumes that, since most people travel less than 100 miles to hunt, the increased travel cost would be small. We do not expect this proposed rule to affect the supply or demand for hunting opportunities in the United States, and, therefore, it should not affect prices for hunting equipment and supplies, or the retailers that sell equipment.

c. Would 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. This proposed rule represents only a small proportion of recreational spending at NWRs. Therefore, if adopted, this rule would have no measurable economic effect on the wildlife-dependent industry, which has annual sales of equipment and travel expenditures of $72 billion nationwide.

Unfunded Mandates Reform Act

Since this proposed rule would apply to public use of federally owned and managed refuges, it would not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would affect only visitors at NWRs and NFHs, and would describe what they can do while they are on a Service station.

Federalism (E.O. 13132)

As discussed under *Regulatory Planning and Review* and *Unfunded Mandates Reform Act,* above, this proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement under E.O. 13132. In preparing this proposed rule, we worked with State governments.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Department of the Interior has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule would add 8 NWRs to the list of refuges open to hunting and sport fishing, open or expand hunting or sport fishing at 89 other NWRs, and open 9 NFHs to hunting and/or sport fishing, it is not a significant regulatory action under E.O. 12866, and we do not expect it to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on NWRs and NFHs with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations.

Paperwork Reduction Act (PRA)

This proposed rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB). All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with hunting and sport fishing activities across the National Wildlife Refuge System and assigned the following OMB control numbers:

- 1018–0140, ''Hunting and Sport Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25.41, 25.43, 25.51, 26.32, 26.33, 27.42, 30.11, 31.15, 32.1 to 32.72'' (Expires 07/30/2021),
- 1018–0153, ''National Wildlife Refuge Visitor Check-In Permit and Use Report'' (Expires 04/30/2022),
- 1018–0102, ''National Wildlife Refuge Special Use Permit Applications and Reports, 50 CFR 25, 26, 27, 29, 30, 31, 32, & 36'' (Expires 08/31/2020),
- 1018–0135, ''Electronic Federal Duck Stamp Program'' (Expires 01/31/2023),
- 1018–0093, ''Federal Fish and Wildlife Permit Applications and Reports—Management Authority; 50 CFR 13, 15, 16, 17, 18, 22, 23'' (Expires 08/31/2020), and
- 1024–0252, ''The Interagency Access Pass and Senior Pass Application Processes'' (Expires 08/31/2020).

In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on our proposal to renew OMB control number 1018–0140. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

The Service's proposed rule (RIN 1018–BE50) would open, for the first time, eight National Wildlife Refuges (NWRs) that are currently closed to hunting and sport fishing. In addition, we propose to open or expand hunting and sport fishing at 89 other NWRs, and add pertinent station-specific regulations for other NWRs that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2020–2021 season. We also propose to open hunting or sport fishing on nine units of the National Fish Hatchery System (NFHs). We also propose to add pertinent station-specific regulations that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing at these nine NFHs for the 2020–2021 season. Further, we propose to open 41 limited-interest easement NWRs in North Dakota for upland game and big game hunting in accordance with State regulations. Access to these NWRs is controlled by the current landowners, and, therefore, they are not fully open to the public unless authorized by the landowner. The additional burden of information collection through the opening of these NWRs to hunting and/or sport fishing will also be included in this application to OMB to revise OMB Control No. 1018–0140.

Many refuges offer hunting and sport fishing activities without collecting any information. Those refuges that do collect hunter and angler information do so seasonally, usually once a year at the beginning of the hunting or sport fishing season. Some refuges may elect to collect the identical information via a non-form format (letter, email, or through discussions in person or over the phone). Some refuges provide the form electronically over the internet. In some cases, because of high demand and limited resources, we often provide hunt opportunities by lottery, based on dates, locations, or type of hunt.

Hunting Applications/Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System)

Form 3–2439 collects the following information from individuals seeking hunting experiences on the National Wildlife Refuge System:

- Lottery Application: Refuges who administer hunting via a lottery system will use Form 3–2439 as the lottery application. If the applicant is successful, the completed Form 3–2439 also serves as their permit application, avoiding a duplication of burden on the public filling out two separate forms.
- Date of application: We often have application deadlines and this

information helps staff determine the order in which we received the applications. It also ensures that the information is current.

• Methods: Some refuges hold multiple types of hunts, *i.e.,* archery, shotgun, primitive weapons, etc. We ask for this information to identify which opportunity(ies) a hunter is applying for.

• Species Permit Type: Some refuges allow only certain species, such as moose, elk, or bighorn sheep to be hunted. We ask hunters to identify which species hunt they are applying for.

• Applicant information: We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process, when the applicant is successful in a lottery drawing, or after receiving a permit.

• Party Members: Some refuges allow the permit applicant to include additional hunters in their group. We collect the names of all additional hunters, when allowed by the refuge.

• Parent/Guardian Contact Information: We collect name, relationship, address, phone number(s), and email for a parent/guardian of youth hunters. We ask for this information in the event of an emergency.

• Date: We ask hunters for their preferences for hunt dates.

• Hunt/Blind Location: We ask hunters for their preferences for hunt units, areas, or blinds.

• Special hunts: Some refuges hold special hunts for youth, hunters who are disabled, or other underserved populations. We ask hunters to identify if they are applying for these special hunts. For youth hunts, we ask for the age of the hunter at the time of the hunt.

• Signature and date: To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

Sport Fishing Application/Permit (FWS Form 3–2358, ''Sport Fishing-Shrimping-Crabbing-Frogging Permit Application'')

Form 3–2358 allows the applicant to choose multiple permit activities, and requests the applicant provide the state fishing license number. The form provides the refuge with more flexibility to insert refuge-specific requirements/instructions, along with a permit number and validity dates for season issued.

We collect the following information from individuals seeking sport fishing experiences:

• Date of application: We often have application deadlines and this information helps staff determine the order in which we received the applications. It also ensures that the information is current.

• State fishing license number: We ask for this information to verify the applicant is legally licensed by the state (where required).

• Permit Type: On sport fishing permits, we ask what type of activity (crabbing, shrimping, frogging, etc.) is being applied for.

• Applicant information: We collect name, address, phone number(s), and email so we can contact the applicant/permittee either during the application process or after receiving a permit.

• Signature and date: To confirm that the applicant (and parent/guardian, if a youth hunter) understands the terms and conditions of the permit.

Harvest/Fishing Activity Reports

We have four harvest/fishing activity reports, depending on the species. We ask users to report on their success after their experience so that we can evaluate hunt quality and resource impacts. We use the following activity reports, which we distribute during appropriate seasons, as determined by State or Federal regulations:

• FWS Form 3–2359 (Big Game Harvest Report).

• FWS Form 3–2360 (Sport Fishing Report).

• FWS Form 3–2361 (Migratory Bird Hunt Report).

• FWS Form 3–2362 (Upland/Small Game/Furbearer Report).

We collect the following information on the harvest reports:

• Name of refuge and location: We ask this to track responses by location, which is important when we manage more than one refuge or activity area from one office.

• Date: We ask when the hunter/angler participated in the activity. This helps us identify use trends so we have resources available.

• Hours/Time in/out: We ask this to determine how long the hunter/angler participated in the activity. We also use this to track use so we can allocate resources appropriately.

• Name, City, State: We ask for a name so we can identify the user. We ask for residence information to help establish use patterns (if users are local or traveling).

• Number harvested/caught based on species: We ask this to determine the impacts on wildlife/fish populations, relative success, and quality of experience.

• Species harvested/caught: We ask this to determine the impacts on wildlife/fish populations, relative success, and quality of experience.

Labeling/Marking Requirements

As a condition of the permit, some refuges require permittees to label hunting and/or sport fishing gear used on the refuge. This equipment may include items such as the following: Tree stands, blinds, or game cameras; hunting dogs (collars); flagging/trail markers; boats; and/or sport fishing equipment such as jugs, trotlines, and crawfish or crab traps. Refuges require the owner label their equipment with their last name, the state issued hunting/fishing license number, and/or hunting/fishing permit number. Refuges may also require equipment for youth hunters include ''YOUTH'' on the label. This minimal information is necessary in the event the refuge needs to contact the owner.

Required Notifications

On occasion, hunters may find their game has landed outside of established hunting boundaries. In this situation, hunters must notify an authorized refuge employee to obtain consent to retrieve the game from an area closed to hunting or entry only upon specific consent. Certain refuges also require hunters to notify the refuge manager when hunting specific species (*e.g.,* black bear, bobcat, or eastern coyote) with trailing dogs. Refuges encompassing privately owned lands, referred to as ''easement overlay refuges'' or ''limited-interest easement refuges,'' may also require the hunter obtain written or oral permission from the landowner prior to accessing the land.

Self-Clearing Daily Check-In/Out Permit (FWS Form 3–2405)

FWS Form 3–2405 has three parts:

• Self-Clearing Daily Check-in Permit. Each user completes this portion of the form (date of visit, name, and telephone numbers) and deposits it in the permit box prior to engaging in any activity on the refuge.

• Self-Clearing Daily Visitor Registration Permit. Each user must complete the front side of the form (date, name, city, State, zip code, and purpose of visit) and carry this portion while on the refuge. At the completion of the visit, each user must complete the reverse side of the form (number of hours on refuge, harvest information (species and number), harvest method, angler information (species and number), and wildlife sighted (*e.g.,* black bear and hog) and deposit it in the permit box.

• Self-Clearing Daily Vehicle Permit. The driver and each user traveling in the vehicle must complete this portion

(date) and display in clear view in the vehicle while on the refuge.

We use FWS Form 3–2405 to collect:

• Information on the visitor (name, address, and contact information). We use this information to identify the visitor or driver/passenger of a vehicle while on the refuge. This is extremely valuable information should visitors become lost or injured. Law enforcement officers can easily check vehicles for these cards in order to determine a starting point for the search or to contact family members in the event of an abandoned vehicle. Having this information readily available is critical in a search and rescue situation.

• Purpose of visit (hunting, sport fishing, wildlife observation, wildlife photography, auto touring, birding, hiking, boating/canoeing, visitor center, special event, environmental education class, volunteering, other recreation). This information is critical in determining public use participation in wildlife management programs. This not only allows the refuge to manage its hunt and other visitor use programs, but also to increase and/or improve facilities for non-consumptive uses that are becoming more popular on refuges. Data collected will also help managers better allocate staff and resources to serve the public as well as develop annual performance measures.

• Success of harvest by hunters/anglers (number and type of harvest/caught). This information is critical to wildlife management programs on refuges. Each refuge will customize the form by listing game species and incidental species available on the refuge, hunting methods allowed, and data needed for certain species (*e.g.,* for deer, whether itis a buck or doe and the number of points; or for turkeys, the weight and beard and spur lengths).

• Visitors observations of incidental species. This information will help managers develop annual performance measures and it provides information to help develop resource management planning.

• Photograph of animal harvested (specific refuges only). This requirement documents the sex of animal prior to the hunter being eligible to harvest the opposite sex (where allowed).

• Date of visit and/or area visited.

• Comments. We encourage visitors to comment on their experience.

Due to the wide range of hunting and sport fishing opportunities offered on the National Wildlife Refuge and National Fish Hatchery Systems, the refuges and fish hatcheries may customize the forms to remove any fields that are not pertinent to the recreational opportunities they offer. Refuges will not add any new fields to the forms, but the order of the fields may be reorganized. Refuges may customize the forms with instructions and permit conditions specific to a particular unit for the hunting/sport fishing activity.

Title of Collection: Hunting and Fishing Application Forms and Activity Reports for National Wildlife Refuges, 50 CFR 25.41, 25.43, 25.51, 26.32, 26.33, 27.42, 30.11, 31.15, 32.1 to 32.72.

OMB Control Number: 1018–0140.

Form Number: FWS Forms 3–2405, 3–2439, and 3–2358 through 3–2362.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and households.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Estimated Annual Non-hour Burden Cost: None.

Activity	Annual number of responses	Completion time per response (minutes)	Total annual burden hours
Hunting and Sport Fishing Permit Applications:			
Form 3–2439 Hunt Application/Permit	355,663	10	59,277
Form 3–2358 Fish/Crab/Shrimp Application/Permit	2,521	5	210
Subtotal Applications:	*358,184*	.....	*59,487*
Harvest Activity Reports:			
Form 3–2359 Big Game Harvest Report	93,717	15	23,429
Form 3–2360 Sport Fishing Harvest Report	429,534	15	107,384
Form 3–2361 Migratory Bird Harvest Report	33,477	15	8,369
Form 3–2362 Upland Game Furbearer Harvest Report	25,524	15	6,381
Subtotal Activity Reports:	*582,253*	.....	*145,563*
Labeling/Marking Requirements	2,203	10	367
Required Notifications	433	30	217
Form 3–2405 Check-In/Out Permit	663,000	5	55,250
Subtotal Other Requirements:	665,595	.....	55,813
Totals:	1,606,032	.....	260,863

The above burden estimates indicate an expected total of 1,606,031 responses and 260,863 burden hours across all of our forms. These totals reflect expected increases of 31,490 responses and 5,114 burden hours relative to the 2019–2020 rule and previous ICR. We expect such increases in the use of our forms because we anticipate increased hunting and fishing activity as a direct result of the increased number of hunting and fishing opportunities on Service stations under the proposed rule.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this proposed information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through

the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB/PERMA (JAO), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–0140 in the subject line of your comments.

Endangered Species Act Section 7 Consultation

We comply with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), when developing comprehensive conservation plans and step-down management plans—which would include hunting and/or fishing plans—for public use of refuges and hatcheries, and prior to implementing any new or revised public recreation program on a station as identified in 50 CFR 26.32. We have completed section 7 consultation on each of the affected stations.

National Environmental Policy Act

We analyzed this proposed rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), 43 CFR part 46, and 516 Departmental Manual (DM) 8.

A categorical exclusion from NEPA documentation applies to publication of proposed amendments to station-specific hunting and fishing regulations because they are technical and procedural in nature, and the environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis (43 CFR 46.210 and 516 DM 8). Concerning the actions that are the subject of this proposed rulemaking, we have complied with NEPA at the project level when developing each proposal. This is consistent with the Department of the Interior instructions for compliance with NEPA where actions are covered sufficiently by an earlier environmental document (43 CFR 46.120).

Prior to the addition of a refuge or hatchery to the list of areas open to hunting and fishing in 50 CFR parts 32 and 71, we develop hunting and fishing plans for the affected stations. We incorporate these proposed station hunting and fishing activities in the station comprehensive conservation plan and/or other step-down management plans, pursuant to our refuge planning guidance in 602 Fish and Wildlife Service Manual (FW) 1, 3, and 4. We prepare these comprehensive conservation plans and step-down plans in compliance with section 102(2)(C) of NEPA, the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500 through 1508, and the Department of Interior's NEPA regulations 43 CFR part 46. We invite the affected public to participate in the review, development, and implementation of these plans. Copies of all plans and NEPA compliance are available from the stations at the addresses provided below.

Available Information for Specific Stations

Individual refuge and hatchery headquarters have information about public use programs and conditions that apply to their specific programs and maps of their respective areas. To find out how to contact a specific refuge or hatchery, contact the appropriate Service office for the States listed below:

Hawaii, Idaho, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 NE 11th Avenue, Portland, OR 97232–4181; Telephone (503) 231–6214.

Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW, Albuquerque, NM 87103; Telephone (505) 248–6937.

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; Telephone (612) 713–5360.

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345; Telephone (404) 679–7166.

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589; Telephone (413) 253–8307.

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Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, AK 99503; Telephone (907) 786–3545.

California and Nevada. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825; Telephone (916) 414–6464.

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List of Subjects

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife refuges.

50 CFR Part 71

Fish, Fishing, Hunting, Wildlife.

Proposed Regulation Promulgation

For the reasons set forth in the preamble, we propose to amend title 50, chapter I, subchapters C and E of the Code of Federal Regulations as follows:

Subchapter C—The National Wildlife Refuge System

PART 32—HUNTING AND FISHING

■ 1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i; Pub. L. 115–20, 131 Stat. 86.

■ 2. Amend § 32.7 by:

■ a. Redesignating paragraph (c)(8) as paragraph (c)(9) and adding a new paragraph (c)(8);

■ b. Redesignating paragraphs (e)(17) through (22) as paragraphs (e)(18) through (23) and adding a new paragraph (e)(17);

■ c. Redesignating paragraphs (i)(5) through (14) as paragraphs (i)(6) through (15) and adding a new paragraph (i)(5);
■ d. Redesignating paragraphs (aa)(4) through (6) as paragraphs (aa)(5) through (7) and adding a new paragraph (aa)(4);
■ e. Redesignating paragraphs (bb)(3) through (6) as paragraphs (bb)(4) through (7) and adding a new paragraph (bb)(3);
■ f. Revising paragraph (hh);
■ g. Redesignating paragraph (kk)(20) as paragraph (kk)(21) and adding a new paragraph (kk)(20);
■ h. Redesignating paragraphs (mm)(2) through (4) as paragraphs (mm)(3) through (5) and adding a new paragraph (mm)(2); and
■ i. Redesignating paragraphs (xx)(1) through (5) as paragraphs (xx)(2) through (6) and adding a new paragraph (xx)(1).

The additions and revision read as follows:

§ 32.7 What refuge units are open to hunting and/or sport fishing?

* * * * *

(c) * * *

(8) Leslie Canyon National Wildlife Refuge.

* * * * *

(e) * * *

(17) San Diego Bay National Wildlife Refuge.

* * * * *

(i) * * *

(5) Everglades Headwaters National Wildlife Refuge.

* * * * *

(aa) * * *

(4) John W. and Louise Seier National Wildlife Refuge.

* * * * *

(bb) * * *

(3) Fallon National Wildlife Refuge.

* * * * *

(hh) *North Dakota.* (1) Appert Lake National Wildlife Refuge.

(2) Ardoch National Wildlife Refuge.

(3) Arrowwood National Wildlife Refuge.

(4) Arrowwood Wetland Management District.

(5) Audubon National Wildlife Refuge.

(6) Audubon Wetland Management District.

(7) Bone Hill National Wildlife Refuge.

(8) Brumba National Wildlife Refuge.

(9) Buffalo Lake National Wildlife Refuge.

(10) Camp Lake National Wildlife Refuge.

(11) Canefield Lake National Wildlife Refuge.

(12) Chase Lake National Wildlife Refuge.

(13) Chase Lake Wetland Management District.

(14) Cottonwood Lake National Wildlife Refuge.

(15) Crosby Wetland Management District.

(16) Dakota Lake National Wildlife Refuge.

(17) Des Lacs National Wildlife Refuge.

(18) Devils Lake Wetland Management District.

(19) Half Way Lake National Wildlife Refuge.

(20) Hiddenwood Lake National Wildlife Refuge.

(21) Hobart Lake National Wildlife Refuge.

(22) Hutchinson Lake National Wildlife Refuge.

(23) J. Clark Salyer National Wildlife Refuge.

(24) J. Clark Salyer Wetland Management District.

(25) Johnson Lake National Wildlife Refuge.

(26) Kulm Wetland Management District.

(27) Lake Alice National Wildlife Refuge.

(28) Lake George National Wildlife Refuge.

(29) Lake Ilo National Wildlife Refuge.

(30) Lake National Wildlife Refuge.

(31) Lake Nettie National Wildlife Refuge.

(32) Lake Otis National Wildlife Refuge.

(33) Lake Patricia National Wildlife Refuge.

(34) Lake Zahl National Wildlife Refuge.

(35) Lambs Lake National Wildlife Refuge.

(36) Little Goose Lake National Wildlife Refuge.

(37) Long Lake National Wildlife Refuge.

(38) Long Lake Wetland Management District.

(39) Lords Lake National Wildlife Refuge.

(40) Lost Lake National Wildlife Refuge.

(41) Lostwood National Wildlife Refuge.

(42) Lostwood Wetland Management District.

(43) Maple River National Wildlife Refuge.

(44) Pleasant Lake National Wildlife Refuge.

(45) Pretty Rock National Wildlife Refuge.

(46) Rabb Lake National Wildlife Refuge.

(47) Rock Lake National Wildlife Refuge.

(48) Rose Lake National Wildlife Refuge.

(49) School Section National Wildlife Refuge.

(50) Sheyenne Lake National Wildlife Refuge.

(51) Sibley Lake National Wildlife Refuge.

(52) Silver Lake National Wildlife Refuge.

(53) Slade National Wildlife Refuge.

(54) Snyder Lake National Wildlife Refuge.

(55) Springwater National Wildlife Refuge.

(56) Stewart Lake National Wildlife Refuge.

(57) Stoney Slough National Wildlife Refuge.

(58) Storm Lake National Wildlife Refuge.

(59) Sunburst Lake National Wildlife Refuge.

(60) Tewaukon National Wildlife Refuge.

(61) Tewaukon Wetland Management District.

(62) Tomahawk National Wildlife Refuge.

(63) Upper Souris National Wildlife Refuge.

(64) Wild Rice National Wildlife Refuge.

(65) Willow Lake National Wildlife Refuge.

(66) Wintering River National Wildlife Refuge.

(67) Wood Lake National Wildlife Refuge.

* * * * *

(kk) * * *

(20) Wapato Lake National Wildlife Refuge.

* * * * *

(mm) * * *

(2) John H. Chafee National Wildlife Refuge.

* * * * *

(xx) * * *

(1) Bamforth National Wildlife Refuge.

* * * * *

■ 3. Amend § 32.22 by:
■ a. Revising paragraphs (b), (c), (d)(1) introductory text, (d)(1)(i), (d)(2)(i) and (ii), and (d)(3);
■ b. Redesignating paragraph (h) as paragraph (i); and
■ c. Adding a new paragraph (h).

The revisions and addition read as follows:

§ 32.22 Arizona.

* * * * *

(b) *Buenos Aires National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, merganser, moorhen

(gallinule), common snipe, and mourning, white-winged, and Eurasian-collared dove on designated areas of the refuge subject to the following condition: We allow portable or temporary blinds and stands, but you must remove them at the end of each day's hunt (see § 27.93 of this chapter).

(2) *Upland game hunting.* We allow hunting of black-tailed and antelope jackrabbit; cottontail rabbit; badger; bobcat; coati; kit and gray fox; raccoon; ringtail; coyote; and hog-nosed, hooded, spotted, and striped skunk on designated areas of the refuge subject to the following conditions:

(i) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(ii) We allow portable or temporary blinds and stands, but you must remove them at the end of each day's hunt (see § 27.93 of this chapter).

(3) *Big game hunting.* We allow hunting of mule and white-tailed deer, javelina, mountain lion, and feral hog on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(2)(i) and (ii) of this section apply.

(4) [Reserved]

(c) *Cabeza Prieta National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of mourning dove on designated areas of the refuge subject to the following conditions:

(i) We require hunters to obtain a Barry M. Goldwater Range Entry Permit (Department of Defense form/requirement—pending OMB approval) from the refuge.

(ii) We prohibit falconry.

(iii) We allow dogs only for the pointing and retrieval of birds.

(iv) We allow hunting only during the late season dove hunt.

(2) *Upland game hunting.* We allow hunting of Gambel's quail, Eurasian collared-dove, desert cottontail rabbit, antelope and black-tailed jackrabbit, coyote, spotted skunk, bobcat, ringtail, badger, and fox in designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) through (iii) of this section apply.

(ii) We do not allow wheeled carts in designated Wilderness.

(iii) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(3) *Big game hunting.* We allow hunting of desert bighorn sheep, mule deer, and mountain lion on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) and (c)(2)(ii) of this section apply.

(ii) We require Special Use Permits for all hunters (FWS Form 3–1383–G), guides (FWS Form 3–1383–C), and stock animals (FWS Form 3–1383–G).

(iii) We prohibit the use of dogs when hunting big game.

(4) [Reserved]

(d) * * *

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, moorhen (gallinule), common snipe, mourning and white-winged dove, and Eurasian collared-dove on designated areas of the refuge subject to the following conditions:

(i) We allow only shotgun, bow and arrow, and crossbow.

* * * * *

(2) * * *

(i) For cottontail rabbit, we allow only shotgun, bow and arrow, crossbow, handgun, rifle, and muzzleloader.

(ii) For quail, we allow only shotgun, bow and arrow, crossbow, and handgun shooting shot.

* * * * *

(3) *Big game hunting.* We allow hunting of mule deer on designated areas of the refuge subject to the following condition: We allow rifle, shotgun, handgun, muzzleloader, crossbow and bow and arrow, except for archery-only hunts.

* * * * *

(h) *Leslie Canyon National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of mourning, white-winged, and Eurasian collared-dove on designated areas of the refuge subject to the following condition: We prohibit falconry.

(2) *Upland game hunting.* We allow hunting of Gambel's and scaled quail; cottontail; black-tailed jackrabbit; gray fox; coati; badger; striped, hooded, spotted, and hog-nosed skunk; bobcat; raccoon; ring-tailed cat; and coyote on designated areas of the refuge subject to the following conditions:

(i) We prohibit pneumatic weapons.

(ii) We prohibit night hunting.

(iii) We allow upland game hunting on the refuge only during general or archery State deer and javelina hunts when seasons overlap.

(3) *Big game hunting.* We allow hunting of mule deer, white-tailed deer, javelina, and black bear on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (h)(2)(i) and (ii) of this section apply.

(ii) We allow black bear hunting on the refuge only during general or archery State deer and javelina hunt when seasons overlap.

(4) [Reserved]

* * * * *

■ 4. Amend § 32.23 by revising paragraphs (d)(1) introductory text, (d)(1)(ii), and (g)(1) introductory text to read as follows:

§ 32.23 Arkansas.

* * * * *

(d) * * *

(1) *Migratory game bird hunting.* We allow hunting of waterfowl (ducks, mergansers, and coots) on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) We allow waterfowl hunting from legal shooting hours until 12 p.m. (noon).

* * * * *

(g) * * *

(1) *Migratory game bird hunting.* We allow hunting of American woodcock, duck, goose, and coot on designated areas of the refuge subject to the following conditions:

* * * * *

■ 5. Amend § 32.24 by:

■ a. Revising paragraphs (l)(1) introductory text, (m)(1)(viii), and (m)(2)(i);

■ b. Redesignating paragraphs (q) through (v) as paragraphs (r) through (w);

■ c. Adding a new paragraph (q); and

■ d. Revising newly redesignated paragraphs (r)(1)(vii), (s)(2)(ii), and (v)(2)(ii).

The revisions and addition read as follows:

§ 32.24 California.

* * * * *

(l) * * *

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, snipe, and moorhen on designated areas of the refuge subject to the following conditions:

* * * * *

(m) * * *

(1) * * *

(viii) Hunters must enter and exit the hunting area from the three designated hunt parking lots, which we open 1½ hours before legal sunrise and close 1 hour after legal sunset each hunt day.

* * * * *

(2) * * *

(i) We limit hunting to junior hunters possessing a valid State Junior Hunting License and refuge Junior Pheasant Hunt Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

* * * * *

(q) *San Diego Bay National Wildlife Refuge.* (1)–(3) [Reserved]

(4) *Sport fishing.* We allow sport fishing from boats and other flotation

devices on designated areas of the refuge subject to the following condition: We prohibit shoreline fishing.

(r) * * *

(1) * * *

(vii) We prohibit the use of motorized boats and other flotation devices in the free-roam units with the exception of the Freitas Unit.

* * * * *

(s) * * *

(2) * * *

(ii) The conditions set forth at paragraphs (s)(1)(ii) and (iii) of this section apply.

* * * * *

(v) * * *

(2) * * *

(ii) The conditions set forth at paragraphs (v)(1)(i) through (viii) of this section apply.

* * * * *

■ 6. Amend § 32.25 by revising paragraphs (a)(2) and (4), (d)(3), and (e)(2) to read as follows:

§ 32.25 Colorado.

* * * * *

(a) * * *

(2) *Upland game hunting.* We allow hunting of cottontail rabbit, and black-tailed and white-tailed jackrabbit, on designated areas of the refuge subject to the following condition: The only acceptable methods of take are shotgun, rifle firing rimfire cartridges less than .23 caliber, hand-held bow, pellet gun, slingshot, and hawking/falconry.

* * * * *

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

* * * * *

(d) * * *

(3) *Big game hunting.* We allow hunting of pronghorn antelope, moose, mule deer, and elk on designated areas of the refuge.

* * * * *

(e) * * *

(2) *Upland game hunting.* We allow hunting of cottontail rabbit, and black-tailed and white-tailed jackrabbit, on designated areas of the refuge subject to the following condition: The only acceptable methods of take are shotgun, rifle firing rimfire cartridges less than .23 caliber, hand-held bow, pellet gun, slingshot, and hawking/falconry.

* * * * *

■ 7. Revise § 32.26 to read as follows:

§ 32.26 Connecticut.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) We allow refuge access 1½ hours prior to legal sunrise until 1½ hours after legal sunset.

(ii)We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of upland game on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (a)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow hunting of big game on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (a)(1)(i) and (ii) of this section apply.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (a)(1)(i) of this section applies.

(ii) We prohibit launching of motorboats from the refuge.

(iii) We prohibit the use of reptiles and amphibians as bait.

(b) *Stewart B. McKinney National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, coot, merganser, brant, sea duck, and goose on designated areas of the refuge subject to the following conditions:

(i) For the Great Meadows unit, we will limit hunt days to Tuesdays, Wednesdays, and Saturdays during the regular duck, sea duck, and brant seasons.

(ii) We allow the use of dogs consistent with State regulations.

(iii) We allow the use of temporary tree stands and blinds, which must be removed at the end of each day's hunt (see § 27.93 of this chapter).

(2) [Reserved]

(3) *Big game hunting.* We allow archery hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (b)(1)(iii) of this section applies.

(4) [Reserved]

■ 8. Revise § 32.27 to read as follows:

§ 32.27 Delaware.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Bombay Hook National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) We require a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) for waterfowl hunting.

(ii) You must complete and return a Migratory Bird Hunt Report (FWS Form 3–2361), available at the refuge administration office or on the refuge's website, within 15 days of the close of the season.

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of grey squirrel, cottontail rabbit, ring-necked pheasant, bobwhite quail, raccoon, opossum, coyote, and red fox on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (a)(1)(iii) of this section applies.

(3) *Big game hunting.* We allow hunting of turkey and deer on designated areas of the refuge subject to the following conditions:

(i) We require a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) Hunting on the headquarters deer hunt area will be by lottery. You must obtain and possess a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) from the refuge office or website and have the permit in your possession while hunting.

(4) *Sport fishing.* We allow sport fishing and crabbing on designated areas of the refuge subject to the following condition: We prohibit the use of lead fishing tackle on the refuge.

(b) *Prime Hook National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow the hunting of waterfowl, coot, mourning dove, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) You must obtain and possess a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) from the refuge office or website and have the permit in your possession while hunting.

(ii) You must complete and return a Migratory Bird Hunt Report (FWS Form 3–2361), available at the refuge administration office or on the refuge's website, within 15 days of the close of the season.

(iii) We allow State certified hunters with disabilities hunting privileges in the Disabled Waterfowl Draw Area subject to the following condition: We

do not allow assistants to enter a designated disabled hunting area unless they are accompanied by a certified disabled hunter.

(iv) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of rabbit, quail, pheasant, and red fox on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) and (iv) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(ii) Hunting on the headquarters deer hunt area will be by lottery.

(iii) The condition set forth at paragraph (b)(1)(i) of this section applies.

(4) *Sport fishing.* We allow sport fishing and crabbing on designated areas of the refuge subject to the following conditions:

(i) On Turkle and Fleetwood ponds, we allow boats only with electric trolling motors.

(ii) You must attend all crabbing and fishing gear at all times.

(iii) You must remove all personal property at the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

■ 9. Amend § 32.28 by:

■ a. Revising paragraph (a);

■ b. Redesignating paragraphs (e) through (n) as paragraphs (f) through (o);

■ c. Adding a new paragraph (e);

■ d. Revising newly redesignated paragraphs (i)(2)(i) and (i)(3)(i);

■ e. In newly redesignated paragraph (j):

■ i. Revising paragraphs (j)(1)(ii) and (x);

■ ii. Adding paragraph (j)(1)(xi);

■ iii. Revising paragraphs (j)(3)(iv) through (viii) and (x);

■ iv. Removing paragraph (j)(3)(xiv);

■ v. Redesignating paragraphs (j)(3)(xv) through (xix) as paragraphs (j)(3)(xiv) through (xviii);

■ vi. Revising newly redesignated paragraphs (j)(3)(xv) and (j)(3)(xviii); and

■ f. Revising newly redesignated paragraphs (m)(2)(iii) and (vii), (m)(3) introductory text, (m)(3)(i), (ii), (iv), (viii) and (ix), and (n)(3)(vii).

The revisions and additions read as follows:

§ 32.28 Florida.

* * * * *

(a) *Arthur R. Marshall Loxahatchee National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck and coot on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a signed refuge hunt permit (signed brochure) while hunting. You must have on your person all applicable licenses and permits, including CITES tags if applicable.

(ii) We prohibit hunting from all refuge structures, canals, and levees; within ½ mile of canoe trails, campsites, and boat ramps; and in areas posted as closed. We allow motorized vessels in the Motorized Zone, south of latitude line 26°27.130. We allow nonmotorized vessels in the Refuge Interior.

(iii) Hunters may only enter and leave the refuge at designated entrances.

(iv) We allow only temporary blinds of native vegetation.

(v) Hunters must remove decoys and other personal property from the hunting area at the end of each day's hunt (see § 27.93 of this chapter).

(vi) Hunters may only use boats equipped with factory-manufactured, water-cooled outboard motors; boats with electric motors; and nonmotorized boats. We prohibit boats with air-cooled engines, fan boats, hovercraft, and personal watercraft (jet skis, jet boats, wave runners, etc.). We allow airboats by permit only (Special Use Permit (FWS Form 3–1383–G)). We will issue airboat permits through a separate lottery. There is a 35 miles per hour (mph) speed limit in all waters of the refuge. A 500-foot (150-meter) ''idle speed zone'' is at each of the refuge's three boat ramps.

(vii) Hunters operating boats in the Refuge Interior, outside of the perimeter canal, are required to display a 10-inches by 12-inches (25-centimeters by 30-centimeters) orange flag 10 feet (3 meters) above the vessel's waterline.

(viii) We will allow airboats with a Duck and Coot Hunting Airboat Permit during Phase 2 of the State duck and coot season only. We will issue airboat permits through a separate lottery. Contact the Refuge headquarters for airboat permitting information.

(ix) Airboats used while hunting must be stopped and shut off for 15 minutes prior to shooting. Permitted airboats must be in place 1 hour before legal sunrise and not move until 1 hour after legal sunrise.

(x) All hunters must leave the hunt area once their bag/tag limit has been reached.

(xi) We prohibit unrestricted airboat travel not associated with hunting.

(xii) All hunters younger than age 18 must be supervised by a licensed and permitted adult age 21 or older, and must remain with the adult while hunting. Hunters younger than age 18 must have completed a hunter education course.

(2) [Reserved]

(3) *Big game hunting.* We allow hunting of alligator, white-tailed deer, and feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) through (iii), (v) through (vii), and (ix) through (xi) of this section apply.

(ii) We allow hunting on the refuge 1 hour before legal sunset on Friday night through 1 hour after legal sunrise Saturday morning, and 1 hour before legal sunset on Saturday night through 1 hour after legal sunrise Sunday morning. We allow alligator hunting the first two weekends during Harvest Period 1 (August) and the first two weekends during Harvest Period 2 (September). Following the close of Harvest Period 2, the remaining weekends in October will be open for alligator harvest permittees who possess unused CITES tags (OMB Control No. 1018–0093). Specific dates for the alligator hunt are on the harvest permit issued by the State.

(iii) Alligator hunters age 18 and older must be in possession of all necessary State and Federal licenses, permits, and CITES tags, as well as a signed refuge hunt permit (signed brochure) while hunting on the refuge. They must possess an Alligator Trapping License with CITES tag or an Alligator Trapping Agent License (State-issued), if applicable.

(iv) Persons younger than age 18 may not hunt but may only accompany an adult age 21 or older who possesses an Alligator Trapping Agent License (State-issued).

(v) You may take alligators using hand-held snare, harpoon, gig, snatch hook, artificial lure, manually operated spear, spear gun, or crossbow. We prohibit the taking of alligators using baited hook, baited wooden peg, or firearm. We allow the use of bang sticks (a hand-held pole with a pistol or shotgun cartridge on the end in a very short barrel) with approved nontoxic ammunition (see § 32.2(k)) only for taking alligators attached to a restraining line. Once an alligator is captured, it must be killed immediately. We prohibit catch-and-release of alligators. Once the alligator is dead, you must lock a CITES tag through the skin of the carcass within 6 inches (15.2 centimeters) of the

tip of the tail. The tag must remain attached to the alligator at all times.

(vi) Alligators must remain in whole condition while on refuge lands.

(vii) We allow a limited quota permit for the taking of white-tailed deer and incidental take of feral hog in the Refuge Interior, by airboat (airboat permit required) and nonmotorized vessels only.

(viii) White-tailed deer and feral hog hunters age 18 and older must be in possession of all necessary State and Federal licenses, permits, as well as a refuge hunt permit (signed brochure) while hunting on the refuge.

(ix) We have limited quota and specialty hunts for the taking of white-tailed deer, and incidental take of feral hogs during the deer hunts on the Strazzulla Marsh and the Cypress Swamp.

(x) We close the Refuge Interior to all other uses during the limited quota white-tailed deer hunt in the Refuge Interior.

(xi) White-tailed deer hunters younger than age 18 must be supervised by a licensed and permitted adult age 21 or older, and must remain with the adult while hunting. Hunters younger than age 18 must have completed a hunter education course.

(xii) We prohibit the use of dogs for the take or attempt to take of white-tailed deer and feral hogs. We allow the use of dogs for blood trailing only.

(xiii) We require nontoxic ammunition when deer hunting on the refuge.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(ii) and (iii), (vi), (vii), and (xi) of this section apply.

(ii) We only allow the use of rods and reels and poles and lines, and anglers must attend them at all times.

(iii) We allow frog gigging, bow fishing, and fish gigging in all areas open to sport fishing, except in the A, B, and C Impoundments and Strazzulla Marsh.

(iv) We prohibit frog gigging, bow fishing, and fish gigging from structures and from within ½ mile of refuge boat ramps, campsites, and canoe trails, and in areas posted as closed.

(v) We allow the taking of frogs from July 16 through March 15 of each year.

(vi) The daily bag limit for frogs is 50 frogs per vessel or party.

(vii) Fish and frogs must remain in whole condition while on refuge lands.

(viii) Frogs may only be taken by gig, blowgun, or hook and line, or by hand.

(ix) We limit frogging or fishing by airboat to nonhunting airboat permittees only.

(x) We prohibit commercial fishing, including unpermitted commercial guiding, and the taking of turtles and other wildlife (see § 27.21 of this chapter).

(xi) We allow 17 fishing tournaments a year by Special Use Permit only (General Activities—Special Use Permit Application, FWS Form 3–1383–G).

* * * * *

(e) *Everglades Headwaters National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations and applicable State Wildlife Management Area regulations.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the refuge in accordance with applicable State Wildlife Management Area regulations.

(3) *Big game hunting.* We allow big game hunting on designated areas of the refuge in accordance with applicable State Wildlife Management Area regulations.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to State regulations and applicable State Wildlife Management Area regulations.

* * * * *

(i) * * *

(2) * * *

(i) The conditions set forth at paragraphs (i)(1)(i) through (viii) of this section apply.

* * * * *

(3) * * *

(i) The conditions set forth at paragraphs (i)(1)(i) through (viii) of this section apply.

* * * * *

(j) * * *

(1) * * *

(ii) You must carry (or hunt within 30 yards of a hunter who possesses) a valid State-issued Merritt Island Waterfowl Quota Permit, while hunting in areas 1 or 4 during the State's regular waterfowl season. The Waterfowl Quota Permit can be used for a single party consisting of the permit holder and up to three guests. The permit holder must be present. The Waterfowl Quota Permit is a limited entry quota permit, is zone-specific, and is nontransferable.

* * * * *

(x) You must stop at a posted refuge waterfowl check station and report statistical hunt information on the Migratory Bird Hunt Report (FWS Form 3–2361) to refuge personnel.

(xi) When inside the impoundment perimeter ditch, you may use gasoline or diesel motors. Outside the perimeter ditch, you must propel vessels by paddling, push pole, or electric trolling motor.

* * * * *

(3) * * *

(iv) We allow hunting within the State's deer season on specific days as defined by the refuge hunt brochure. Each hunt will be a 3-day weekend. Legal shooting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(v) Hunters possessing a valid permit (State-issued permit) may access the refuge no earlier than 4 a.m. and must leave the refuge no later than 2 hours after legal sunset. If you wish to track wounded game beyond 2 hours after legal sunset, you must gain consent from a Federal Wildlife Officer to do so.

(vi) We prohibit hunting from refuge roads or within 150 yards of roads open to public vehicle traffic or within 200 yards of a building or Kennedy Space Center facility.

(vii) Each permitted hunter may have one adult guest and one youth hunter per adult. All guests must remain within 30 yards of the permitted hunter. The party must share a single bag limit. Each adult may supervise one youth hunter and must remain within sight and normal voice contact.

(viii) You may set up stands or blinds up to 7 days prior to the permitted hunt; you must remove them on the last day of your permitted hunt. You must clearly mark stands and blinds with your Florida State customer identification (ID) number found on your hunting license. You may have no more than one stand or blind per person on the refuge at any time. You must place a stand or blind for a youth hunter within sight and normal voice contact of the supervisory hunter's stand and mark it with the supervisory hunter's Florida State customer ID number and the word ''YOUTH.''

* * * * *

(x) If you use flagging or other trail-marking material, you must print your Florida State customer ID number on each piece or marker. You may set out flagging and trail markers up to 7 days prior to the permitted hunt, and you must remove them on the last day of the permitted hunt.

* * * * *

(xv) You may field dress game; however, we prohibit cleaning game within 150 yards of any public area, road, game-check station, or gate. We prohibit dumping game carcasses on the refuge.

* * * * *

(xviii) You must stop at one of two check stations and report statistical hunt

information on the Self-Clearing Check-In/Out Permit (FWS Form 3–2405).

* * * * *

(m) * * *

(2) * * *

(iii) You may only use .22 caliber or smaller rim-fire rifles, shotguns (#4 bird shot or smaller) (see § 32.2(k)), or muzzleloaders to harvest squirrel, rabbit, and raccoon. In addition, you may use shotgun slugs, buckshot, archery equipment including crossbows, center fire weapons, or pistols to take feral hogs.

* * * * *

(vii) You must check out all game taken at a game check station. You must use the State harvest recording system to check out all white-tail deer harvested on the refuge.

(3) *Big game hunting.* We allow hunting of white-tailed deer, feral hog, and turkey in areas and during seasons designated in the hunting brochure subject to the following conditions:

(i) We require State-issued refuge permits. Permits are nontransferable. Each hunter must possess and carry a signed permit when participating in a hunt.

(ii) The conditions set forth at paragraphs (m)(2)(ii) and (iv) through (vii) of this section apply.

* * * * *

(iv) There is a two deer limit per hunt, as specified at paragraph (m)(3)(vi) of this section, except during the youth hunt, when the limit is as specified at paragraph (m)(3)(vii) of this section. The limit for turkey is one per hunt.

* * * * *

(viii) Mobility-impaired hunters may have an assistant accompany them. You may transfer permits (State-issued permit) issued to assistants. We limit those hunt teams to harvesting white-tailed deer and feral hog within the limits provided at paragraph (m)(3)(vi) of this section.

(ix) You may harvest one bearded turkey per hunt. You may only use shotguns or archery equipment, including crossbows, to harvest turkey. We prohibit hunting after 1 p.m.

* * * * *

(n) * * *

(3) * * *

(vii) We limit weapons to primitive weapons (bow and arrow, muzzleloader, and crossbow) on the primitive weapons sambar deer hunt and the primitive weapons white-tailed deer hunt. We limit the archery hunt to bow and arrow, and crossbow. You may take feral hog and raccoon only with the weapons allowed for that period.

* * * * *

■ 10. Amend § 32.29 by:

■ a. Adding paragraph (a)(3);

■ b. Redesignating paragraph (h)(1)(iv) as paragraph (h)(1)(v);

■ c. Adding a new paragraph (h)(1)(iv);

■ d. Revising paragraphs (h)(2)(i), (h)(3) introductory text, and (h)(3)(i); and

■ e. Adding paragraph (h)(3)(vii).

The revisions and additions read as follows:

§ 32.29 Georgia.

* * * * *

(a) * * *

(3) *Big game hunting.* We allow alligator hunting on designated areas of the refuge subject to the following condition: We only allow alligator hunting during the first two weekends (from Friday 12:00 a.m. (midnight) through Sunday 11:59 p.m.) of the State alligator season.

* * * * *

(h) * * *

(1) * * *

(iv) We allow the incidental take of armadillo, beaver, opossum, and raccoon during all refuge hunts (migratory bird, upland, and big game) with firearms and other equipment authorized for use on refuge lands in Georgia only.

* * * * *

(2) * * *

(i) The conditions set forth at paragraphs (h)(1)(i), (iii), and (iv) of this section apply.

* * * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, alligator, feral hog, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (h)(1)(i), (iii), and (iv) of this section apply.

* * * * *

(vii) We prohibit catch-and-release of alligators.

* * * * *

■ 11. Amend § 32.31 by revising paragraphs (c)(4)(i), (e)(1) introductory text, (f)(1) introductory text, and (f)(2) and (3) to read as follows:

§ 32.31 Idaho.

* * * * *

(c) * * *

(4) * * *

(i) From October 1 through April 14, we allow ice fishing on the Lake Lowell Unit, unless otherwise posted by the Bureau of Reclamation.

* * * * *

(e) * * *

(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge subject to the following conditions:

* * * * *

(f) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, snipe, dove, and crow on designated areas of the refuge subject to the following conditions:

* * * * *

(2) *Upland game hunting.* We allow hunting of pheasant, grouse, partridge (chukar and gray partridge), cottontail rabbit, and bobcat on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (f)(1)(i) of this section applies.

(3) *Big game hunting.* We allow hunting of deer and elk on designated areas of the refuge subject to the following condition: Deer and elk hunters may enter the hunt area from 1½ hours before legal hunting time to 1½ hours after legal hunting time.

* * * * *

■ 12. Amend § 32.32 by:

■ a. Revising paragraphs (b)(3)(iv)(A), (e)(1), (e)(3)(iii) and (v), (g), and (i)(2);

■ b. Removing paragraph (i)(3)(iii);

■ c. Redesignating paragraph (i)(3)(iv) as paragraph (i)(3)(iii); and

■ d. Revising paragraphs (k)(1), (2), and (3).

The revisions read as follows:

§ 32.32 Illinois.

* * * * *

(b) * * *

(3) * * *

(iv) * * *

(A) In the area west of Division Street and east of Blue Heron Marina;

* * * * *

(e) * * *

(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following condition: On the Long Island Division, we allow hunting only from blinds constructed on sites posted by the Illinois Department of Natural Resources.

* * * * *

(3) * * *

(iii) On the Fox Island Division, Slim Island Division, Cherry Box Division, and Hickory Creek Division, we only allow archery deer hunting during the Statewide archery season. We prohibit archery hunting during the State firearm season.

* * * * *

(v) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of

any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

* * * * *

(g) *Kankakee National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of wild turkey on designated areas of the refuge subject to the following conditions:

(i) For hunting, you may possess only approved nontoxic shot shells while in the field (see § 32.2(k)).

(ii) You must remove all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day's hunt.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (g)(2)(ii) of this section applies.

(4) [Reserved]

* * * * *

(i) * * *

(2) *Upland game hunting.* We allow hunting of small game, furbearers, and game birds on designated areas of the refuge subject to the following condition: We open the refuge divisions for upland game hunting from ½ hour before legal sunrise to ½ hour after legal sunset.

* * * * *

(k) *Two Rivers National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) Hunters must remove boats, decoys, blinds, blind materials, stands, and platforms brought onto the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(ii) We allow the use of dogs while hunting, provided the dog is under the immediate control of the hunter at all times.

(2) *Upland game hunting.* We allow upland game hunting for wild turkey, small game, furbearers, and nonmigratory game birds on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (k)(1)(i) and (ii) of this section apply.

(ii) For hunting, you may use or possess only approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

(iii) We prohibit hunters using rifles or handguns with ammunition larger than .22 caliber rimfire, except they may use black powder firearms up to and including .50 caliber.

(iv) We allow the use of .22 and .17 caliber rimfire lead ammunition for the taking of small game and furbearers during open season.

(v) We allow hunting from legal sunrise to legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (k)(1)(i) of this section applies.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

* * * * *

■ 13. Amend § 32.33 by:

■ a. Revising paragraphs (b), (c)(1) introductory text, and (c)(2) introductory text;

■ b. Redesignating paragraph (c)(3)(iv) as paragraph (c)(3)(v); and

■ c. Adding new paragraph (c)(3)(iv).

The revisions and addition read as follows:

§ 32.33 Indiana.

* * * * *

(b) *Muscatatuck National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, merganser, woodcock, and dove on designated areas of the refuge subject to the following conditions:

(i) You must remove all boats, decoys, blinds, blind materials, stands, and platforms brought onto the refuge at the end of each day's hunt (see § 27.93 of this chapter).

(ii) We allow the use of dogs when hunting, provided the dogs are under the immediate control of the hunter at all times.

(iii) We prohibit hunting and the discharge of a firearm within 100 yards (30 meters) of any dwelling or any other building that people, pets, or livestock may occupy.

(2) *Upland game hunting.* We allow hunting of turkey, quail, squirrel, raccoon, opossum, coyote, fox, skunk, and rabbit on designated areas of the refuge subject to the following conditions:

(i) For hunting, you may use or possess only approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

(ii) We allow the use of rimfire weapons for upland/small game hunting.

(iii) We prohibit the use of centerfire rifles for any hunts on refuge property.

(iv) During spring turkey hunting, hunters must possess a State-issued hunting permit during the first 6 days of the season.

(v) We prohibit turkey hunting after 1 p.m. each day.

(vi) We allow the incidental take of coyote only during other refuge hunting seasons.

(vii) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) and (b)(2)(i) through (iii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iii) We prohibit the use or possession of tree spikes, plastic flagging, and reflective tacks.

(iv) We prohibit firearms deer hunting during the State deer firearm season (archery and muzzleloader only).

(v) We close archery deer hunting during the State muzzleloader season.

(vi) We prohibit the possession of game trail cameras on the refuge.

(vii) We require you to remove arrows from crossbows during transport in a vehicle.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit the use of any type of motor.

(ii) We allow the use of kayaks, canoes, belly boats, or float tubes in all designated fishing areas.

(iii) We allow fishing only with rod and reel, or pole and line.

(iv) We prohibit harvest of frog and turtle (see § 27.21 of this chapter).

(v) We prohibit the use of lead fishing tackle.

(vi) We allow only youth age 15 and younger to fish in the Discovery Pond.

(c) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, merganser, coot, woodcock, dove, snipe, rail, and crow on designated areas of the refuge and the White River Wildlife

Management Area subject to the following conditions:

* * * * *

(2) *Upland game hunting.* We allow hunting of bobwhite quail, pheasant, cottontail rabbit, squirrel (gray and fox), red and gray fox, coyote, opossum, striped skunk, and raccoon subject to the following conditions:

* * * * *

(3) * * *

(iv) On the Columbia Mine Unit, if you use a rifle to hunt, you may use only rifles allowed by State regulations for hunting on public land.

* * * * *

■ 14. Amend § 32.34 by:

■ a. Revising paragraph (d)(1) introductory text;

■ b. Removing paragraph (d)(1)(i);

■ c. Redesignating paragraphs (d)(1)(ii) through (d)(1)(v) as paragraphs (d)(1)(i) through (d)(1)(iv); and

■ d. Revising paragraphs (d)(2) introductory text, (d)(2)(i), (g)(1) introductory text, (g)(1)(ii), and (g)(2) introductory text.

The revisions read as follows:

§ 32.34 Iowa.

* * * * *

(d) * * *

(1) *Migratory game bird hunting.* We allow the hunting of dove, duck, goose, and coot on designated areas of the refuge subject to the following conditions:

* * * * *

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, bobwhite quail, pigeon, crow, cottontail rabbit, gray and fox squirrel, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) through (iv) of this section apply.

* * * * *

(g) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, rail (Virginia and sora only), woodcock, dove, crow, and snipe on designated areas of the refuge subject to the following conditions:

* * * * *

(ii) We allow boats or other floating devices when hunting. You may not leave boats unattended.

* * * * *

(2) *Upland game hunting.* We allow hunting of pheasant, gray partridge, cottontail rabbit, squirrel (fox and gray), groundhog, raccoon, opossum, fox, coyote, and skunk on designated areas of the refuge subject to the following conditions:

* * * * *

■ 15. Revising § 32.35 to read as follows:

§ 32.35 Kansas.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Flint Hills National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, mourning dove, duck, goose, rail, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) You must remove portable hunting blinds and decoys at the end of each day's hunt (see § 27.93 of this chapter).

(ii) We only allow rimfire firearms, shotguns, and archery equipment.

(iii) We prohibit shooting from or over roads and parking areas.

(iv) We allow the use of dogs when hunting migratory birds.

(v) We close hunting areas on the north side of the Neosho River to all hunting from November 1 through March 1.

(2) *Upland game hunting.* We allow hunting of coyote, pheasant, prairie chicken, quail, rabbit, State-defined furbearers, and squirrel on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting upland game, except that we prohibit the use of dogs when hunting coyotes and furbearers.

(ii) Shooting hours for upland game species are ½ hour before legal sunrise until legal sunset.

(iii) We prohibit the harvest of beaver and otter.

(iv) The conditions set forth at paragraphs (a)(1)(ii) and (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) You may possess only approved nontoxic shot for turkey hunting (see § 32.2(k)).

(ii) We allow one portable blind or stand per hunter. You may place your blind or stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove portable blinds at the end of each day's hunt (see § 27.93 of this chapter). You must label portable blinds and stands with the owner's Kansas Department of Wildlife, Parks and Tourism (KDWPT) number. Labels must be clearly visible from the ground.

(iii) We prohibit the use of dogs when hunting turkey.

(iv) The condition set forth at paragraph (a)(1)(iii) of this section applies.

(v) We only allow muzzleloaders, shotguns, and archery equipment.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the take of reptiles and amphibians.

(b) *Kirwin National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, duck, goose, merganser, mourning dove, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) You must remove portable hunting blinds and decoys at the end of each day's hunt (see § 27.93 of this chapter).

(ii) We prohibit shooting from or over roads and parking areas.

(iii) In Bow Creek, we allow hunting access by boat or on foot.

(iv) We allow the use of dogs when hunting migratory birds.

(2) *Upland game hunting.* We allow hunting of cottontail rabbit, jack rabbit, pheasant, prairie chicken, quail, State-defined furbearers, and squirrel (fox and grey) on designated areas of the refuge subject to the following conditions:

(i) We only allow shotguns and archery equipment when hunting upland game.

(ii) We allow the use of dogs when hunting upland game, except that we prohibit the use of dogs when hunting coyotes and furbearers.

(iii) Shooting hours for upland game species are ½ hour before legal sunrise until legal sunset.

(iv) We prohibit the harvest of beaver and otter.

(v) The condition set forth at paragraph (b)(1)(ii) of this section applies.

(3) *Big game hunting.* We allow hunting of deer and turkey on designated areas of the refuge subject to the following conditions:

(i) We only allow archery hunting of deer.

(ii) We allow one portable blind or stand per hunter. You may place your blind or stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove portable blinds at the end of each day's hunt (see § 27.93 of this chapter). You must label portable blinds and stands with the owner's KDWPT number. Labels must be clearly visible from the ground.

(iii) You must obtain a refuge-issued permit (FWS Form 3–2405, Self-Clearing Check-In/Out Permit) to hunt deer on the refuge.

(iv) The condition set forth at paragraph (b)(1)(ii) of this section applies.

(v) We prohibit the use of dogs when hunting turkey.

(vi) You may possess only approved nontoxic shot for turkey hunting (see § 32.2(k)).

(4) *Sport fishing.* We allow sport fishing on designated areas on the refuge subject to the following conditions:

(i) We only allow boats for activities related to fishing.

(ii) We prohibit boating for fishing between October 1 and April 1 when the reservoir water elevation falls below 1,722 feet (measured on October 1), except in the Bow Creek Hunting Unit. Boats may be launched only at Scout Cove during this period.

(iii) We allow boating for fishing year-round, on the entire reservoir, only when the reservoir water elevation is above 1,722 feet (measured on October 1).

(iv) We prohibit anglers from using all-terrain vehicles (ATVs) when accessing Kirwin Reservoir for bank or ice fishing.

(v) We allow noncommercial collection of baitfish as governed by State regulations.

(vi) We prohibit all activities associated with fishing tournaments, outside of sport fishing itself, to include organized gatherings, registrations, weigh-ins, and award presentations to be held or organized on the refuge.

(vii) We prohibit the take of reptiles and amphibians.

(c) *Marais des Cygnes National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, duck, goose, mourning dove, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) You must remove portable hunting blinds and decoys at the end of each day's hunt (see § 27.93 of this chapter).

(ii) We prohibit shooting from or over roads and parking areas.

(iii) We allow the use of dogs when hunting migratory birds.

(iv) We only allow shotguns and archery equipment.

(2) *Upland game hunting.* We allow hunting of coyote, cottontail rabbit, State-defined furbearers, squirrel, and upland birds on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting upland game, except that we prohibit the use of dogs when hunting coyotes and furbearers.

(ii) Shooting hours for upland game species are ½ hour before legal sunrise until legal sunset.

(iii) We prohibit the harvest of beaver and otter.

(iv) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a State-issued refuge access permit to hunt deer and spring turkey.

(ii) We allow one portable blind or stand per hunter. You may place your blind or stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove portable blinds at the end of each day's hunt (see § 27.93 of this chapter). You must label portable blinds and stands with the owner's KDWPT number. Labels must be clearly visible from the ground.

(iii) We prohibit the use of dogs when hunting turkey.

(iv) You may possess only approved nontoxic shot for turkey hunting (see § 32.2(k)).

(v) The condition set forth at paragraph (c)(1)(ii) of this section applies.

(vi) We only allow archery deer hunting, except during the January antlerless deer season when we allow the use of archery, muzzleloader, and shotgun.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the take of reptiles and amphibians.

(d) *Quivira National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, duck, goose, and mourning dove on designated areas of the refuge subject to the following conditions:

(i) We open refuge hunting areas from September 1 through February 28.

(ii) The refuge is open from 1½ hours before legal sunrise to 1½ hours after legal sunset.

(iii) We prohibit the retrieval of game from areas closed to hunting.

(iv) You must remove portable hunting blinds and decoys at the end of each day's hunt (see § 27.93 of this chapter).

(v) We prohibit shooting from or over roads and parking areas.

(vi) We allow the use of dogs when hunting migratory birds.

(vii) We only allow shotguns and archery equipment.

(2) *Upland game hunting.* We allow hunting of coyote, pheasant, quail, State-designated furbearers, squirrel, and rabbit on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) through (iii), (v), and (vii) of this section apply.

(ii) We allow the use of dogs when hunting upland game, except that we prohibit the use of dogs when hunting coyotes and furbearers.

(iii) We prohibit the harvest of beaver and otter.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) You may possess only approved nontoxic ammunition for turkey and deer hunting (see § 32.2(k)).

(ii) You must possess a State-issued refuge access permit for deer and turkey hunting.

(iii) We allow one portable blind or stand per hunter. You may place your blind or stand on the refuge no more than 14 days prior to the season, and you must remove it within 14 days of the close of the season. You must remove portable blinds at the end of each day's hunt (see § 27.93 of this chapter). You must label portable blinds and stands with the owner's KDWPT number. Labels must be clearly visible from the ground.

(iv) We prohibit the use of dogs when hunting turkey.

(v) The conditions set forth at paragraphs (d)(1)(i) through (iii) and (v) of this section apply.

(vi) We only allow muzzleloaders, shotguns, and archery equipment.

(4) *Sport fishing.* We allow sport fishing on all waters on the refuge subject to the following conditions:

(i) We prohibit taking of reptiles and amphibians.

(ii) We prohibit the use of trotlines and setlines.

(iii) We prohibit the use of seines for taking bait.

(iv) We prohibit fishing from water control structures and bridges.

(v) We restrict fishing in the designated ''Kid's Pond,'' approximately ¼ mile (.4 kilometers) west-southwest of headquarters, to youth age 14 and younger, and to a parent and/or guardian age 18 or older accompanying a youth.

(vi) The creel limit for the Kid's Pond is one fish per day.

(vii) The condition set forth at paragraph (d)(1)(ii) of this section applies.

(viii) The only live bait we allow is worms; we prohibit all other live bait.

■ 16. Amend § 32.36 by:

■ a. Revising paragraphs (a)(1)(iii), (v), and (vi);

■ b. Removing paragraphs (a)(1)(vii) and (viii); and

■ c. Revising paragraphs (a)(2) and (a)(3)(i).

The revisions read as follows:

§ 32.36 Kentucky.

* * * * *

(a) * * *

(1) * * *

(iii) We prohibit hunting within 100 feet (30 meters) of a residence and discharge of firearms within 200 feet (60 meters) of any home, the abandoned railroad tracks, graveled roads, and hiking trails.

* * * * *

(v) We allow the use of dogs for waterfowl, quail, snipe, dove, woodcock, squirrel, rabbit, raccoon, opossum, and fall turkey hunting. Dog owners/handlers must have a collar on each dog with the owner's contact information.

(vi) We allow waterfowl hunting from legal shooting time until 12 p.m. (noon).

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, coyote, bobcat, fox, skunk, otter, muskrat, mink, weasel, and beaver on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) through (v) of this section apply.

(ii) We allow coyote hunting under Statewide regulations during daylight hours only.

(3) * * *

(i) The conditions set forth at paragraphs (a)(1)(i) through (v) of this section apply.

* * * * *

■ 17. Amend § 32.37 by:

■ a. Revising paragraphs (a)(1) introductory text and (c)(1)(vi);

■ b. Adding new paragraph (d)(1)(ix);

■ c. Revising paragraphs (d)(3)(ii), (e)(1)(i), (iv) and (v), and (e)(2) introductory text;

■ d. Adding paragraph (e)(2)(v);

■ e. Removing paragraph (f)(3)(iii);

■ f. Redesignating paragraph (f)(3)(iv) as (f)(3)(iii);

■ g. Revising paragraphs (g), (k)(1) introductory text, (k)(1)(x), (k)(3)(ii), (n)(1)(xiv), (n)(4)(ii), (p)(1)(vii) and (xii), and (q)(1)(iii); and

■ h. Adding paragraphs (t)(1)(vi), (t)(2)(v), and (t)(3)(xiii).

The revisions and additions read as follows:

§ 32.37 Louisiana.

* * * * *

(a) * * *

(1) *Migratory game bird hunting.* We allow hunting of mourning dove, duck, goose, coot, snipe, rail, gallinule, woodcock, and crow on designated areas of the refuge subject to the following conditions:

* * * * *

(c) * * *

(1) * * *

(vi) Each person age 18 and older must possess a valid Annual Public Use Permit (signed brochure).

* * * * *

(d) * * *

(1) * * *

(ix) Each person age 18 and older, must possess a valid Annual Public Use Permit (signed brochure).

* * * * *

(3) * * *

(ii) We allow archery deer hunting according to the State of Louisiana archery season. Hunters may take deer of either sex as governed by State-approved archery equipment and regulations. We close refuge archery hunting during refuge deer gun hunts.

* * * * *

(e) * * *

(1) * * *

(i) We allow waterfowl hunting on Wednesdays, Thursdays, Saturdays, and Sundays from ½ hour before legal sunrise until 12 p.m. (noon), including waterfowl hunting during the State special teal season and State youth waterfowl hunt. We allow snipe, rail, and gallinule hunting on Wednesdays, Thursdays, Saturdays, and Sundays from ½ hour before legal sunrise until 2 p.m.

* * * * *

(iv) Each person age 18 and older while hunting or fishing must possess a valid Annual Public Use Permit (signed brochure).

(v) An adult age 18 or older must supervise youth hunters age 17 and younger during all hunts. Youth hunter age and hunter education requirements are governed by State regulations. One adult may supervise two youths during small game hunts and migratory bird hunts, but is only allowed to supervise one youth during big game hunts. Youths must remain within normal voice contact and direct sight of the adult who is supervising them. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

* * * * *

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, raccoon, and quail on designated areas of the refuge subject to the following conditions:

* * * * *

(v) We only allow raccoon to be taken during the State rabbit season.

* * * * *

(g) *Bogue Chitto National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon), including during the State special teal season, State youth waterfowl hunt, and special light goose conservation season.

(ii) You must remove blinds and decoys by 1 p.m. each day (see § 27.93 of this chapter).

(iii) We prohibit goose hunting for that part of the season that extends beyond the regular duck season.

(iv) When hunting migratory game birds, you may only use dogs to locate, point, and retrieve game.

(v) Each person age 18 and older while hunting or fishing must possess a valid Annual Public Use Permit (signed brochure).

(vi) An adult age 18 or older must supervise youth hunters age 17 and younger during all hunts. Youth hunter age and hunter education requirements are governed by State regulations. One adult may supervise two youths during small game hunts and migratory bird hunts, but is only allowed to supervise one youth during big game hunts. Youths must remain within normal voice contact of the adult who is supervising them. Adult guardians are responsible for ensuring that youth hunters do not violate refuge rules.

(vii) We prohibit hunting or discharge of firearms (see § 27.42 of this chapter) within 150 feet (45.7 meters (m)) from the centerline of any public road, refuge road, designated or maintained trail, building, residence, designated camping area, or designated public facility, or from or across aboveground oil, gas, or electric facilities.

(viii) For the purpose of hunting, we prohibit possession of slugs, buckshot, and rifle and pistol ammunition, except during the deer gun and primitive firearm seasons (see § 32.2(k)).

(ix) You may use only reflective tacks as trail markers on the refuge.

(x) We allow the incidental take of feral hog during any open refuge hunting season with weapons approved for that season.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs for rabbit, squirrel, raccoon, and opossum hunting on specific dates listed in the refuge hunt brochure.

(ii) During any open deer firearm or primitive firearm season on the refuge, all hunters, except waterfowl hunters and nighttime raccoon and opossum

hunters, must wear hunter orange, blaze pink, or other such color as governed by State regulations.

(iii) The conditions set forth at paragraphs (g)(1)(v) through (x) of this section apply, except you may use .22-caliber rifles or smaller, and the nontoxic shot in your possession while hunting must be size 4 or smaller (see § 32.2(k)).

(iv) We will close the refuge to hunting (except waterfowl) and camping when the Pearl River reaches 15.5 feet (4.65 meters) on the Pearl River Gauge at Pearl River, Louisiana.

(v) During the dog season for squirrels and rabbits, all hunters, including archery hunters (while on the ground), except waterfowl hunters, must wear a cap or hat that is hunter-orange, blaze pink, or other such color as governed by State regulations.

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(v) through (x) and (g)(2)(ii) through (iv) of this section apply.

(ii) Hunters may erect deer stands 48 hours before the deer archery season and must remove them from the refuge within 48 hours after this season closes (see § 27.93 of this chapter). We allow only one deer stand per hunter on the refuge. Deer stands must have the owner's State license/sportsmen's identification number clearly printed on the stand.

(iii) Deer hunters hunting from concealed blinds must display State Wildlife Management Area (WMA) hunter-orange or blaze-pink (as governed by State WMA regulations) above or around their blinds that is visible from 360 degrees.

(iv) We hold a special dog hog hunt in February. During this hunt, the following conditions apply, in addition to other applicable conditions in paragraph (g)(3) of this section:

(A) You must use trained hog-hunting dogs to aid in the take of hog.

(B) We allow take of hog from ½ hour before legal sunrise until ½ hour after legal sunset.

(C) You must possess only approved nontoxic shot, or pistol or rifle ammunition not larger than .22 caliber rim-fire to take the hog after it has been caught by dogs.

(v) You must kill all hogs prior to removal from the refuge.

(vi) We prohibit the use of deer and turkey gobbler decoys.

(4) *Sport fishing.* We allow only recreational fishing year-round on designated areas of the refuge subject to the following conditions:

(i) We only allow cotton limb lines.

(ii) We close the fishing ponds at the Pearl River Turnaround to fishing from April through the first full week of June and to boating during the months of April, May, June, and July.

(iii) When the Pearl River Turnaround area is open, we allow boats that do not have gasoline-powered engines attached in the fishing ponds at the Pearl River Turnaround. Anglers must hand-launch these boats into the ponds. When the fishing ponds at the Pearl River Turnaround are open, hook and line is the only legal method of take in those ponds.

(iv) The Pearl River Turnaround area, when open to fishing, is open ½ hour before legal sunrise to ½ hour after legal sunset.

(v) The conditions set forth at paragraphs (g)(1)(x) and (g)(2)(iv) of this section apply.

* * * * *

(k) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge subject to the following conditions:

* * * * *

(x) We only allow the use of bright eyes or reflective tape for flagging or trail markers.

* * * * *

(3) * * *

(ii) We allow deer modern firearm hunting on the area south of the French Fork of the Little River for 2 days in December with these dates being set annually.

* * * * *

(n) * * *

(1) * * *

(xiv) We only allow the use of bright eyes or reflective tape for flagging or trail markers.

* * * * *

(4) * * *

(ii) We only allow fishing within the Coulee Des Grues Bayou from the bank adjacent to Little California Road.

* * * * *

(p) * * *

(1) * * *

(vii) We restrict the use of the ATV trails that are designated for physically challenged persons to individuals who possess a State-issued physically challenged program hunter permit or are age 60 or older.

* * * * *

(xii) We only allow the use of bright eyes or reflective tape for flagging or trail markers.

* * * * *

(q) * * *

(1) * * *

(iii) Each person age 18 and older must possess a valid Annual Public Use Permit (signed brochure).

* * * * *

(t) * * *

(1) * * *

(vi) We allow the incidental take of coyote, beaver, raccoon, skunk, opossum, and feral hog when hunting for migratory bird species with firearms and archery equipment authorized for use.

(2) * * *

(v) We allow the incidental take of coyote, beaver, raccoon, skunk, opossum, and feral hog when hunting for upland game species with firearms and archery equipment authorized for use.

(3) * * *

(xiii) We allow the incidental take of coyote, beaver, raccoon, skunk, opossum, and feral hog when hunting for big game species with firearms and archery equipment authorized for use.

* * * * *

■ 18. Revise § 32.38 to read as follows:

§ 32.38 Maine.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Moosehorn National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, American woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) We require every hunter to possess and carry a personally signed refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) We allow hunters to enter the refuge 2 hours before legal shooting hours, and they must exit the refuge by 1 hour past legal shooting hours.

(iii) We only allow portable or temporary blinds and decoys that must be removed from the refuge following each day's hunt (see § 27.93 of this chapter).

(iv) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of ruffed grouse, snowshoe hare, red fox, gray and red squirrel, raccoon, skunk, and woodchuck on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (a)(1)(i), (ii) (except for hunters pursuing raccoon at night), and (iv) of this section apply.

(3) *Big game hunting.* We allow hunting of black bear, bobcat, eastern coyote, moose, and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (ii) (except for hunters pursuing eastern coyote at night), and (iv) of this section apply.

(ii) The hunter must retrieve all species harvested on the refuge.

(iii) We allow eastern coyote hunting from October 1 to March 31.

(iv) We allow tree stands, blinds, and ladders. You must clearly label any tree stand, blind, or ladder left on the refuge overnight with your hunting license number. You must remove your tree stand(s), blind(s), and/or ladder(s) from the refuge on the last day of the muzzleloader deer season (see § 27.93 of this chapter).

(v) You may hunt black bear, eastern coyote, and white-tailed deer during the State archery and firearms deer seasons on the Baring Division east of State Route 191.

(vi) We prohibit use of firearms to hunt bear and coyote during the archery deer season on the Baring Division east of Route 191. We prohibit the use of firearms, other than a muzzleloader, to hunt coyote during the deer muzzleloader season on the Baring Division east of Route 191.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We only allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(ii) We prohibit trapping fish for use as bait.

(b) *Petit Manan National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, woodcock, rail, and snipe on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) You may hunt coyotes from November 1 to March 31.

(iii) Hunters must retrieve all species harvested on the refuge.

(iv) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(3) *Big game hunting.* We allow hunting of white-tailed deer and black bear on designated areas of the refuge subject to the following conditions:

(i) Petit Manan Point is open only during the State-prescribed muzzleloader deer season.

(ii) We allow black bear hunting during the firearm season for white-tailed deer.

(iii) We allow hunters to enter the refuge 1 hour prior to legal sunrise and remain on the refuge 1 hour after legal sunset.

(iv) We prohibit the use of dogs when hunting black bear.

(4) [Reserved]

(c) *Rachel Carson National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, coot, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) Prior to entering designated refuge hunting areas, you must obtain a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) and sign and carry the permit at all times.

(ii) We open designated youth hunting areas to hunters age 15 and younger who possess and carry a refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System). Youth hunters must be accompanied by an adult age 18 or older. The accompanying adult must possess and carry a refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) and may also hunt.

(iii) We allow the use of dogs consistent with State regulations.

(iv) We only allow temporary blinds and stands, which you must remove at the end of each day's hunt (see § 27.93 of this chapter).

(2) *Upland game hunting.* We allow hunting of pheasant, quail, grouse, fox, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) and (iii) of this section apply.

(ii) We allow take of pheasant, quail, and grouse by falconry on the refuge during State seasons.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions as set forth at paragraphs (c)(1)(i) and (iv) of this section apply.

(ii) We allow hunting with shotgun and archery only. We prohibit rifles and muzzleloading firearms for hunting.

(iii) We allow turkey hunting during the fall season only, as designated by the State.

(iv) We allow only archery on those areas of the Little River division open to hunting.

(v) During the State firearm deer season, we only allow hunting of fox and coyote with archery or shotgun as incidental take with a refuge big game permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(vi) We allow hunting from ½ hour before legal sunrise to ½ hour after legal sunset.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(ii) We prohibit lead tackle.

(iii) We prohibit trapping fish for use as bait.

(d) *Sunkhaze Meadows National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of upland game on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to enter the refuge 1 hour before legal shooting hours, and they must exit the refuge by 1 hour past legal shooting hours, except for hunters pursuing raccoons at night.

(ii) The hunter must retrieve all species harvested on the refuge.

(iii) We allow the use of dogs consistent with State regulations.

(3) *Big game hunting.* We allow hunting of black bear, bobcat, moose, coyote, and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to enter the refuge 1 hour before legal shooting hours, and they must exit the refuge by 1 hour after legal shooting hours, except for hunters pursuing coyotes at night.

(ii) We allow tree stands, blinds, and ladders. You must clearly label tree stands, blinds, or ladders left on the refuge overnight with your State hunting license number. You must remove your tree stand(s), blind(s), and/or ladder(s) from the refuge on the last day of the muzzleloader deer season (see § 27.93 of this chapter).

(iii) We allow the use of dogs consistent with State regulations.

(iv) We allow coyote hunting from October 1 to March 31.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit trapping fish for use as bait.

(e) *Umbagog National Wildlife Refuge*—(1) *Migratory game bird*

hunting. We allow hunting of duck, goose, snipe, coot, crow, and woodcock on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of fox, raccoon, woodchuck, squirrel, porcupine, skunk, snowshoe hare, ring-necked pheasant, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(ii) We allow the use of dogs consistent with State regulations.

(3) *Big game hunting.* We allow hunting of bear, white-tailed deer, coyote, turkey, and moose on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) Hunters must retrieve all species harvested on the refuge.

(iii) We allow temporary blinds and tree stands that are clearly marked with the owner's State hunting license number. You may erect temporary blinds and tree stands no earlier than 14 days prior to the hunting season, and you must remove them within 14 days after the hunting season (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

■ 19. Revise § 32.39 to read as follows:

§ 32.39 Maryland.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Blackwater National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose and duck on designated areas of the refuge subject to the following conditions:

(i) You must obtain, and possess while hunting, a refuge waterfowl hunting permit (signed brochure or printed and signed copy of permit from *Recreation.gov*).

(ii) Up to three additional hunters may accompany you on your reserved unit.

(iii) We allow the use of dogs consistent with State regulations.

(2) [Reserved]

(3) *Big game hunting.* We allow the hunting of white-tailed deer, sika deer, and turkey on designated areas of the refuge subject to the following conditions:

(i) *General hunt regulations for this paragraph (a)(3).*

(A) You must obtain, and possess while hunting, a turkey or deer hunting permit (printed and signed copy of permit from *Recreation.gov*).

(B) We prohibit organized deer drives unless authorized by the refuge manager. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(C) We prohibit shooting a projectile from a firearm, muzzleloader, bow, or crossbow from, down, or across any road that is traveled by vehicular traffic.

(D) We prohibit the use of rimfire or centerfire rifles and all handguns, including muzzleloading pistols, for hunting.

(ii) *Archery deer hunt.* We do not allow archery hunters to hunt within areas designated for the youth hunt on designated days.

(iii) *Turkey hunt.* We allow turkey hunt permit holders (printed and signed copy of permit from *Recreation.gov*) to have an assistant, who must remain within sight and normal voice contact and abide by the rules set forth in the refuge's turkey brochure.

(iv) *Youth deer and turkey hunt.* We allow youth hunters to hunt on designated areas on designated days (youth hunt) if they meet the criteria of a ''youth hunter'' as governed by State law and possess a turkey or deer hunting permit (printed and signed copy of permit from *Recreation.gov*).

(v) *Designated disabled hunt.* (A) We require disabled hunters to have their America the Beautiful Access pass (OMB Control 1024–0252) in their possession while hunting in disabled areas.

(B) Disabled hunters may have an assistant, age 18 or older, who must remain within sight and normal voice contact while hunting. Assistants must possess a printed and signed copy of a permit from *Recreation.gov* and a valid government-issued photo identification.

(4) *Sport fishing.* We allow sport fishing and crabbing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing and crabbing only from April 1 through September 30 from legal sunrise to legal sunset in refuge waters, unless otherwise authorized by the refuge manager.

(ii) We allow fishing and crabbing by boat in the Big Blackwater and the Little Blackwater River.

(b) *Eastern Neck National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) *General hunt regulations for this paragraph (b)(3).* (A) You must obtain, and possess while hunting, a deer or turkey hunting permit (printed and signed copy of permit from *Recreation.gov*).

(B) We prohibit shooting a projectile from a firearm, muzzleloader, bow, or crossbow from, down, or across any road that is traveled by vehicular traffic.

(C) We prohibit the use of rimfire or centerfire rifles and all handguns, including muzzleloading pistols, for hunting.

(ii) *Youth deer hunt.* We allow youth hunters to hunt on designated areas on designated days (youth hunt) if they meet the criteria of a ''youth hunter'' as governed by State law and possess a printed and signed copy of a permit from *Recreation.gov*.

(iii) *Designated disabled hunt.* (A) We require disabled hunters to have their America the Beautiful Access pass (OMB Control 1024–0252) in their possession while hunting in disabled areas.

(B) Disabled hunters may have an assistant who must be age 18 or older and remain within sight and normal voice contact. Assistants must possess a printed and signed copy of a permit from *Recreation.gov* and a valid government-issued photo identification.

(4) *Sport fishing.* We allow sport fishing and crabbing in designated areas of the refuge subject to the following conditions:

(i) We allow fishing and crabbing from designated shoreline areas located at the Ingleside Recreation Area from legal sunrise to legal sunset, April 1 through September 30.

(ii) We allow fishing from designated shoreline areas located at the Chester River end of Boxes Point and Duck Inn Trails from legal sunrise to legal sunset.

(c) *Patuxent Research Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, and dove on designated areas of the refuge subject to the following conditions:

(i) We require a National Wildlife Refuge System Hunt Application (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System), and a signed Statement of Hunter Ethics (FWS Form 3–2516).

(ii) We prohibit hunting and scouting on Sundays and Federal holidays. No hunt-related activities may take place unless the Hunting Control Station is open.

(iii) We allow the use of dogs consistent with State regulations.

(iv) We prohibit wading in all impounded waters except for the placement and retrieval of decoys.

(2) *Upland game hunting.* We allow hunting of gray squirrel, eastern cottontail rabbit, and woodchuck on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (c)(1)(i) through (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of turkey and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) and (ii) apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We require a National Wildlife Refuge System Fishing/Shrimping/Crabbing/Frogging Application (FWS Form 3–2358).

(ii) We prohibit the use and/or possession of lead sinkers.

■ 20. Amend § 32.40 by revising paragraphs (a), (b), (c), (d), (f), (g), and (h) to read as follows:

§ 32.40 Massachusetts.

* * * * *

(a) *Assabet River National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl and woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to enter the refuge 1½ hours before legal shooting hours, and they must exit the refuge by 1½ hours after legal shooting hours.

(ii) Hunters must obtain and possess a refuge-specific hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) to hunt on the refuge.

(iii) You may begin scouting hunting areas 4 weeks prior to the opening day of your permitted season. We require possession of a valid refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while scouting.

(iv) We allow the use of dogs consistent with State regulations.

(v) One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they may assist in other means. All companions must carry identification and stay with the hunter.

(vi) Hunters may use temporary tree stands and ground blinds while engaged in hunting during the applicable seasons. Hunters must mark stands and blinds with their permit number. Hunters must remove all stands and blinds within 30 days after the end of the permitted season.

(vii) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of ruffed grouse, fox, coyote, gray squirrel, and cottontail rabbit on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) through (v) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) North Unit B, Unit C, and South Unit are archery only.

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, and bear on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) through (iii), (v), and (vi), and (2)(ii) and (iii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow catch-and-release fishing only.

(ii) We allow the use of live bait with the exception of any amphibians or reptiles (frogs, salamanders, etc.).

(b) *Great Meadows National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to enter the refuge 1½ hours before legal shooting hours, and they must exit the refuge by 1½ hours after legal shooting hours.

(ii) Hunters must obtain and possess a refuge-specific hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) to hunt on the refuge.

(iii) Hunters may begin scouting hunting areas 4 weeks prior to the opening day of your permitted season. We require possession of a valid hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while scouting.

(iv) One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they may assist in other means. All companions must carry identification and stay with the hunter.

(v) Hunters may use temporary tree stands and ground blinds while engaged in hunting during the applicable seasons. Hunters must mark stands and blinds with their permit number. Hunters must remove all stands and blinds within 30 days after the end of the permitted season.

(vi) We allow the use of dogs consistent with State regulations.

(vii) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii), (iv) and (vi) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) We allow archery hunting only for upland game.

(3) *Big game hunting.* We allow archery hunting of whitetail deer, turkey, and bear on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (v) and (b)(2)(ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

(c) *Mashpee National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to access the refuge 1½ hours before legal shooting hours until 1½ hours after legal shooting hours.

(ii) Hunters may begin scouting hunting areas 4 weeks prior to the opening day of your permitted season. We require possession of a valid refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while scouting.

(iii) We allow the use of dogs consistent with State regulations.

(iv) One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they may assist in other means. All companions must carry identification and stay with the hunter.

(v) Hunters must clearly label tree stands and ground blinds with their State hunting license number.

(vi) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of coyote, fox, raccoon, opossum, gray squirrel, quail, pheasant, crow, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) through (iv) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), (iv), and (v), and (c)(2)(ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) [Reserved]

(d) *Monomoy National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory waterfowl on designated areas of the refuge by boat subject to the following condition: We allow the use of dogs consistent with State regulations.

(2)–(3) [Reserved]

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from legal sunrise to legal sunset on designated portions of the Monomoy Islands unless otherwise posted.

(ii) We allow surf fishing from the Morris Island shore 24 hours a day.

* * * * *

(f) *Oxbow National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, woodcock, and Wilson's snipe on designated areas of the refuge subject to the following conditions:

(i) We allow hunters to enter the refuge 1½ hours before legal shooting hours, and they must exit the refuge by 1½ hours after legal shooting hours.

(ii) Hunters must obtain and possess a refuge-specific hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) to hunt on the refuge.

(iii) Hunters may begin scouting hunting areas 4 weeks prior to the opening day of your permitted season. We require possession of a valid refuge hunting permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while scouting.

(iv) We allow the use of dogs consistent with State regulations.

(v) Hunters may use temporary tree stands and ground blinds while engaged in hunting during the applicable seasons. Hunters must mark stands and blinds with their permit number. Hunters must remove all stands and blinds within 30 days after the end of the permitted season.

(vi) One nonhunting companion may accompany each permitted hunter. We prohibit nonhunting companions from hunting, but they can assist in other means. All companions must carry identification and stay with the hunter.

(vii) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of ruffed grouse, gray squirrel, coyote, fox, and eastern cottontail rabbit on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) through (vi) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) Hospital Road North Unit and Still River Depot Area are archery only.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(i) through (iii), (v), and (vi), and (f)(2)(ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing in designated areas of the refuge.

(g) *Parker River National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, brant, coot, crow, merganser, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Hunters may enter the refuge ½ hour before legal shooting hours and must exit the refuge by ½ hour after legal shooting hours.

(ii) We prohibit the use of centerfire rifles and handguns to hunt any species.

(iii) We prohibit shooting across refuge roads and within or into administratively closed zones.

(iv) We prohibit launching motorized boats for scouting purposes prior to hunting.

(v) We allow the use of dogs consistent with State regulations.

(vi) We allow crow hunting only from September 1 through February 28.

(vii) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of ruffed grouse, pheasant, cottontail rabbit, hare, gray squirrel, coyote, fox, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) through (iii), and (v) (with the exception that we prohibit dogs while hunting furbearers) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) through (iii) and (g)(2)(ii) of this section apply.

(ii) We allow hunting of white-tailed deer on Plum Island subject to the following conditions:

(A) We allow archery, primitive firearms, shotgun, and crossbow (by MassWildlife permit only, for certain disabled persons) hunting during a designated 2-day hunt on the first Wednesday and Thursday of the State shotgun deer season.

(B) You must have a lottery-issued hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) to hunt during this 2-day time period.

(iii) We allow hunting of deer and wild turkey in Areas A, B, C, and D subject to the following condition: You may take deer using archery equipment only.

(4) *Sport fishing.* We allow saltwater fishing on designated areas of the refuge subject to the following conditions:

(i) We allow saltwater fishing on the ocean beach from legal sunrise to legal sunset without a refuge permit.

(ii) Stage Island is open to fishing from legal sunrise to legal sunset.

(iii) Nelson Island is open to fishing from legal sunrise to legal sunset.

(iv) We allow walk-on night fishing after legal sunset with a valid refuge permit (FWS Form 3–2358, National Wildlife Refuge System Fishing/Shrimping/Crabbing/Frogging Application; vehicle sticker issued by the refuge office).

(v) We allow anglers to use over-the-sand, surf-fishing vehicles, or off-road vehicles (ORVs) with a valid refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) and permit fee, as determined in an annual lottery.

(h) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas subject to the following conditions:

(i) Hunters may access the refuge 1½ hours before legal sunrise until 1½ hours after legal sunset.

(ii) We prohibit access to Third Island between January 1 and June 30.

(iii) We allow the use of dogs consistent with State regulations.

(iv) Migratory waterfowl hunting hours are ½ hour before legal sunrise to legal sunset.

(2) *Upland game hunting.* We allow hunting of upland game on designated areas of the refuge subject to the following condition:

(i) The conditions set forth at paragraphs (h)(1)(i) through (iii) of this section apply.

(ii) Upland and big game hunting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(3) *Big game hunting.* We allow hunting of big game on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (h)(1)(i) and (h)(2)(ii) of this section apply.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (h)(1)(i) and (ii) of this section apply.

(ii) We prohibit launching of motorboats from the refuge.

(iii) We prohibit the use of reptiles and amphibians as bait.

■ 21. Amend § 32.42 by revising paragraphs (b)(2) introductory text, (m)(1)(v), and (o) to read as follows:

§ 32.42 Minnesota.

* * * * *

(b) * * *

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, Hungarian partridge, cottontail and jack rabbit, raccoon, striped skunk, gray and fox squirrel, red and gray fox, and wild turkey on designated areas of the refuge subject to the following conditions:

* * * * *

(m) * * *

(1) * * *

(v) We allow hunting on the Spieker tract in Clay County, as governed by applicable State regulations.

* * * * *

(o) *Rydell National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, woodcock, and mourning dove on designated areas of the refuge subject to the following conditions:

(i) We only allow hunting of goose, duck, and coot during the special State-administered youth waterfowl season.

(ii) We allow the use of dogs while hunting, provided the dog is under the immediate control of the hunter at all times.

(iii) Hunters must dismantle hunting blinds, platforms, and ladders made from natural vegetation at the end of each day.

(iv) We allow nonmotorized boats in areas open to migratory bird hunting during the special State-administered youth waterfowl season.

(v) We prohibit hunting during the Spring Light Goose Conservation Order.

(vi) We allow the use of wheeled, nonmotorized conveyance devices (*e.g.,* bikes, game carts).

(vii) We prohibit entry onto the refuge earlier than 2 hours before legal shooting time, and we require hunters to leave the refuge no later than 2 hours after legal shooting time.

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, gray (Hungarian) partridge, ruffed grouse, prairie grouse, rabbit (cottontail and jack), snowshoe hare, squirrel (fox and gray), and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (o)(1)(ii), (iii), (vi), and (vii) of this section apply.

(ii) You may use or possess only approved nontoxic shot shells (see § 32.2(k)) in the field while hunting turkey.

(iii) We prohibit the use of centerfire, rimfire, or muzzleloading rifles, and handguns.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We prohibit shooting at a big game animal or a decoy of a big game animal on, from, over, across, or within 30 feet (9 meters) of a roadway open to public vehicle transportation.

(ii) We require a State-issued permit to hunt white-tailed deer in the Special Permit Area of the refuge.

(iii) Archery is the only legal weapon for hunting deer, with the exception of during the special State-administered mentored youth hunt and disabled hunt.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit the taking of any turtle, frog, leech, minnow, crayfish, and mussel (clam) species by any method on the refuge (see § 27.21 of this chapter).

(ii) We allow fishing from May 1 through November 1.

* * * * *

■ 22. Amend § 32.43 by:

■ a. Revising paragraphs (b)(1) and (2), and (b)(3)(i);

■ b. Removing paragraph (b)(4)(v);

■ c. Revising paragraphs (c), (e), (f)(2) and (3), (g)(1)(iv), (g)(2), (g)(3)(i) and (v), (g)(4)(iv), (h)(1)(v), (h)(2), (h)(3)(iv) and (vi), (h)(4)(i), (i)(2), (i)(3)(iv) and (vi), (i)(4)(i), (l), and (m)(1)(v);

■ d. Adding new paragraph (m)(1)(xi); and

■ e. Revising paragraphs (m)(2)(ii) and (iii), (m)(3)(i), (iv), (vi), and (m)(3)(vii).

The revisions and addition read as follows:

§ 32.43 Mississippi.

* * * * *

(b) * * *

(1) *Migratory game bird hunting.* We allow hunting of migratory ducks, geese, mergansers, coot, rails, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) All hunters age 16 and older must possess a State-issued North Mississippi NWR hunting permit (code 606, available from the Mississippi Department of Wildlife, Fisheries, and Parks). While hunting on the refuge, all persons age 15 and younger (''youth hunter'') must be in the presence and under the direct supervision of a licensed or exempt hunter age 21 or older. A hunter supervising a youth hunter must hold all required licenses and permits.

(ii) Hunters may enter the refuge at 4 a.m. and must exit the refuge no later than 2 hours after legal sunset except during raccoon and frog hunts.

(iii) We allow hunting of migratory game birds, including under the Light Goose Conservation Order, only on Wednesdays, Saturdays, and Sundays.

(iv) Each hunter must obtain a daily Migratory Bird Hunt Report (FWS Form 3–2361). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license

number is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Migratory Bird Hunt Report at a time.

(v) It is unlawful to hunt from or shoot into the 100-foot (30.5-meter) zone along either side of designated roads and parking lots.

(vi) We allow the use of dogs on the refuge when hunting migratory game birds.

(vii) You must remove decoys, blinds, boats, other personal property, and litter from the hunting area following each morning's hunt (see §§ 27.93 and 27.94 of this chapter).

(viii) We allow no more than 25 shotshells per person in the field.

(ix) We allow the take of coyote, beaver, nutria, and feral hog incidental to other lawful hunting using legal methods of take.

(2) *Upland game hunting.* We allow hunting of quail, squirrel, and rabbit on designated areas of the refuge subject to the following conditions:

(i) You must possess a valid general Special Use Permit (FWS Form 3–1383–G) to hunt raccoon on the refuge.

(ii) Each hunter must obtain a daily Upland/Small Game/Furbearer Report (FWS Form 3–2362). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Upland/Small Game/Furbearer Report at a time.

(iii) The conditions set forth at paragraphs (b)(1)(i), (ii), (v), and (ix) of this section apply.

(3) * * *

(i) The conditions set forth at paragraphs (b)(1)(i), (ii), (iv) (substitute Big Game Harvest Report [FWS Form 3–2359] for Migratory Bird Hunt Report [FWS Form 3–2361]), (v), (vi), and (ix) of this section apply.

* * * * *

(c) *Dahomey National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, merganser, coot, rail, snipe, woodcock, and dove on designated areas of the refuge subject to the following conditions:

(i) All hunters age 16 and older must possess a North Mississippi NWR hunting permit (code 606, available from the Mississippi Department of Wildlife, Fisheries, and Parks). While hunting on the refuge, all persons age 16 and younger (''youth hunter'') must be in the presence and under the direct supervision of a licensed or exempt hunter at age 21 or older (''licensed hunter''). A hunter supervising a youth hunter must hold all required licenses and permits.

(ii) Hunters may enter the refuge at 4 a.m. and must exit the refuge no later than 2 hours after legal sunset except during raccoon and frog hunts.

(iii) We allow hunting of migratory game birds, including under the Light Goose Conservation Order, only on Wednesdays, Saturdays, and Sundays ending at 12 p.m. (noon).

(iv) Each hunter must obtain a daily Migratory Bird Hunt Report (FWS Form 3–2361). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Migratory Bird Hunt Report at a time.

(v) It is unlawful to hunt from or shoot into the 100-foot (30.5-meter) zone along either side of designated roads and parking lots.

(vi) We allow the use of dogs on the refuge when hunting migratory game birds and upland game. We prohibit the use of dogs during big game hunts.

(vii) You must remove decoys, blinds, boats, other personal property, and litter from the hunting area following each morning's hunt (see §§ 27.93 and 27.94 of this chapter).

(viii) We allow no more than 25 shotshells per person in the field.

(ix) We allow the take of coyote, beaver, nutria, and feral hog incidental to other lawful hunting using legal methods of take.

(2) *Upland game hunting.* We allow hunting of quail, squirrel, rabbit, frog, and raccoon on designated areas of the refuge subject to the following conditions:

(i) You must possess a valid general Special Use Permit (FWS Form 3–1383–G) to hunt raccoon on the refuge.

(ii) Each hunter must obtain a daily Upland/Small Game/Furbearer Report (FWS Form 3–2362). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Upland/Small Game/Furbearer Report at a time.

(iii) The conditions set forth at paragraphs (c)(1)(i), (ii), (v), and (ix) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) Each hunter must obtain a daily Big Game Harvest Report (FWS Form 3–2359). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Big Game Harvest Report at a time.

(ii) The conditions set forth at paragraphs (c)(1)(i), (ii), (v), and (ix) of this section apply.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit hunting or shooting across any open, fallow, or planted field.

(v) We allow valid permit holders to possess and hunt from one portable stand or blind on the refuge. You must clearly label your stand or blind with your State license/sportsmen's identification number. Stands left in the area do not reserve the hunting locations. You may place stands up to 7 days prior to the hunt, and you must remove them within 7 days after the refuge's deer season closes (see § 27.93 of this chapter). We prohibit the placement of ground blinds within mowed trails.

(vi) Hunters using a climbing tree stand must use a fall-arrest system manufactured to Treestand Manufacturer's Association standards.

(vii) We prohibit the use of buckshot on the refuge.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit the use or possession of alcoholic beverages while fishing.

(ii) We prohibit possession or use of jugs, seines, nets, hand-grab baskets, slat traps/baskets, or any other similar devices.

(iii) We prohibit commercial fishing of any kind.

(iv) We only allow trotlines, yo-yos, limb lines, crawfish traps, or any other

similar devices and only for recreational use. You must tag or mark these devices with the angler's State fishing license number written with waterproof ink, legibly inscribed or legibly stamped on the tag. You must attend these devices a minimum of once every 24 hours. When not attended, you must remove these devices from the refuge (see § 27.93 of this chapter).

(v) We allow crawfishing.

* * * * *

(e) *Hillside National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, merganser, coot, and dove on designated areas of the refuge subject to the following conditions:

(i) Each person age 16 or older hunting or fishing must possess a valid Theodore Roosevelt Complex Annual Public Use Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) All youth hunters age 15 and younger must be in the presence and direct supervision of a Mississippi licensed or exempt hunter, age 21 or older. One adult may supervise no more than one youth hunter.

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Big Game Harvest Report, FWS Form 3–2359) in plain view in their vehicle so that the State-issued license number is readable. You must return all cards upon completion of the activity and before leaving the refuge.

(iv) We prohibit all other public use on the refuge during the muzzleloader deer and limited draw turkey hunts.

(v) Valid permit holders may incidentally take opossum, coyote, beaver, bobcat, and nutria in any refuge hunt season with weapons legal for that hunt. Valid permit holders may incidentally take feral hog during deer and turkey hunts only.

(vi) We prohibit hunting or shooting into a 100-foot (30.5-meter) zone along either side of pipelines, power line rights-of-way, designated roads, and trails, and around parking lots. It is considered hunting if you have a loaded weapon, if you have a nocked arrow while bow hunting, or if you are in an elevated tree stand or ground blind with a means to take, within these areas.

(vii) Hunters must remove all decoys, blind material, and harvested waterfowl from the area no later than 1 p.m. each day (see § 27.93 of this chapter).

(viii) We allow the use of dogs for retrieving migratory birds.

(ix) We allow goose, duck, merganser, and coot hunting beginning ½ hour before legal sunrise until 12 p.m. (noon).

(x) We do not open for early teal season.

(xi) We limit waterfowl hunters to 25 shotshells per person in the field.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, coyote, beaver, bobcat, and nutria on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) through (vi) of this section apply.

(ii) We allow the use of dogs for hunting squirrel and quail, and for the February rabbit hunt.

(iii) Beginning the first day after the deer muzzleloader hunt, we prohibit entry into the Turkey Point area until March 1.

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) through (vi) and (e)(2)(iii) of this section apply.

(ii) We prohibit organized drives. We define a ''drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause game to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the game.

(iii) Hunting or shooting within or adjacent to open fields and tree plantations less than 5 feet (1.5 meters (m)) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (FWS Form 3–2405, Self-Clearing Check-in/out Permit) following the posted instructions.

(v) Hunters may possess and hunt from only one stand or blind. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt (see § 27.93 of this chapter), with the exception of closed areas where special regulations apply.

(vi) During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single projectile; we prohibit breech-loading firearms of any type.

(vii) Turkey hunting opportunities will consist of three limited draw hunts within the State season time frame. Limited draw hunts require a Limited Hunt Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) assigned by random computer drawing. At the end of the hunt, you must return the permit with information concerning the hunt to the refuge (Big Game Harvest Report (FWS Form 3–2359)). Failure to return this permit will disqualify the hunter for any limited hunts the next year.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i), (iii), (iv), and (e)(2)(iii) of this section apply.

(ii) We prohibit trotlines, limb lines, jugs, seines, and traps.

(iii) We allow frogging during the State bullfrog season.

(iv) We allow fishing in the borrow ponds along the north levee throughout the year except during the muzzleloader deer hunt.

(v) We open all other refuge waters to fishing March 1 through November 15.

(f) * * *

(2) *Upland game hunting.* We allow hunting of rabbit, opossum, coyote, beaver, bobcat, and nutria on designated areas of the refuge subject to the following conditions:

(i) Each person age 16 or older hunting or fishing must possess a valid Theodore Roosevelt Complex Annual Public Use Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System)).

(ii) All youth hunters age 15 and younger must be in the presence and direct supervision of a Mississippi licensed or exempt hunter, age 21 or older. One adult may supervise no more than one youth hunter.

(iii) Before hunting or fishing, all participants must display their Daily Visitor Information/Harvest Report Card (Big Game Harvest Report, FWS Form 3–2359) in plain view in their vehicle so that the required information is readable. You must return all cards upon completion of the activity and before leaving the refuge.

(iv) We prohibit all other public use on the refuge during the muzzleloader deer hunt.

(v) Valid permit holders may incidentally take opossum, coyote, beaver, bobcat, and nutria in any refuge hunt season with weapons legal for that hunt. Valid permit holders may incidentally take feral hog during deer hunts only.

(vi) We allow the use of dogs for hunting during the February rabbit hunt.

(vii) We prohibit hunting or shooting into a 100-foot (30.5-meter (m)) zone along either side of pipelines, power line rights-of-way, designated roads, and trails, and around parking lots. It is

considered hunting if you have a loaded weapon, if you have a nocked arrow while bow hunting, or if you are in an elevated tree stand or ground blind with a means to take, within these areas.

(3) *Big game hunting.* We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(2)(i) through (iii), (v), and (vii) of this section apply.

(ii) We prohibit organized drives. We define a ''drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause game to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the game.

(iii) Hunting or shooting within or adjacent to open fields or tree plantations less than 5 feet (1.5 m) in height must be from a stand a minimum of 10 feet (3 m) above the ground.

(iv) Hunters may possess and hunt from only one stand or blind. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt (see § 27.93 of this chapter), with the exception of closed areas where special regulations apply.

(v) During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single projectile; we prohibit breech-loading firearms of any type.

* * * * *

(g) * * *

(1) * * *

(iv) Valid permit holders may incidentally take opossum, coyote, beaver, bobcat, and nutria in any refuge hunt season with weapons legal for that hunt. Valid permit holders may incidentally take feral hog during deer hunts only.

* * * * *

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, raccoon, opossum, coyote, beaver, bobcat, and nutria on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) through (v) of this section apply.

(ii) We allow the use of dogs for hunting squirrel and raccoon, and for the February rabbit hunt.

(iii) Beginning the day before waterfowl season, we restrict hunting to the waterfowl hunt area.

(3) * * *

(i) The conditions set forth at paragraphs (g)(1)(i) through (v) and (g)(2)(iii) of this section apply.

* * * * *

(v) Hunters may possess and hunt from only one stand or blind. Hunters may place a deer stand or blind 48 hours prior to a hunt and must remove it within 48 hours after each designated hunt (see § 27.93 of this chapter), with the exception of closed areas where special regulations apply.

* * * * *

(4) * * *

(iv) We open refuge waters to fishing throughout the year, except in the waterfowl sanctuary, which is closed one day prior to the beginning of waterfowl season until March 1.

(h) * * *

(1) * * *

(v) Valid permit holders may incidentally take opossum, coyote, beaver, bobcat, and nutria in any refuge hunt season with weapons legal for that hunt. Valid permit holders may incidentally take feral hog during deer hunts only.

* * * * *

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, coyote, beaver, bobcat, and nutria on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (h)(1)(i) through (vi) of this section apply.

(ii) We allow the use of dogs for hunting squirrel, quail, and raccoon, and for the February rabbit hunt.

(3) * * *

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (FWS Form 3–2405, Self-Clearing Check-in/out Permit) following the posted instructions.

* * * * *

(vi) During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single projectile; we prohibit breech-loading firearms of any type.

(4) * * *

(i) The conditions set forth at paragraphs (h)(1)(i), (iii), and (iv) of this section apply.

* * * * *

(i) * * *

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, quail, raccoon, opossum, coyote, beaver, bobcat, and nutria on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (i)(1)(i) through (vi) and (x) of this section apply.

(ii) We allow the use of dogs for hunting squirrel, quail, and raccoon, and for the February rabbit hunt.

(3) * * *

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (FWS Form 3–2405, Self-Clearing Check-in/out Permit) following the posted instructions.

* * * * *

(vi) During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single projectile; we prohibit breech-loading firearms of any type.

* * * * *

(4) * * *

(i) The conditions set forth at paragraphs (i)(1)(i), (iii), (iv), and (x) of this section apply.

* * * * *

(l) *Tallahatchie River National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, geese, merganser, coot, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) All hunters age 16 and older must possess a North Mississippi NWR hunting permit (code 606, available from the Mississippi Department of Wildlife, Fisheries, and Parks). While hunting on the refuge, all persons age 15 and younger (''youth hunter'') must be in the presence and under the direct supervision of a licensed or exempt hunter age 21 or older. A hunter supervising a youth hunter must hold all required licenses and permits.

(ii) Hunters may enter the refuge at 4 a.m. and must exit the refuge no later than 2 hours after legal sunset except during raccoon and frog hunts.

(iii) We allow hunting of migratory game birds, including under the Light Goose Conservation Order, only on Wednesdays, Saturdays, and Sundays.

(iv) Each hunter must obtain a daily Migratory Bird Hunt Report (FWS Form 3–2361). You must display the card in plain view on the dashboard of your vehicle so that the State-issued license number is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.'' We prohibit hunters possessing more than one Migratory Bird Hunt Report at a time.

(v) It is unlawful to hunt from or shoot into the 100-foot (30.5-meter) zone along either side of designated roads and parking lots.

(vi) We allow the use of dogs on the refuge when hunting migratory game birds.

(vii) You must remove decoys, blinds, boats, other personal property, and litter from the hunting area following each morning's hunt (see §§ 27.93 and 27.94 of this chapter).

(viii) We allow no more than 25 shotshells per person in the field.

(ix) We allow the take of coyote, beaver, nutria, and feral hog incidental to other lawful hunting using legal methods of take.

(2) *Upland game hunting.* We allow hunting of squirrel, rabbit, nutria, and raccoon on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (l)(1)(i), (ii), (v), and (ix) of this section apply.

(ii) All hunters using shotguns for small game must use approved nontoxic shot (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of white-tailed deer and feral hog on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (l)(1)(i), (ii), and (iv) (substitute Big Game Harvest Report [FWS Form 3–2359] for Migratory Bird Hunt Report [FWS Form 3–2361]) of this section apply.

(ii) We prohibit dogs while hunting deer. We allow the use of dogs to hunt feral hog during designated hog seasons.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit hunting or shooting across any open, fallow, or planted field from ground level or on or across any public road, public highway, railroad, or their rights-of-way during all general gun and primitive weapon hunts.

(v) Hunters may erect portable deer stands 2 weeks prior to the opening of archery season on the refuge and must remove them (see § 27.93 of this chapter) by January 31.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit possession or use of jugs, seines, nets, hand-grab baskets, slat traps/baskets, or any other similar devices.

(ii) We allow trotlines, yo-yos, limb lines, crawfish traps, or any other similar devices for recreational use only, and you must tag or mark them with waterproof ink, legibly inscribed or legibly stamped on the tag with your State fishing license number. You must attend these devices a minimum of once daily. If you are not going to attend these devices, you must remove them from the refuge (see § 27.93 of this chapter).

(iii) We allow crawfishing.

(m) * * *

(1) * * *

(v) Valid Theodore Roosevelt National Wildlife Refuge Complex Annual Public Use Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) holders may incidentally take opossum, coyote, beaver, bobcat, and nutria in any refuge hunt season with weapons legal for that hunt. Valid permit holders may incidentally take feral hog during deer hunts only.

* * * * *

(xi) Limited draw hunts require a Limited Hunt Permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) assigned by random computer drawing. At the end of the hunt, you must return the permit with information concerning that hunt to the refuge (FWS Form 3–2405, Self-Clearing Check-in/out Permit). Failure to return this permit will disqualify the hunter for any limited hunts the next year.

(2) * * *

(ii) We allow the use of dogs for hunting squirrel and raccoon, and for the February rabbit hunt.

(iii) We allow rabbit hunting on the Brown Tract of Theodore Roosevelt National Wildlife Refuge, which is managed by Yazoo National Wildlife Refuge.

(3) * * *

(i) The conditions set forth at paragraphs (m)(1)(i) through (vi) and (xi) of this section apply.

* * * * *

(iv) The refuge brochure provides deer check station locations and requirements. Prior to leaving the refuge, you must check all harvested deer at the nearest self-service check station (FWS Form 3–2405, Self-Clearing Check-in/out Permit) following the posted instructions.

* * * * *

(vi) During designated muzzleloader hunts, we allow archery equipment and muzzleloaders loaded with a single projectile; we prohibit breech-loading firearms of any type.

(vii) We allow white-tailed deer hunting on the Brown Tract of Theodore Roosevelt National Wildlife Refuge which is managed by Yazoo National Wildlife Refuge.

* * * * *

■ 23. Amend § 32.45 by:

■ a. Revising paragraph (n)(1)(v);

■ b. Adding paragraph (n)(2);

■ c. Removing paragraph (n)(3)(iv);

■ d. Redesignating paragraphs (n)(3)(v) through (n)(3)(viii) as paragraphs (n)(3)(iv) through (n)(3)(vii); and

■ e. Revising paragraph (w)(3) introductory text.

The revisions and addition read as follows:

§ 32.45 Montana.

* * * * *

(n) * * *

(1) * * *

(v) Each hunter must set the appropriate blind selector (metal flip tag) before and after hunting.

* * * * *

(2) *Upland game hunting.* We allow hunting of turkey on designated areas of the refuge.

* * * * *

(w) * * *

(3) *Big game hunting.* We allow archery hunting of bear, elk, white-tailed deer, and mule deer on designated areas of the refuge subject to the following conditions:

* * * * *

■ 24. Amend § 32.46 by:

■ a. Revising paragraphs (b) and (c);

■ b. Redesignating paragraphs (d) through (f) as paragraphs (e) through (g);

■ c. Adding a new paragraph (d); and

■ d. Revising newly redesignated paragraphs (e), (f)(2) and (3), and (g).

The revisions and addition read as follows:

§ 32.46 Nebraska.

* * * * *

(b) *Crescent Lake National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, dove, duck, goose, merganser, rail, and snipe on designated areas of the refuge subject to the following conditions:

(i) Hunters may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(ii) We allow the use of dogs.

(iii) We open the refuge to hunting from September 1 through March 15.

(iv) We prohibit publicly organized hunts unless authorized under a Special Use Permit (FWS Form 3–1383–C).

(2) *Upland game hunting.* We allow hunting of cottontail and jack rabbit, coyote, porcupine, prairie dog, State-defined furbearers, ring-necked pheasant, and prairie grouse on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iv) of this section apply.

(ii) We allow electronic calls for coyote and furbearer hunting.

(iii) Coyotes and all furbearers or their parts, if left in the field, must be left at least 50 yards away from any road, trail, or building. Otherwise, hunters must remove them from the refuge.

(iv) Shooting hours are from ½ hour before legal sunrise until ½ hour after legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer, mule deer, and pronghorn antelope on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) and (iv) of this section apply.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may enter the refuge 1 hour before legal sunrise and remain until 1 hour after legal sunset.

(ii) We open Blue, Smith, Crane, and Island Lake to fishing year-round. We close all other refuge lakes to fishing.

(iii) We prohibit leaving temporary shelters used for fishing overnight on the refuge.

(c) *Fort Niobrara National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, dark goose, dove, duck, light goose, rail, snipe, teal, and woodcock on designated areas of the refuge subject to the following conditions:

(i) Hunters may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(ii) We allow access from designated areas of the refuge.

(iii) You must remove all blinds and decoys at the conclusion of each day's hunt (see § 27.93 of this chapter).

(iv) We allow the use of dogs when hunting August 1 through April 30.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i), (ii), and (iv) of this section apply.

(ii) We allow hunting with muzzleloader, archery, shotgun, and falconry.

(iii) You may only possess nontoxic shot when hunting turkey (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of deer and elk on designated areas of the refuge subject to the following conditions:

(i) We allow hunting only with muzzleloader and archery equipment.

(ii) We allow hunter access from 2 hours before legal sunrise until 2 hours after legal sunset.

(iii) We allow portable tree stands and ground blinds to be used from August 16 through January 31. They may be left in the same location for no more than 7 consecutive days.

(4) *Sport fishing.* We allow fishing on Minnechaduza Creek and on the Niobrara River, downstream from the Cornell Dam, subject to the following conditions:

(i) Anglers may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(ii) We prohibit the use of limb or set lines.

(iii) We prohibit the take of baitfish, reptiles, and amphibians.

(iv) We prohibit use or possession of alcoholic beverages while fishing on refuge lands and waters.

(d) *John W. and Louise Seier National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the refuge subject to the following conditions:

(i) Hunters may access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(ii) You must remove all blinds and decoys at the conclusion of each day's hunt (see § 27.93 of this chapter).

(iii) We allow the use of dogs August 1 through April 31.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (d)(1)(i) and (iii) of this section apply.

(ii) You may only possess nontoxic shot when hunting turkey (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of deer, elk, and pronghorn antelope on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (d)(1)(i) of this section applies.

(ii) We allow portable tree stands and ground blinds to be used from August 16 through January 31. They may be left in the same location for no more than 7 consecutive days.

(4) [Reserved]

(e) *North Platte National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of pheasant, porcupine, prairie dog, rabbit, State-defined furbearers, squirrel, turkey, and coyote on designated areas of the refuge subject to the following conditions:

(i) We close the Lake Alice Unit to all public entry from November 1 through January 14.

(ii) Hunters must be 15 years of age or younger (''youth hunters''). A licensed hunter 19 years of age or older (''adult guide'') must accompany youth hunters. Adult guides must not hunt or carry firearms.

(iii) We close the refuge to public use from legal sunset to legal sunrise. Youth hunters and adult guides may enter the designated hunting area 1 hour prior to legal sunrise.

(iv) We allow the use of dogs for hunting upland game.

(3) *Big game hunting.* We allow archery hunting of mule deer and white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (e)(2)(i) of this section applies.

(ii) We close the refuge to public use from legal sunset to legal sunrise. However, archery deer hunters may enter the designated hunting area 1 hour prior to legal sunrise and remain until 1 hour after legal sunset.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

(f) * * *

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district subject to the following condition: The conditions set forth at paragraphs (f)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district subject to the following condition: The conditions set forth at paragraphs (f)(1)(i) and (ii) of this section apply.

* * * * *

(g) *Valentine National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, crow, dark goose, duck, light goose, merganser, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow hunter access from 2 hours before legal sunrise to 2 hours after legal sunset.

(ii) We allow the use of dogs.

(iii) We prohibit shooting from a motor vehicle or across any refuge roadway or right-of-way.

(iv) You must remove all blinds and decoys at the conclusion of each day's hunt (see § 27.93 of this chapter).

(2) *Upland game hunting.* We allow hunting of dove, cottontail rabbit, coyote, partridge, prairie chicken, ring-neck pheasant, State-defined furbearers, sharp-tailed grouse, squirrel, and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) through (iii) of this section apply.

(ii) We allow coyote and State-defined furbearer hunting from September 1 to March 31. Shooting hours are ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) We prohibit the use of dogs to hunt coyotes.

(iv) We prohibit the use of bait to hunt coyotes.

(v) You may only possess nontoxic shot when hunting turkey (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of elk, white-tailed deer, mule deer, and pronghorn antelope on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) and (iii) of this section apply.

(ii) We allow portable tree stands and ground blinds to be used from August 16 through January 31. They may be left in the same location for no more than 7 consecutive days.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may enter the refuge 1 hour before legal sunrise and remain 1½ hours after legal sunset.

(ii) We prohibit the take of reptiles, amphibians, and minnows (see § 27.21 of this chapter), with the exception that you may take bullfrogs on refuge lakes open to fishing.

■ 25. Amend § 32.47 by:

■ a. Redesignating paragraphs (c) through (f) as paragraphs (d) through (g);

■ b. Adding a new paragraph (c); and

■ c. Revising newly redesignated paragraph (g).

The addition and revision read as follows:

§ 32.47 Nevada.

* * * * *

(c) *Fallon National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, swan, coot, merganser, snipe, and dove on designated areas of the refuge subject to the following conditions:

(i) We allow motorized and nonmotorized boats for hunting.

(ii) We allow the use of dogs when hunting.

(iii) We allow overnight stays while hunting subject to the following conditions:

(A) You may stay overnight only at designated sites within the refuge boundary.

(B) We limit overnight stays to 4 consecutive nights at one location, and to 12 consecutive nights on the refuge.

(2) *Upland game hunting.* We allow hunting of quail, rabbit, turkey, badger, beaver, and coyote on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(ii) and (iii) of this section apply.

(ii) We allow artificial lighting for hunting coyotes.

(3) *Big game hunting.* We allow hunting of mule deer and pronghorn on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (c)(1)(iii) of this section applies.

(4) [Reserved]

* * * * *

(g) *Stillwater National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, swan, coot, merganser, snipe, and dove on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting.

(ii) We allow overnight stays while hunting subject to the following conditions:

(A) You may stay overnight only at designated sites within the refuge boundary.

(B) We limit overnight stays to 4 consecutive nights at one location, and to 12 consecutive nights on the refuge.

(2) *Upland game hunting.* We allow hunting of quail, rabbit, turkey, badger, beaver, and coyote on designated areas of the refuge subject to the following conditions:

(i) Approved methods of take include shotgun and federally approved non-lead shot, bow and arrow, and falconry.

(ii) We allow the use of dogs when hunting.

(iii) The condition set forth at paragraph (g)(1)(ii) of this section applies.

(3) *Big game hunting.* We allow hunting of mule deer and pronghorn on designated areas of the refuge subject to the following conditions:

(i) Approved methods of take include shotgun, muzzle-loading rifle, and bow and arrow.

(ii) The condition set forth at paragraph (g)(1)(ii) of this section applies.

(4) [Reserved]

■ 26. Amend § 32.48 by revising paragraphs (a)(1)(ii), (b), and (c) to read as follows:

§ 32.48 New Hampshire.

* * * * *

(a) * * *

(1) * * *

(ii) We allow the use of dogs consistent with State regulations.

* * * * *

(b) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, common snipe, and American woodcock on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of coyote, fox, raccoon, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, crow, snowshoe hare, ring-necked pheasant, and ruffed grouse on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(3) *Big game hunting.* We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following condition: We allow tree stands and blinds that are clearly marked with the owner's State hunting license number.

(4) [Reserved]

(c) *Umbagog National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, snipe, coot, crow, and woodcock on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of fox, raccoon, woodchuck, squirrel, porcupine, skunk, snowshoe hare, ring-necked pheasant, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(ii) We allow the use of dogs consistent with State regulations.

(3) *Big game hunting.* We allow hunting of bear, white-tailed deer, coyote, wild turkey, and moose on designated areas of the refuge subject to the following condition:

(i) We allow the use of dogs consistent with State regulations.

(ii) Hunters must retrieve all species harvested on the refuge.

(iii) We allow temporary blinds and tree stands that are clearly marked with the owner's State hunting license number. You may erect temporary blinds and tree stands no earlier than 14 days prior to the hunting season, and you must remove them within 14 days after the hunting season (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

■ 27. Amend § 32.49 by revising paragraphs (a), (b), (c)(3)(iii), (d)(1), and (e) to read as follows:

§ 32.49 New Jersey.

* * * * *

(a) *Cape May National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, coot, moorhen, rail, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) The snipe season on the refuge begins with the start of the State early woodcock south zone season and continues through the end of the State snipe season.

(ii) We allow the use of dogs consistent with State regulations.

(iii) We prohibit falconry.

(2) *Upland game hunting.* We allow hunting of rabbit and squirrel on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(ii) and (iii) of this section apply.

(ii) We allow rabbit and squirrel hunting following the end of the State's 6-day firearm season for white-tailed deer, until the close of the regular rabbit and squirrel season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: Tree stands must be marked with the owner's New Jersey Conservation Identification Number.

(4) *Sport fishing.* We allow saltwater sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from 1 hour before legal sunrise to 1 hour after legal sunset.

(ii) We close the Atlantic Ocean beach annually to all access, including fishing, between April 1 and September 30.

(iii) We prohibit fishing for, or possession of, shellfish on refuge lands.

(b) *Edwin B. Forsythe National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, coot, moorhen, and rail on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess a signed refuge hunt permit (Migratory Bird Hunt Application FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) at all times while scouting and hunting on the refuge.

(ii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of squirrel on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (b)(1)(i) of this section applies.

(ii) You must mark deer stands with the hunter's New Jersey Conservation Identification Number. You must remove deer stands from the refuge at the end of the last day of the hunting season (see §§ 27.93 and 27.94 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the use of lead fishing tackle on the refuge.

(c) * * *

(3) * * *

(iii) Hunters may put up tree stands beginning on the first scouting day, except on the day of the refuge's youth hunt. Hunters must retrieve their stands by 12 p.m. (noon) on the Sunday after the last day of the hunt (see § 27.93 of this chapter). All hunters must put their Conservation Identification Number on their stand, and they may have only one stand in the field at any one time.

* * * * *

(d) * * *

(1) *Migratory game bird hunting.* We allow hunting of goose and duck on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

* * * * *

(e) *Wallkill River National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory birds on designated areas of the refuge subject to the following conditions:

(i) Hunters must obtain a refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System). We require hunters to possess a signed refuge hunt permit at all times while scouting and hunting on the refuge.

(ii) Hunters may enter the refuge 2 hours before legal shooting time and must leave no later than 2 hours after legal shooting time.

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of coyote, fox, crow, ruffed grouse, opossum, raccoon, pheasant, chukar, rabbit/hare/jackrabbit, squirrel, and woodchuck on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) through (iii) of this section apply.

(ii) We allow hunting from legal sunrise to legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer, bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (e)(1)(i) and (ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on the refuge subject to the following conditions:

(i) We open Owens Station Crossing for catch-and-release fishing only.

(ii) We allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) We prohibit the taking of amphibians and reptiles (see § 27.21 of this chapter).

(iv) We prohibit trapping fish for use as bait.

■ 28. Amend § 32.50 by:

■ a. Revising paragraphs (a)(1)(i)(A) and (a)(2) introductory text;

■ b. Adding paragraph (a)(2)(iii); and

■ c. Revising paragraph (b).

The revisions and addition read as follows:

§ 32.50 New Mexico.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(A) You may hunt only on Tuesdays, Thursdays, and Saturdays during the period when the State seasons that apply to the Middle Tract area are open.

* * * * *

(2) *Upland game hunting.* We allow hunting of pheasant, quail (scaled, Gambel's, northern bobwhite, and Montezuma), Eurasian collared-dove, desert cottontail, and black-tailed jack rabbit on designated areas of the refuge subject to the following conditions:

* * * * *

(iii) We allow Eurasian collared-dove hunting on the North Tract only during the season that is concurrently open for dove hunting within the State.

* * * * *

(b) *Bosque del Apache National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of mourning and white-winged dove, light and dark goose, American coot, common moorhen, common snipe, duck, and merganser on designated areas of the refuge subject to the following conditions:

(i) We allow hunting of light goose on dates to be determined by refuge staff. Hunters must possess a permit available through a lottery drawing (Waterfowl Lottery Application, FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) Legal hunting hours will run from ½ hour before legal sunrise to legal sunset on each hunt day.

(iii) You must remove all waterfowl decoys, spent shells, temporary blinds/stands, and other personal equipment at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(iv) We allow the use of dogs when hunting.

(v) We prohibit falconry on the refuge.

(vi) You may hunt on the designated wilderness areas and the East Hunt Unit by foot, horseback, or bicycle only. Bicycles must stay on designated roads.

(2) *Upland game hunting.* We allow hunting of scaled, Gambel's, northern bobwhite, and Montezuma quail; cottontail rabbit; black-tailed jackrabbit; and Eurasian collared-dove on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(iv) through (vi) of this section apply.

(ii) Hunting hours are from ½ hour before legal sunrise to ½ after legal sunset.

(3) *Big game hunting.* We allow hunting of mule deer, javelina, feral hog, oryx, and bearded Rio Grande turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(vi) and (b)(2)(ii) of this section apply.

(ii) We allow hunting of bearded Rio Grande turkey for youth hunters on weekends April through May. All hunters must fill out FWS Form 3–2439 (Hunt Application—National Wildlife Refuge System) and pay a fee. The permit is available through a lottery drawing. If selected, you must carry your refuge hunt permit (FWS Form 3–2349) at all times during the hunt.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from April 1 through September 30.

(ii) We allow fishing from ½ hour before legal sunrise until ½ hour after legal sunset.

(iii) We prohibit trotlines, bow fishing, seining, dip netting, and traps.

(iv) We allow frogging for bullfrog on the refuge in areas that are open to fishing. We allow the use of hook and line, spears, gigs, and archery equipment to take bullfrog.

* * * * *

■ 29. Amend § 32.51 by:

■ a. Revising paragraphs (c) and (d);

■ b. Adding paragraph (f)(3);

■ c. Revising paragraphs (g)(3)(i) and (ii), (i), (j)(3), and (j)(4)(iv).

The revisions and addition read as follows:

§ 32.51 New York.

* * * * *

(c) *Iroquois National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, rail, coot, gallinule, woodcock, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) For hunting of duck, goose, and coot:

(A) We allow hunting on Saturday of the New York State Youth Days.

(B) We allow hunting Tuesdays, Thursdays, and Saturdays during the regular waterfowl season, excluding opening day of deer firearms season.

(C) We require proof of successful completion of the New York State waterfowl identification course, the Iroquois nonresident waterfowl identification course, or a suitable nonresident State waterfowl identification course. All hunters must show proof of successful course completion each time they hunt.

(D) We require a refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(E) We allow hunting from legal starting time until 12 p.m. (noon). We require hunters to return a completed Migratory Bird Hunt Report (FWS Form 3–2361) no later than 1 p.m. on the day of the hunt.

(F) Hunters must remain in designated hunting areas, unless actively pursuing downed or crippled birds.

(iii) For hunting of rail, gallinule, snipe, and woodcock:

(A) We allow hunting during the State seasons east of Sour Springs Road by all hunters, except we close rail, gallinule, snipe and woodcock hunting during refuge waterfowl hunt days to hunters without a refuge waterfowl permit.

(B) [Reserved]

(2) *Upland game hunting.* We allow hunting of ruffed grouse, gray squirrel, cottontail rabbit, pheasant, coyote, fox, raccoon, skunk, and opossum on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (c)(1)(i) of this section applies.

(ii) For small game hunting:

(A) We allow hunting from opening day of the State season until the last day of February.

(B) We prohibit the use of raptors to take small game.

(iii) For furbearer hunting, we prohibit hunting from legal sunset to legal sunrise.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition:

(i) We require a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) for spring turkey hunting.

(ii) The condition set forth at paragraph (c)(1)(i) of this section applies.

(4) *Sport fishing.* We allow sport fishing and frogging on designated areas of the refuge subject to the following conditions:

(i) We allow fishing and frogging from legal sunrise to legal sunset.

(ii) We prohibit collecting fish for use as bait.

(d) *Montezuma National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of waterfowl, Canada goose, snow goose, and gallinule on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations.

(ii) For the regular waterfowl season:

(A) We require daily refuge permits (Migratory Bird Hunt Report, FWS Form 3–2361) and reservations; we issue permits to hunters with a reservation for that hunt day. We require you to complete and return your permit by the end of the hunt day.

(B) We allow hunting only on Tuesdays, Thursdays, and Saturdays during the established refuge season set within the State western zone season. We allow a youth waterfowl hunt during New York State's established youth waterfowl hunt each year.

(C) All hunters with reservations and their hunting companions must check-in at the Route 89 Hunter Check Station area at least 1 hour before legal shooting time or forfeit their reservation.

(D) We allow motorless boats to hunt waterfowl. We limit hunters to one boat per reservation and one motor vehicle in the hunt area per reservation.

(E) We prohibit shooting from within 500 feet (152.4 meters) of the Tschache Pool observation tower.

(F) We require proof of successful completion of the New York State waterfowl identification course, the Montezuma nonresident waterfowl identification course, or a suitable nonresident State waterfowl

identification course. All hunters must show proof of successful course completion each time they hunt.

(iii) For Canada goose and snow goose hunting:

(A) We allow hunting of Canada goose during the New York State September season and of snow goose during portions of the New York State snow goose season and portions of the period covered by the Light Goose Conservation Order.

(B) You must possess a valid daily hunt permit card (Migratory Bird Hunt Report, FWS Form 3–2361). We require you to complete and return the daily hunt permit card by the end of the hunt day.

(2) *Upland game hunting.* We allow hunting of rabbit and squirrel on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (d)(1)(i) of this section applies.

(ii) You must possess a valid daily hunt permit card (Upland/Small Game/Furbearer Report, FWS Form 3–2362) and are required to complete and return the daily hunt permit card by the end of each hunt day.

(iii) We allow upland game hunters to access the refuge from 2 hours before legal sunrise until 2 hours after legal sunset.

(iv) We require the use of approved nontoxic shot for upland game hunting (see § 32.2(k)).

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs consistent with State regulations when hunting big game.

(ii) You must possess a valid daily Big/Upland Game Hunt permit card (FWS Form 3–2359, Hunt Application—National Wildlife Refuge System). We require you to complete and return the daily hunt permit card by the end of the hunt day.

(iii) We allow white-tailed deer and turkey hunters to access the refuge from 2 hours before legal sunrise until 2 hours after the end of legal shooting time.

(4) *Sport fishing.* We allow access for fishing from designated areas of the refuge subject to the following condition: We prohibit the use of lead fishing tackle.

* * * * *

(f) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We allow archery hunting on specific days between November 1 and January 31.

(ii) Hunters must obtain and possess a refuge-specific permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) for hunting on the refuge.

* * * * *

(g) * * *

(3) * * *

(i) Hunters must purchase and possess a signed refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) at all times while scouting and hunting on the refuge.

(ii) You may hunt deer using archery equipment only.

* * * * *

(i) *Wallkill River National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory birds on designated areas of the refuge subject to the following conditions:

(i) Hunters must obtain and possess a signed refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) at all times while scouting and hunting on the refuge.

(ii) Hunters may enter the refuge 2 hours before legal shooting time and leave no later than 2 hours after legal shooting time.

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of rabbit/hare, gray/black/fox squirrel, pheasant, bobwhite quail, ruffed grouse, crow, red/gray fox, coyote, bobcat, raccoon, skunk, mink, weasel, and opossum on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (i)(1)(i) through (iii) of this section apply.

(ii) We allow hunting from legal sunrise to legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer, bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (i)(1)(i) and (ii), and (i)(2)(ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We open Owens Station Crossing for catch-and-release fishing only.

(ii) We allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) We prohibit the taking of amphibians and reptiles.

(iv) We prohibit minnow/bait trapping.

(j) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey within designated areas of the refuge subject to the following conditions:

(i) We allow archery and shotgun hunting of white-tailed deer during specific days between November 1 and January 31.

(ii) We require a permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) for hunting on the refuge.

(iii) Hunters assigned to Unit 5 must hunt from portable tree stands and must direct aim away from a public road and/or dwelling.

(4) * * *

(iv) We prohibit the taking of baitfish and frogs.

■ 30. Amend § 32.52 by revising paragraph (f)(1)(vi), and adding paragraph (f)(1)(ix), to read as follows:

§ 32.52 North Carolina.

* * * * *

(f) * * *

(1) * * *

(vi) Shooting hours are from ½ hour before legal sunrise until 12 p.m. (noon).

* * * * *

(ix) Hunting by youth hunters (age 16 and younger) is subject to the following conditions:

(A) Validly licensed adults, age 21 or older, holding applicable permits must accompany and supervise, remaining in sight and voice contact at all times, any youth hunters. Each adult may supervise no more than two youth hunters.

(B) Youth hunters must possess and carry evidence of successful completion of a State-approved hunter education course.

(C) We allow hunting on Tuesdays, Wednesdays, Fridays, and Saturdays during the late and youth waterfowl State seasons.

* * * * *

■ 31. Revise § 32.53 to read as follows:

§ 32.53 North Dakota.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Appert Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(b) *Ardoch National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(c) *Arrowwood National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of pheasant, sharp-tailed grouse, partridge, cottontail rabbit, and fox on designated areas of the refuge subject to the following conditions:

(i) We allow hunting of upland game birds on the day following the close of the State firearm deer season through the end of the regular upland bird season.

(ii) We allow hunting of cottontail rabbit and fox on the day following the close of the State firearm deer season through March 31.

(3) *Big game hunting.* We allow deer hunting on designated areas of the refuge subject to the following conditions:

(i) We prohibit entering the refuge before legal shooting hours on the opening day of firearms deer season. We require all hunters to be off the refuge 1½ hours after legal sunset.

(ii) We allow deer hunting on the refuge during the State youth deer season.

(iii) After harvesting a deer, firearm deer hunters must wear blaze orange on the refuge.

(iv) We allow access by foot travel only. You may use a vehicle on designated refuge roads and trails to retrieve deer during the following times only: 9:30 to 10 a.m.; 1:30 to 2 p.m.; and ½ hour after legal sunset for 1 hour.

(v) We allow temporary tree stands, blinds, and game cameras for daily use; you must remove them by the end of each day's hunt (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow boats at idle speed only on Arrowwood Lake and Jim Lake from May 1 to September 30 of each year.

(ii) We allow ice fishing and dark house spearfishing. We allow snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), motor vehicles, and fish houses on the ice as conditions allow.

(iii) You may use and leave fish houses on the ice overnight until March 15.

(d) *Arrowwood Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by legal sunset (see §§ 27.93 and 27.94 of this chapter).

(e) *Audubon National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, gray partridge, and sharp-tailed grouse on designated areas of the refuge subject to the following conditions:

(i) We open to upland game hunting annually on the day following the close of the regular deer gun season, and we close as governed by the State season.

(ii) We allow game retrieval without a firearm up to 100 yards (90 meters) inside the refuge boundary fence and closed areas of the refuge. Retrieval time may not exceed 10 minutes. You may use dogs to assist in retrieval.

(3) *Big game hunting.* We allow hunting of white-tailed and mule deer on designated areas of the refuge subject to the following conditions:

(i) We close the refuge to hunting during the State's special youth deer hunting season.

(ii) Hunters may use designated refuge roads to retrieve downed deer.

(iii) We allow only portable tree stands. You must remove all tree stands at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(4) *Sport fishing.* We allow ice fishing on designated areas of the refuge.

(f) *Audubon Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(g) *Bone Hill National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(h) *Brumba National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(i) *Buffalo Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(j) *Camp Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(k) *Canefield Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(l) *Chase Lake National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow deer hunting on designated areas of the refuge.

(4) [Reserved]

(m) *Chase Lake Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following conditions: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(n) *Cottonwood Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(o) *Crosby Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(p) *Dakota Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(q) *Des Lacs National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of fox, sharp-tailed grouse, Hungarian partridge, turkey, and ring-necked pheasant on designated areas of the refuge subject to the following conditions:

(i) We open for upland game bird hunting on the day following the close of the regular deer gun season through the end of the State season.

(ii) We allow the use of hunting dogs for retrieval of upland game.

(iii) We allow fox hunting from the day following the regular firearm deer season until March 31.

(iv) We prohibit accessing refuge lands from refuge waters.

(3) *Big game hunting.* We allow deer and moose hunting on designated areas of the refuge subject to the following conditions:

(i) We only allow the use of portable tree stands and ground blinds. We prohibit leaving stands and blinds overnight on the refuge (see § 27.93 of this chapter).

(ii) We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the respective bow, gun, or muzzleloader deer hunting seasons.

(iii) The condition set forth at paragraph (q)(2)(iv) of this section applies.

(4) [Reserved]

(r) *Devils Lake Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other

personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(3) *Big game hunting.* We allow big game hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(s) *Half Way Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(t) *Hiddenwood Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(u) *Hobart Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(v) *Hutchinson Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(w) *J. Clark Salyer National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, and coot on designated areas of the refuge subject to the following condition: We allow the use of dogs for hunting and retrieving game birds.

(2) *Upland game hunting.* We allow hunting of ruffed and sharp-tailed grouse, Hungarian partridge, turkey, ring-necked pheasant, and fox on designated areas of the refuge subject to the following conditions:

(i) We open the refuge to hunting for sharp-tailed grouse, Hungarian partridge, and ring-necked pheasant north of the Willow-Upham road on the day following the close of the regular firearm deer season.

(ii) We open the refuge to fox hunting on the day following the close of the regular firearm deer season. Fox hunting on the refuge closes March 31.

(iii) Hunters may possess only approved nontoxic shot (see § 32.2(k)) for all upland game hunting, including turkey.

(3) *Big game hunting.* We allow hunting of deer and moose on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a refuge permit to hunt antlered deer on the refuge outside the nine public hunting areas during the regular firearms season.

(ii) We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the respective bow, gun, or muzzleloader deer hunting seasons. You may access refuge roads open to the public before 12 p.m. (noon).

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow boat fishing from May 1 through September 30.

(ii) We allow ice fishing and dark house spearfishing. We allow snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), motor vehicles, and fish houses on the ice as conditions allow.

(x) *J. Clark Salyer Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(y) *Johnson Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(z) *Kulm Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(aa) *Lake Alice National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the refuge subject to the following conditions:

(i) We allow motorized boats only during the migratory game bird hunting season; however, motors must not exceed 10 horsepower.

(ii) You must remove all boats, decoys, portable blinds, other personal property, and any materials brought onto the refuge for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow hunting of ring-necked pheasants, sharp-tailed grouse, gray partridge, cottontail rabbit, jackrabbit, snowshoe hare, and fox on designated areas of the refuge.

(3) *Big game hunting.* We allow deer and fox hunting on designated areas of the refuge subject to the following conditions:

(i) We prohibit trapping.

(ii) We allow portable tree stands. Hunters must remove tree stands from the refuge by the end of each day's hunt (see § 27.93 of this chapter).

(4) *Sport fishing.* We allow ice fishing on designated areas of the refuge subject to the following conditions:

(i) We allow vehicles and fish houses on the ice as conditions allow.

(ii) We allow public access for ice fishing from 5 a.m. to 10 p.m.

(iii) You must remove ice fishing shelters and personal property from the refuge by 10 p.m. each day (see §§ 27.93 and 27.94 of this chapter).

(bb) *Lake George National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(cc) *Lake Ilo National Wildlife Refuge.* (1)–(3) [Reserved]

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We open the lake to fishing from 5 a.m. to 10 p.m. year round.

(ii) We open the refuge to ice fishing from October 1 through March 31.

(dd) *Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(ee) *Lake Nettie National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed and mule deer on designated areas of the refuge subject to the following conditions:

(i) We allow only portable tree stands.

(ii) Hunters must remove tree stands from the refuge at the end of each day's hunt (see § 27.93 of this chapter).

(4) [Reserved]

(ff) *Lake Otis National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(gg) *Lake Patricia National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(hh) *Lake Zahl National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of sharp-tailed grouse, Hungarian partridge, and ring-necked pheasant on designated areas of the refuge subject to the following conditions:

(i) We open to upland game bird hunting on the day following the close of the regular deer gun season through the end of the State season.

(ii) We allow the use of hunting dogs to retrieve upland game.

(3) *Big game hunting.* We allow deer hunting on designated areas of the refuge subject to the following conditions:

(i) You may only use portable tree stands and ground blinds. We prohibit leaving stands and blinds overnight (see § 27.93 of this chapter).

(ii) We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the respective archery, gun, or muzzleloader deer hunting season.

(4) [Reserved]

(ii) *Lambs Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(jj) *Little Goose Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(kk) *Long Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, sharp-tailed grouse, and grey partridge on designated areas of the refuge subject to the following condition: We open to upland game bird hunting annually on the day following the close of the firearm deer season through the close of the State season.

(3) *Big game hunting.* We allow hunting of deer on designated areas of the refuge.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We only allow fishing from legal sunrise to legal sunset.

(ll) *Long Lake Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(mm) *Lords Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(nn) *Lost Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(oo) *Lostwood National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of sharp-tailed grouse, Hungarian partridge, and ring-necked pheasant on designated areas of the refuge subject to the following condition: We allow the use of dogs to retrieve upland game.

(3) *Big game hunting.* We allow deer and moose hunting on designated areas of the refuge subject to the following condition: We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the respective archery, gun, or muzzleloader deer hunting season.

(4) [Reserved]

(pp) *Lostwood Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day's fishing activity (see §§ 27.93 and 27.94 of this chapter).

(qq) *Maple River National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(rr) *Pleasant Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(ss) *Pretty Rock National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(tt) *Rabb Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(uu) *Rock Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(vv) *Rose Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(ww) *School Section National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(xx) *Sheyenne Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: Access is controlled by the individual landowner.

(yy) *Sibley Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(zz) *Silver Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(aaa) *Slade National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of deer on designated areas of the refuge.

(4) [Reserved]

(bbb) *Snyder Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(ccc) *Springwater National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(ddd) *Stewart Lake National Wildlife Refuge.* (1)–(3) [Reserved]

(4) *Sport fishing.* We allow ice or shore fishing on designated areas of the refuge.

(eee) *Stoney Slough National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(fff) *Storm Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(ggg) *Sunburst Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(hhh) *Tewaukon National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow ring-necked pheasant hunting on designated areas of the refuge subject to the following condition: We open for upland game hunting on the first Monday following the close of the State deer gun season through the close of the State pheasant season.

(3) *Big game hunting.* We allow deer hunting on designated areas of the refuge subject to the following conditions:

(i) We allow deer bow hunting on designated areas of the refuge as governed by State regulations.

(ii) The deer bow hunting season closes September 30, reopens the Friday following the close of the State gun deer season, and continues through the end of the State archery deer season.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

(iii) *Tewaukon Wetland Management District*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the district subject to the following condition: You must remove boats, decoys, portable blinds, other personal property, and any materials brought onto the area for blind construction by the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the district.

(3) *Big game hunting.* We allow big game hunting on designated areas of the district.

(4) *Sport fishing.* We allow sport fishing on designated areas of the district subject to the following condition: You must remove boats, motor vehicles, fishing equipment, and other personal property (excluding ice houses) by the end of each day (see §§ 27.93 and 27.94 of this chapter).

(jjj) *Tomahawk National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(kkk) *Upper Souris National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of wild turkey, sharp-tailed grouse, Hungarian partridge, and pheasant on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs for hunting and retrieving of upland game birds with the exception of wild turkey.

(ii) We allow hunters on the refuge from 5 a.m. until 10 p.m.

(3) *Big game hunting.* We allow deer and moose hunting on designated areas of the refuge subject to the following conditions:

(i) We only allow the use of portable tree stands and ground blinds. You must remove stands and blinds from the refuge at the end of each day's hunt (see § 27.93 of this chapter).

(ii) The condition set forth at paragraph (kkk)(2)(ii) of this section applies.

(iii) We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the respective bow, gun, or muzzleloader deer hunting seasons.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow the use of fishing boats, canoes, kayaks, and float tubes in designated boat fishing areas from Lake Darling Dam north to State Highway 28 (Greene) crossing for fishing from May 1 through September 30.

(ii) We allow fishing from nonmotorized vessels only on the Beaver Lodge Canoe Trail from May 1 through September 30.

(iii) We allow boating and fishing from vessels on the Souris River from Mouse River Park to the north boundary of the refuge from May 1 through September 30.

(iv) We allow snowmobiles, all-terrain vehicles (ATVs), utility terrain vehicles (UTVs), motor vehicles, and fish houses on the ice as conditions allow from Lake Darling Dam north to Carter Dam (Dam 41) for ice fishing.

(v) We allow you to place fish houses overnight on the ice of Lake Darling as governed by State regulations.

(vi) We allow anglers to place portable fish houses on the Souris River north of Carter Dam (Dam 41) and south of Lake Darling Dam for ice fishing, but anglers must remove the fish houses from the refuge at the end of each day's fishing activity (see § 27.93 of this chapter).

(vii) We allow anglers on the refuge from 5 a.m. until 10 p.m.

(lll) *Wild Rice National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(mmm) *Willow Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(nnn) *Wintering River National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

(ooo) *Wood Lake National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of all State-defined species subject to the following condition: Access is controlled by the individual landowner.

(3) *Big game hunting.* We allow hunting of all State-defined species subject to the following condition:

Access is controlled by the individual landowner.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) Access is controlled by the individual landowner.

(ii) We prohibit boats during the regular North Dakota waterfowl season.

■ 32. Amend § 32.54 by revising paragraph (b)(1) introductory text, and adding paragraph (b)(2)(iii), to read as follows:

§ 32.54 Ohio.

* * * * *

(b) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, rail, gallinule, coot, dove, woodcock, crow, and snipe on designated areas of the refuge subject to the following conditions:

* * * * *

(2) * * *

(iii) We prohibit hunting or shooting within 150 feet (45.7 meters) of any structure, building, or parking lot.

* * * * *

■ 33. Amend § 32.55 by revising paragraphs (g)(4)(ii) and (vii) through (x) to read as follows:

§ 32.55 Oklahoma.

* * * * *

(g) * * *

(4) * * *

(ii) Anglers may use boats from March 1 through September 30 in designated waters unless otherwise specified on the fishing tearsheet.

* * * * *

(vii) Anglers may fish after legal sunset from a boat (during boating season) in the Cumberland Pool, except in the sanctuary zones. Anglers may fish after legal sunset at the headquarters boat ramp area, Goose Pen Pond, Sandy Creek Bridge, Murray 23, and Nida Point.

(viii) We allow bowfishing in Pennington Creek and the Washita River during daylight hours.

(ix) We prohibit the take of fish by use of hands (noodling).

(x) We prohibit the take of frog, turtle, or mussel (see § 27.21 of this chapter).

* * * * *

■ 34. Amend § 32.56 by:

■ a. Revising paragraphs (f) and (n)(1) introductory text;

■ b. Redesignating paragraph (t) as paragraph (u); and

■ c. Adding new paragraph (t).

The revisions and addition read as follows:

§ 32.56 Oregon.

* * * * *

(f) *Hart Mountain National Antelope Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, and coot on designated areas of the refuge subject to the following conditions:

(i) We allow only portable blinds and temporary blinds constructed of synthetic or nonliving natural materials.

(ii) We prohibit digging of pit blinds for waterfowl hunting.

(2) *Upland game hunting.* We allow hunting of chukar and California quail on designated areas of the refuge.

(3) *Big game hunting.* We allow hunting of deer, antelope, and bighorn sheep on designated areas of the refuge subject to the following conditions:

(i) We allow only portable blinds and temporary blinds constructed of synthetic or nonliving natural materials.

(ii) We allow ground blinds, but we prohibit construction of them earlier than 1 week prior to the opening day of the legal season for which you have a valid permit.

(iii) You must remove blinds within 24 hours of harvesting an animal or at the end of the permittee's legal season (see § 27.93 of this chapter).

(iv) We limit hunters to one blind each, and you must tag blinds with the owner's State license or permit number.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge.

* * * * *

(n) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, and coot on designated areas of the refuge subject to the following conditions:

* * * * *

(t) *Wapato Lake National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, and coot on designated areas of the refuge subject to the following conditions:

(i) We allow hunting on Tuesdays, Thursdays, and Saturdays during the State waterfowl season.

(ii) The hunt area is open for access 2 hours before and after legal shooting hours.

(iii) All hunters must hunt from designated blinds except to retrieve downed birds. We prohibit hunting from levees.

(iv) We allow a maximum occupancy of four persons per blind.

(v) Disabled hunters must possess an Oregon Disabilities Hunting and Fishing Permit issued by the Oregon Department of Fish and Wildlife to qualify for preference in using the ADA Accessibility Guidelines blind or Federal Access pass.

(vi) You must remove decoys, other personal property, and trash (including empty shotgun hulls) from the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(vii) We allow the use of dogs for retrieving waterfowl.

(viii) Hunters must submit a Migratory Bird Hunt Report (FWS Form 3–2361) at the end of each day's hunt.

(2)–(4) [Reserved]

* * * * *

■ 35. Amend § 32.57 by:

■ a. Revising paragraph (a);

■ b. Adding paragraphs (b)(1)(iv) and (b)(2)(iii); and

■ c. Revising paragraphs (b)(4)(iv), (c)(3), and (c)(4)(iv).

The revisions and additions read as follows:

§ 32.57 Pennsylvania.

* * * * *

(a) *Cherry Valley National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) Hunters must obtain and possess a signed refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) at all times while scouting and hunting on the refuge.

(ii) Hunters may enter the refuge 2 hours before legal shooting time and must leave no later than 2 hours after legal shooting time.

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of squirrel, grouse, rabbit, pheasant, quail, woodchuck, crow, fox, raccoon, opossum, skunk, weasel, coyote, and bobcat on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (ii), and (iii) of this section apply.

(ii) We allow hunting from legal sunrise to legal sunset.

(3) *Big game hunting.* We allow hunting of white-tailed deer, bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i) and (ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on the refuge subject to the following conditions:

(i) The Cherry Creek section located on the former Cherry Valley Golf Course is open for catch-and-release fishing. Anglers at this location must:

(A) Obtain a day-use fishing permit (signed brochure). A maximum of three anglers per day may share the same permit; and

(B) Use only artificial lures and barbless hooks to fish.

(ii) We allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

(iii) We allow only nonmotorized or electric-motor boats in designated areas.

(iv) We prohibit the use of eel chutes, eelpots, and fyke nets.

(v) We prohibit trapping fish for use as bait.

(vi) We prohibit the take, collection, capture, killing, and possession of any reptile or amphibian on the refuge.

(b) * * *

(1) * * *

(iv) We allow the use of dogs consistent with State regulations.

(2) * * *

(iii) The condition set forth at paragraph (b)(1)(iv) of this section applies.

* * * * *

(4) * * *

(iv) We prohibit the taking or possession of shellfish on the refuge.

(c) * * *

(3) *Big game hunting.* We allow archery-only hunting of white-tailed deer on designated areas of the refuge subject to the following condition: Hunters must possess a refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(4) * * *

(iv) We prohibit the take, collection, or capture of any reptile or amphibian on the refuge.

* * * * *

■ 36. Revise § 32.58 to read as follows:

§ 32.58 Rhode Island.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Block Island National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, merganser, and coot on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(ii) We only allow portable or temporary blinds, and decoys must be removed from the refuge following each day's hunt (see § 27.93 of this chapter).

(iii) We allow the use of dogs consistent with State regulations. Dogs must be under direct control of the hunter at all times.

(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(ii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the deer hunt (see § 27.93 of this chapter). Stands and blinds must be marked with the hunter's State hunting license number.

(4) *Sport fishing.* We allow saltwater fishing from refuge shorelines.

(b) *John H. Chafee National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, merganser, and coot on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess and carry a signed refuge migratory game bird hunting brochure valid for the current season.

(ii) We only allow portable or temporary blinds and decoys that must be removed from the refuge following each day's hunt (see § 27.93 of this chapter).

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following condition: We only allow the incidental take of coyote and fox during the refuge deer hunting season with a signed refuge hunting brochure valid for the current season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and wild turkey on designated areas of the refuge subject to the following conditions:

(i) We require every hunter to possess and carry a personally signed refuge hunting brochure valid for the current season.

(ii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the deer hunt (see § 27.93 of this chapter). We prohibit permanent tree stands. Stands and blinds must be marked with the hunter's State hunting license number.

(4) *Sport fishing.* We allow saltwater fishing in designated areas of the refuge.

(c) *Ninigret National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following condition: We only allow the incidental take of coyote and fox during the refuge deer hunting season. We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(ii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the deer hunt (see § 27.93 of this chapter). We prohibit permanent tree stands. Stands and blinds must be marked with the hunter's State hunting license number.

(4) *Sport fishing.* We allow saltwater fishing from refuge shorelines.

(d) *Sachuest Point National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of coyote and fox on designated areas of the refuge subject to the following condition: We only allow the incidental take of coyote and fox during the refuge deer hunting season. We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(3) *Big game hunting.* We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following conditions:

(i) We require hunters to possess and carry a signed refuge hunting brochure valid for the current season.

(ii) We only allow portable or temporary stands and blinds that must be removed from the refuge on the last day of the deer hunt (see § 27.93 of this chapter). We prohibit permanent tree stands. Stands and blinds must be marked with the hunter's State hunting license number.

(4) *Sport fishing.* We allow saltwater fishing on designated areas of the refuge subject to the following conditions:

(i) Anglers may only saltwater fish at Sachuest Beach shoreline from September 16 through March 31.

(ii) Anglers may night-fish after legal sunset with a refuge permit (FWS Form 3–2358, National Wildlife Refuge System Fishing/Shrimping/Crabbing/Frogging Application).

(e) *Trustom Pond National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, merganser, coot, and mourning dove on designated areas of the refuge subject to the following condition: We allow the use of dogs consistent with State regulations.

(2)–(3) [Reserved]

(4) *Sport fishing.* We allow saltwater fishing on designated areas of the refuge subject to the following condition: Anglers may saltwater fish from September 16 through March 31.

■ 37. Amend § 32.59 by revising paragraph (b)(3) introductory text to read as follows:

§ 32.59 South Carolina.

* * * * *

(b) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer, turkey, coyote, and feral hog on designated areas of the refuge subject to the following conditions:

* * * * *

■ 38. Amend § 32.60 by revising paragraph (b) to read as follows:

§ 32.60 South Dakota.

* * * * *

(b) *LaCreek National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow the hunting of goose, duck, coot, common snipe, sandhill crane, crow, and mourning dove on designated areas of the refuge subject to the following condition: We allow hunting September 1 through January 31.

(2) *Upland game hunting.* We allow the hunting of bobcat, coyote, fox, cottontail rabbit, mountain lion, prairie chicken, ring-necked pheasant, and sharp-tailed grouse on designated areas of the refuge subject to the following conditions:

(i) Hunters may enter the refuge 1½ hours before legal sunrise and remain no longer than 1½ hours after legal sunset.

(ii) We allow access for bobcat, coyote, fox, and mountain lion hunting January 1 through February 15.

(3) *Big game hunting.* We allow hunting of white-tailed and mule deer on designated areas of the refuge subject to the following conditions:

(i) Deer hunters may enter the refuge 1½ hours before legal sunrise and remain no longer than 1½ hours after legal sunset.

(ii) Hunters may leave portable tree stands and free-standing elevated platforms on the refuge from the first Saturday after August 25 through February 15. Hunters must remove all other personal property by the end of each day's hunt (see § 27.93 of this chapter).

(iii) We close the refuge to archery hunting during refuge firearm seasons.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We prohibit the use or possession of live minnows or bait fish in Pools 3, 4, 7, and 10 and the Cedar Creek Trout Ponds.

(ii) We open designated fishing areas from ½ hour before legal sunrise to ½ hour after legal sunset, except the Little White River Recreation Area.

* * * * *

■ 39. Amend § 32.61 by:

■ a. Revising paragraphs (g)(1) introductory text, (g)(1)(v) and (vi), (g)(2), and (g)(3)(i);

■ b. Removing paragraph (g)(3)(ii);

■ c. Redesignating paragraphs (g)(3)(iii) and (iv) as paragraphs (g)(3)(ii) and (iii), respectively; and

■ d. Revising paragraph (g)(4)(i).

The revisions read as follows:

§ 32.61 Tennessee.

* * * * *

(g) *Tennessee National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of Canada goose, dove, and crow on designated areas of the refuge subject to the following conditions:

* * * * *

(v) Youth hunters age 16 and younger must be accompanied by an adult 21 years old or older who has a refuge hunting permit on his or her person. The adult must remain in a position to take immediate control of the hunting device.

(vi) We allow the use of dogs for migratory bird, squirrel, raccoon, and opossum hunting.

* * * * *

(2) *Upland game hunting.* We allow hunting of squirrel, coyote, beaver, raccoon, and opossum on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (g)(1)(i) through (vi) and (viii) of this section apply.

(ii) We allow hunting for raccoon and opossum from legal sunset to legal sunrise.

(3) * * *

(i) The conditions set forth at paragraphs (g)(1)(i) through (v) and (viii) of this section apply.

* * * * *

(4) * * *

(i) We allow fishing in Swamp Creek, Sulphur Well Bay, and Bennetts Creek from March 16 through November 14. We open the remainder of the refuge portion of Kentucky Lake to fishing year-round. We allow bank fishing year-round along Refuge Lane from the New Johnsonville Pump Station.

* * * * *

■ 40. Amend § 32.62 by revising paragraphs (f), (i), and (j) to read as follows:

§ 32.62 Texas.

* * * * *

(f) *Buffalo Lake National Wildlife Refuge*—(1) *Migratory bird hunting.* We allow hunting of mourning dove, white-winged dove, and Eurasian collared dove on designated areas of the refuge subject to the following conditions:

(i) We require hunters to obtain a Special Use Permit (FWS Form 3–1383–G).

(ii) Hunters age 17 and younger (''youth hunters'') must be under the direct supervision of an adult age 18 or older (''adult supervisor'').

(iii) We limit hunting to no more than 6 days with a maximum of 12 hunters, during the concurrent pheasant/quail season as governed by the State of Texas hunting season.

(iv) Hunting hours will be from 30 minutes before legal sunrise until noon.

(v) All hunters must check in and out at refuge headquarters.

(vi) Bag limits will be determined annually for each species, but will never exceed the limits set by Texas Parks and Wildlife Department (TPWD).

(2) *Upland game hunting.* We allow hunting of ring-necked pheasant, northern bobwhite, and scaled quail on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (f)(1)(ii), (iii), and (v) of this section apply.

(ii) Hunting hours will be from 9 a.m. to 4:30 p.m.

(iii) We allow only shotguns for pheasant and quail hunting.

(3) *Big game hunting.* We allow hunting of white-tailed deer, mule deer, and feral hog on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (f)(1)(ii) of this section applies.

(ii) After legal sunset, hunters may be in designated camping areas only. We prohibit hunters in all other areas of the refuge after legal sunset.

(iii) During the youth hunt, each adult supervisor may supervise only one youth hunter. A youth hunter may have up to two adult supervisors.

(4) [Reserved]

* * * * *

(i) *Laguna Atascosa National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed deer, feral hog, nilgai antelope, other exotic ungulates, and American alligator on designated areas of the refuge subject to the following conditions:

(i) We allow the incidental take of nilgai antelope, feral hog, and other

rarely observed exotic ungulates (such as fallow deer, axis deer, sika deer, Barbary sheep, and black buck) during all refuge hunts, with the exception of American alligator hunts.

(ii) We require hunters to attend refuge hunter orientation before hunting on the refuge. We require each hunter to obtain and carry with them a signed and dated hunt information tearsheet (name and address only) in addition to the State hunt permit.

(iii) Bag limits for species hunted on the refuge are provided in the refuge hunt tearsheet annually.

(iv) Each hunter age 17 and younger must be under the direct supervision of an adult age 18 or older.

(v) We allow a scouting period prior to the commencement of each refuge hunt period. A permitted hunter and a limit of two non-permitted individuals may enter the hunt units during the scouting period, which begins after hunter orientation and ends at legal sunset. Each hunter must clearly display a Vehicle Validation Tag face up on the vehicle dashboard when scouting and hunting.

(vi) We allow hunters to enter the refuge 1½ hours before legal sunrise during their permitted hunt periods. Hunters must leave the hunt units no later than 1 hour after State legal shooting hours.

(vii) Hunters may access hunt units only by foot or bicycle.

(viii) We allow hunting from portable stands or by stalking and still hunting. There is a limit of one blind or stand per permitted hunter. Hunters must attach hunter identification (permit number or State license number) to the blind or stand. Hunters must remove all blinds and stands at the end of the permitted hunt period (see § 27.93 of this chapter).

(ix) During American alligator hunts, we allow hunters to leave hooks set over only one night period at a time; set lines must be checked daily. Hunters must field dress all harvested big game in the field and check the game at the hunt check station before removal from the refuge. Hunters may use a nonmotorized cart to assist with the transportation of harvested game animals.

(x) We prohibit the killing or wounding of a game animal and then intentionally or knowingly failing to make a reasonable effort to retrieve and include it in the hunter's bag limit.

(4) *Sport fishing.* We allow fishing and crabbing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing and crabbing year-round only from Adolph Thomae Jr. County Park, on San Martin Lake of the Bahia Grande Unit, and on the South Padre Island Unit.

(ii) We allow only pole and line, rod and reel, hand line, dip net, or cast net for fishing. We prohibit the use of crab traps or pots for crabbing. Anglers must attend all fishing lines, crabbing equipment, and other fishing devices at all times.

(iii) In the Bahia Grande Unit, inside the refuge boundary on San Martin Lake, we allow only bank and wade fishing, accessed on foot. In other waters of the Bahia Grande Unit, we do not allow boats or fishing inside the refuge boundary.

(j) *Lower Rio Grande Valley National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of mourning, white-winged, and white-tipped dove on designated areas of the refuge subject to the following conditions:

(i) We require hunters to obtain a hunt permit (signed brochure) and to possess and carry that permit at all times during your designated hunt period. Hunters must also display the vehicle placard (part of the hunt permit) while participating in the designated hunt period.

(ii) Hunters age 17 and younger must be under the direct supervision of an adult age 18 or older.

(iii) You may access the refuge during your permitted hunt period from 1 hour before legal hunt time to 1 hour after legal hunt time. You must only hunt during legal hunt hours.

(iv) We restrict hunt participants to those listed on the refuge hunt permit (hunter, non-hunting chaperone, and non-hunting assistant).

(v) We allow hunters to use bicycles on designated routes of travel.

(vi) We allow the use of dogs to retrieve doves during the hunt.

(2) *Upland game hunting.* We allow hunting of wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i) through (v) of this section apply.

(ii) We allow turkey hunting during the spring season only.

(iii) You may only harvest one bearded turkey per hunter.

(iv) We prohibit the killing, wounding, taking, or possession of game animals and then intentionally or knowingly failing to make a reasonable effort to retrieve or keep the edible portions of the animal and include it in your bag limit.

(3) *Big game hunting.* We allow hunting of white-tailed deer, feral hog, nilgai antelope, javelina, and other exotic ungulates (as defined by the State of Texas to include fallow deer, axis deer, sika deer, Barbary sheep, and black buck) on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (j)(1)(i) through (v) and (2)(iv) of this section apply.

(ii) We allow only free-standing blinds or tripods. Hunters may set them up during the scouting days preceding each permitted hunt day and must take them down by the end of each hunt day (see § 27.93 of this chapter). Hunters must mark and tag all stands with their hunting license number during the period of use.

(iii) Hunters must field-dress all harvested big game in the field.

(iv) Hunters may use nonmotorized dollies or carts off of improved roads or trails to haul carcasses to a parking area.

(v) We prohibit the use of big game decoys.

(4) [Reserved]

* * * * *

■ 41. Amend § 32.63 by:

■ a. Removing paragraph (a)(1)(iii);

■ b. Redesignating paragraphs (a)(1)(iv) through (vi) as paragraphs (a)(1)(iii) through (v); and

■ c. Revising paragraph (b).

The revision reads as follows:

§ 32.63 Utah.

* * * * *

(b) *Fish Springs National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of coot, duck, goose, mourning dove, and snipe on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting.

(ii) You may construct temporary blinds. You must remove all blinds constructed out of materials other than vegetation at the end of each day's hunt (see § 27.93 of this chapter).

(iii) We allow the use of small boats (15 feet or less) when hunting. We prohibit gasoline motors and air boats.

(iv) You may enter the refuge 2 hours prior to legal sunrise and must exit the refuge by 1½ hours after legal sunset.

(v) You must remove decoys, boats, vehicles, and other personal property from the refuge at the end of each day's hunt (see § 27.93 of this chapter).

(vi) We have a special blind area for use by disabled hunters. We prohibit trespass for any reason by any individual not registered to use that area.

(2) *Upland game hunting.* We allow hunting of chukar, desert rabbit, and mountain rabbit on designated areas of the refuge subject to the following conditions:

(i) We close to hunting on January 31.

(ii) We allow the use of dogs when hunting.

(3) *Big game hunting.* We allow hunting of mule deer and pronghorn antelope on designated areas of the refuge subject to the following condition: We only allow archery equipment when hunting big game.

(4) [Reserved]

* * * * *

■ 42. Amend § 32.64 by adding paragraphs (a)(1)(vii) and (a)(2)(v), and revising paragraphs (a)(4)(i)(A) and (b), to read as follows:

§ 32.64 Vermont.

* * * * *

(a) * * *

(1) * * *

(vii) In all hunting areas, we allow the use of dogs consistent with State regulations.

* * * * *

(2) * * *

(v) The condition set forth at paragraph (a)(1)(vii) of this section applies.

* * * * *

(4) * * *

(i) * * *

(A) We close the following areas: Goose Bay, Saxes Creek and Pothole, Metcalfe Island Pothole, Long Marsh Channel, and Clark Marsh.

* * * * *

(b) *Silvio O. Conte National Fish and Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of duck, goose, crow, and American woodcock on designated areas of the refuge subject to the following conditions:

(i) We allow disabled hunters to hunt from a vehicle that is at least 10 feet from the traveled portion of the refuge road if the hunter possesses a State-issued disabled hunting license and a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(ii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of coyote, fox, raccoon, bobcat, woodchuck, red squirrel, eastern gray squirrel, porcupine, skunk, snowshoe hare, eastern cottontail, and ruffed grouse on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) and (ii) of this section apply.

(ii) Shooting from, over, or within 10 feet of the traveled portion of any gravel road is prohibited.

(iii) We require hunters hunting at night to possess a Special Use Permit (FWS Form 3–1383–G) issued by the refuge manager.

(3) *Big game hunting.* We allow hunting of white-tailed deer, moose, black bear, and wild turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) and (b)(2)(ii) of this section apply.

(ii) You may use portable tree stands and/or blinds. You must clearly label your tree stands and/or blinds with your hunting license number.

(iii) You may retrieve moose at the Nulhegan Basin Division with the use of a commercial moose hauler, if the hauler possesses a Special Use Permit (FWS Form 3–1383–C) issued by the refuge manager.

(4) [Reserved]

■ 43. Amend § 32.65 by:

■ a. Revising paragraph (a)(3)(iii);

■ b. Adding paragraph (a)(3)(v);

■ c. Revising paragraph (b)(1)(i);

■ d. Adding paragraphs (b)(1)(iv), (b)(3)(v), and (c)(3)(vi);

■ e. Revising paragraphs (d), (e)(3), and (e)(4)(ii);

■ f. Adding paragraph (f)(3)(v);

■ g. Revising paragraphs (h) and (i);

■ h. Adding paragraph (j)(3)(v);

■ i. Revising paragraphs (k)(3), (k)(4)(iv), and (l)(3)(i); and

■ j. Adding new paragraph (l)(3)(v).

The revisions and additions read as follows:

§ 32.65 Virginia.

* * * * *

(a) * * *

(3) * * *

(iii) We prohibit retrieval of wounded game from a ''No Hunting Area'' or ''Safety Zone'' without the consent of the refuge employee on duty at the check station.

* * * * *

(v) We prohibit the use of pursuit dogs while hunting white-tailed deer.

* * * * *

(b) * * *

(1) * * *

(i) You must obtain and possess a refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while hunting on the refuge.

* * * * *

(iv) We allow the use of dogs consistent with State regulations.

* * * * *

(3) * * *

(v) We prohibit the use of pursuit dogs while hunting white-tailed deer and sika.

* * * * *

(c) * * *

(3) * * *

(vi) We prohibit the use of pursuit dogs while hunting white-tailed deer.

* * * * *

(d) *Elizabeth Hartwell Mason Neck National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) We only allow shotguns with slugs during the firearm season.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit the use of pursuit dogs while hunting deer.

(4) [Reserved]

(e) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer and bear on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) We prohibit the use of pursuit dogs while hunting white-tailed deer and bear.

(4) * * *

(ii) We prohibit bank fishing on the refuge, with the exception noted in paragraph (e)(4)(i) of this section.

* * * * *

(f) * * *

(3) * * *

(v) We prohibit the use of pursuit dogs while hunting white-tailed deer.

* * * * *

(h) *Occoquan Bay National Wildlife Refuge.* (1)–(2) [Reserved]

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) You must possess and carry a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) and be selected in the refuge lottery to hunt.

(ii) We only allow shotguns with slugs during the firearm season.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the

organized or planned hunt and known to be waiting for the deer.

(iv) We prohibit the use of pursuit dogs while hunting deer.

(4) [Reserved]

(i) *Plum Tree Island National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory waterfowl, gallinule, and coot on designated areas of the refuge subject to the following conditions:

(i) We require migratory game bird hunters to obtain and carry a permit through a lottery administered by the Virginia Department of Game and Inland Fisheries.

(ii) You must hunt from a blind, as assigned by the hunting permit.

(iii) We allow the use of dogs consistent with State regulations.

(2)–(4) [Reserved]

(j) * * *

(3) * * *

(v) We prohibit the use of pursuit dogs while hunting white-tailed deer.

* * * * *

(k) * * *

(3) *Big game hunting.* We allow hunting of white-tailed deer on designated areas of the refuge subject to the following conditions:

(i) We require big game hunters to obtain a permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System).

(ii) We prohibit the use of pursuit dogs while hunting white-tailed deer.

(4) * * *

(iv) We prohibit the use of lead fishing tackle in freshwater ponds, including Wilna Pond and Laurel Grove Pond.

* * * * *

(l) * * *

(3) * * *

(i) You must obtain and carry a refuge hunt permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) while hunting.

* * * * *

(v) We prohibit the use of pursuit dogs while hunting white-tailed deer.

* * * * *

■ 44. Amend § 32.66 by revising paragraph (l)(1) and (n) to read as follows:

§ 32.66 Washington.

* * * * *

(l) * * *

(1) *Migratory game bird hunting.* We allow hunting of duck, goose, and coot on designated areas of the refuge subject to the following conditions:

(i) We allow hunting during the State youth season in September.

(ii) We allow hunting from the beginning of the regular waterfowl seasons through November 30 by youths (younger than age 16) on Saturday and Sunday only. An adult, age 18 or older, must accompany and supervise youth hunters. We allow the supervising adult(s) to hunt.

(iii) We allow the use of dogs when hunting.

(iv) Hunters may access the refuge no earlier than 2 hours before legal sunrise and must leave no later than 1 hour after legal sunset.

(v) Hunters may hunt only from within 50 yards of posted hunting sites.

(vi) Hunting parties are restricted to a maximum of two youths and two accompanying adults per hunting site.

(vii) We allow the use of nonmotorized boats for hunting.

(viii) We only allow the use of portable blinds and temporary blinds constructed of manmade materials.

(ix) Hunters must remove all blinds, decoys, and other personal equipment from the refuge at the end of each day's hunt (see §§ 27.93 and 27.94 of this chapter).

* * * * *

(n) *Willapa National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, and snipe on designated areas of the refuge subject to the following conditions:

(i) In the designated goose hunt area in the Riekkola Unit, hunters may take ducks, coots, and snipe only incidental to hunting geese.

(ii) We open the refuge for hunting access from 1½ hours before legal sunrise until 1½ hours after legal sunset.

(iii) We allow the use of dogs when hunting.

(iv) You must remove all personal property, including decoys and boats, by 1 hour after legal sunset (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow hunting of forest grouse (sooty and ruffed) on designated areas of the refuge subject to the following conditions:

(i) We allow archery hunting only.

(ii) The conditions set forth at paragraphs (n)(1)(ii) and (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of deer, elk, and bear on designated areas of the refuge subject to the following conditions:

(i) At Long Island, we allow only archery hunting; we prohibit hunting firearms.

(ii) We prohibit bear hunting on any portion of the refuge except Long Island.

(iii) We prohibit the use of centerfire or rimfire rifles within the Lewis, Porter Point, and Riekkola Units.

(iv) The conditions set forth at paragraphs (n)(1)(ii) and (iii) of this section apply.

(v) You may leave your tree stand(s) in place for 3 days. You must label your tree stand(s) with your hunting license number and the date you set up the stand. You may set up stands 1½ hours before legal sunrise. You must remove your tree stand(s) and all other personal property from the refuge by 1½ hours after legal sunset on the third day (see § 27.93 of this chapter).

(vi) At Leadbetter Point, we allow hunting of elk only during the State early muzzleloader season, and by special permit in consultation with the State.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

■ 45. Revise § 32.67 to read as follows:

§ 32.67 West Virginia.

The following refuge units are open for hunting and/or fishing as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional refuge-specific regulations.

(a) *Canaan Valley National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, rail, coot, gallinule, mourning dove, snipe, and woodcock on designated areas of the refuge subject to the following conditions:

(i) We require each hunter to possess and carry a signed refuge hunting brochure (signed brochure).

(ii) Hunters may enter the refuge 1 hour before legal sunrise and must exit the refuge, including parking areas, no later than 1 hour after legal sunset.

(iii) We prohibit overnight parking except by Special Use Permit (FWS Form 3–1383–G) on Forest Road 80.

(iv) We allow the use of dogs consistent with State regulations.

(v) We prohibit dog training except during legal hunting seasons.

(2) *Upland game hunting.* We allow the hunting of ruffed grouse, squirrel, cottontail rabbit, snowshoe hare, red fox, gray fox, bobcat, woodchuck, coyote, opossum, striped skunk, and raccoon on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (a)(1)(i), (iv) and (v) of this section apply.

(ii) You may hunt coyote, raccoon, opossum, skunk, and fox at night, but you must obtain a Special Use Permit (FWS Form 3–1383–G) at the refuge headquarters before hunting.

(iii) We only allow hunting in the No Rifle Zones with the following

equipment: archery (including crossbow), shotgun, or muzzleloader.

(iv) We prohibit the hunting of upland game species from March 1 through August 31.

(3) *Big game hunting.* We allow the hunting of white-tailed deer, black bear, and turkey on designated areas of the refuge subject to the following condition:

(i) The conditions set forth at paragraphs (a)(1)(i) and (iv) and (a)(2)(iii) of this section apply.

(ii) We allow the use of dogs for hunting black bear during the gun season.

(iii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the use of lead fishing tackle on designated areas of the refuge.

(b) *Ohio River Islands National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following conditions:

(i) We require each hunter to possess and carry a signed refuge hunting brochure (signed brochure).

(ii) Hunters may enter the refuge 1 hour before legal sunrise and must exit the refuge, including parking areas, no later than 1 hour after legal sunset.

(iii) We allow the use of dogs consistent with State regulations.

(2) *Upland game hunting.* We allow hunting of upland game on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (b)(1)(i), (ii), and (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of big game on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) and (ii) of this section apply.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) We allow fishing from 1 hour before legal sunrise until 1 hour after legal sunset. This restriction does not apply to off-shore fishing.

(ii) We prohibit trotlines (setlines) and turtle lines.

■ 46. Amend § 32.68 by revising paragraphs (c) and (d) to read as follows:

§ 32.68 Wisconsin.

* * * * *

(c) *Hackmatack National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of migratory game birds on designated areas of the refuge subject to the following condition: You must remove all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day's hunt.

(2) *Upland game hunting.* We allow upland game and turkey hunting on designated areas of the refuge subject to the following conditions:

(i) For hunting, you may use or possess only approved nontoxic shot shells while in the field, including shot shells used for hunting wild turkey (see § 32.2(k)).

(ii) You must remove all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day's hunt.

(3) *Big game hunting.* We allow big game hunting on designated areas of the refuge subject to the following conditions:

(i) You must remove all boats, decoys, blinds, blind materials, stands, platforms, and other hunting equipment (see §§ 27.93 and 27.94 of this chapter) brought onto the refuge at the end of each day's hunt.

(ii) We prohibit organized deer drives. We define a ''deer drive'' as an organized or planned effort to pursue, drive, chase, or otherwise frighten or cause deer to move in the direction of any person(s) who is part of the organized or planned hunt and known to be waiting for the deer.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following condition: We prohibit the taking of turtle and frog (see § 27.21 of this chapter).

(d) *Horicon National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of goose, duck, coot, common moorhen, and American woodcock on designated areas of the refuge subject to the following condition: We allow only participants in the Learn to Hunt and other special programs to hunt goose, duck, coot, and common moorhen.

(2) *Upland game hunting.* We allow hunting of wild turkey, ring-necked pheasant, gray partridge, ruffed grouse, squirrel, cottontail rabbit, snowshoe hare, raccoon, opossum, striped skunk, red fox, gray fox, coyote, and bobcat on designated areas of the refuge subject to the following conditions:

(i) For wild turkey hunting, hunters may possess only approved nontoxic shot shells (see § 32.2(k)) while in the field.

(ii) We prohibit night hunting from ½ hour after legal sunset until ½ hour before legal sunrise the following day.

(iii) We allow the use of dogs while hunting upland game (except raccoon, Virginia opossum, striped skunk, red fox, gray fox, coyote, and bobcat), provided the dog is under the immediate control of the hunter at all times.

(iv) Coyote, red fox, gray fox, and bobcat hunting begins on the first day of the traditional 9-day gun deer season.

(v) Coyote hunting ends on the last day of the season for fox.

(vi) You may only hunt striped skunk and opossum during the season for raccoon.

(vii) You may only hunt snowshoe hare during the season for cottontail rabbit.

(viii) Hunters may enter the refuge no earlier than 1 hour before legal shooting hours and must exit the refuge no later than 1 hour after legal shooting hours.

(3) *Big game hunting.* We allow hunting of white-tailed deer and black bear in designated areas of the refuge subject to the following conditions:

(i) Hunters must remove all stands and personal property from the refuge following each day's hunt (see §§ 27.93 and 27.94 of this chapter). We prohibit hunting from any stand left up overnight.

(ii) We prohibit hunting bear with dogs.

(iii) Hunters must possess a refuge permit (FWS Form 3–2439, Hunt Application—National Wildlife Refuge System) to hunt in Area E (surrounding the office/visitor center).

(iv) Hunters may enter the refuge no earlier than 1 hour before legal shooting hours and must exit the refuge no later than 1 hour after legal shooting hours.

(v) Any ground blind used during any gun deer season must display at least 144 square inches (929 square centimeters) of solid-blaze-orange material visible from all directions.

(4) *Sport fishing.* We allow fishing on designated areas of the refuge subject to the following conditions:

(i) We only allow bank fishing or fishing through the ice.

(ii) We prohibit the use of fishing weights or lures containing lead.

* * * * *

■ 47. Amend § 32.69 by:

■ a. Redesignating paragraphs (a) through (e) as paragraphs (b) through (f);

■ b. Adding a new paragraph (a); and

■ c. Revising newly redesignated paragraphs (b), (c), (e)(1), and (f).

The addition and revisions read as follows:

§ 32.69 Wyoming.

* * * * *

(a) *Bamforth National Wildlife Refuge.* (1) [Reserved]

(2) *Upland game hunting.* We allow hunting of chukar, grey partridge, pheasant, rabbit, sharp-tailed grouse, and turkey on designated areas of the refuge.

(3) *Big game hunting.* We allow hunting of pronghorn antelope, mule deer, and white-tailed deer on designated areas of the refuge.

(4) [Reserved]

(b) *Cokeville Meadows National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of dove, duck, dark goose, coot, merganser, light goose, snipe, Virginia rail, Sora rail, sandhill crane, and mourning dove on designated areas of the refuge subject to the following conditions:

(i) We allow the use of dogs when hunting.

(ii) Hunters may only access the refuge 1 hour before legal sunrise until 1 hour after legal sunset.

(2) *Upland game hunting.* We allow hunting of blue grouse, ruffed grouse, chukar partridge, gray partridge, cottontail rabbit, snowshoe hare, squirrel (red, gray, and fox), red fox, raccoon, and striped skunk on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (b)(1)(ii) of this section applies.

(ii) We allow the use of dogs to find and retrieve legally harvested upland game birds, cottontail rabbits, and squirrels. You may not use dogs to chase red fox, raccoon, striped skunk, or any other species not specifically allowed in this paragraph (b)(2)(ii).

(iii) Licensed migratory bird, big game, or upland/small game hunters may harvest red fox, raccoon, and striped skunk on the refuge from September 1 until the end of the last open big game, upland bird, or small game season. You must possess, and remove from the refuge, all red fox, raccoon, and striped skunk that you harvest on the refuge.

(3) *Big game hunting.* We allow hunting of elk, mule deer, white-tailed deer, pronghorn, and moose subject to the following condition: The condition set forth at paragraph (b)(1)(ii) of this section applies.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge.

(c) *Hutton Lake National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow youth hunting of goose, duck, coot, and merganser on designated areas of the refuge during the Wyoming Zone C2 ''special youth waterfowl hunting days'' subject to the following conditions:

(i) We allow the use of dogs when hunting.

(ii) We prohibit the cleaning of game on the refuge.

(2) *Upland game hunting.* We allow hunting of chuker, grey partridge, pheasant, rabbit, sharp-tailed grouse, and turkey on designated areas of the refuge subject to the following conditions:

(i) The conditions set forth at paragraphs (c)(1)(i) and (ii) of this section apply.

(ii) We allow hunting November 1 through March 1.

(3) *Big game hunting.* We allow hunting of pronghorn antelope and mule deer on designated areas of the refuge subject to the following condition: We allow hunting November 1 through March 1.

(4) [Reserved]

* * * * *

(e) * * *

(1) *Migratory game bird hunting.* We allow hunting of dove, goose, duck, and coot on designated areas of the refuge.

* * * * *

(f) *Seedskadee National Wildlife Refuge*—(1) *Migratory game bird hunting.* We allow hunting of dark goose, duck, coot, merganser, dove, snipe, and rail on designated areas of the refuge subject to the following conditions:

(i) We open the refuge to the general public from ½ hour before legal sunrise to ½ hour after legal sunset. Waterfowl hunters may enter the refuge 1 hour before legal shooting hours to set up decoys and blinds.

(ii) We allow the use of dogs when hunting.

(iii) You must only use portable blinds or blinds constructed from dead and downed wood.

(iv) You must remove portable blinds, tree stands, decoys, and other personal equipment from the refuge after each day's hunt (see §§ 27.93 and 27.94 of this chapter).

(2) *Upland game hunting.* We allow hunting of sage grouse, cottontail rabbit, jackrabbit, raccoon, fox, and skunk on designated areas of the refuge subject to the following condition: The conditions set forth at paragraphs (f)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow hunting of pronghorn, mule deer, white-tailed deer, elk, and moose on designated areas of the refuge subject to the following condition: The condition set forth at paragraph (f)(1)(i) section applies.

(4) *Sport fishing.* We allow sport fishing on designated areas of the refuge subject to the following conditions:

(i) The condition set forth at paragraph (f)(1)(i) of this section applies.

(ii) We prohibit taking of mollusk, crustacean, reptile, and amphibian from the refuge (see § 27.21 of this chapter).

PART 36—ALASKA NATIONAL WILDLIFE REFUGES

■ 48. The authority citation for part 36 continues to read as follows:

Authority: 16 U.S.C. 460(k) *et seq.,* 668dd–668ee, 3101 *et seq.,* Pub. L. 115–20, 131 Stat. 86.

■ 49. Amend § 36.39 by revising paragraph (d) to read as follows:

§ 36.39 Public use.

* * * * *

(d) *Arctic National Wildlife Refuge.* We prohibit all domestic sheep, goats, and camelids on the refuge.

* * * * *

Subchapter E—Management of Fisheries Conservation Areas

PART 71—HUNTING AND SPORT FISHING ON NATIONAL FISH HATCHERIES

■ 50. The authority citation for part 71 continues to read as follows:

Authority: Sec. 4, Pub. L. 73–121, 48 Stat. 402, as amended; sec. 4, Pub. L. 87–714, 76 Stat. 654; 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 1534.

■ 51. Amend § 71.11 to read as follows:

§ 71.11 National fish hatcheries open for hunting.

The following hatcheries are open for hunting as governed by applicable Federal and State regulations, and are listed in alphabetical order with additional hatchery-specific regulations.

(a) *Iron River National Fish Hatchery*—(1) *Migratory game bird hunting.* We allow duck, goose, coot, rail, snipe, woodcock, dove, and crow hunting on designated areas of the hatchery.

(2) *Upland game hunting.* We allow pheasant, bobwhite quail, ruffed and

sharp-tailed grouse, Hungarian partridge, rabbit/hare, squirrel, coyote, fox, bobcat, raccoon, opossum, skunk, weasel, and woodchuck hunting on designated areas of the hatchery.

(3) *Big game hunting.* We allow white-tailed deer, turkey, and bear hunting on designated areas of the hatchery subject to the following conditions:

(i) You must label tree stands and ground blinds with the owner's State hunting license number. The label must be readable from the ground.

(ii) You may place tree stands and ground blinds on the hatchery only from September 1 to December 31 annually.

(b) *Jordan River National Fish Hatchery*—(1) *Migratory game bird hunting.* We allow the hunting of woodcock, dove, duck, goose, rail, snipe, coot, and crow on designated areas of the hatchery subject to the following conditions:

(i) We allow entry into the hatchery 1 hour before legal sunrise and require hunters to leave the hatchery no later than 1 hour after legal sunset.

(ii) We prohibit shooting on or over any hatchery road within 50 feet (15 meters) from the centerline.

(iii) We allow the use of dogs while hunting, provided the dog is under the immediate control of the hunter at all times.

(2) *Upland game hunting.* We allow hunting of rabbit/hare, squirrel, coyote, fox, bobcat, raccoon, opossum, skunk, weasel, and woodchuck on designated areas of the hatchery subject to the following condition: The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(3) *Big game hunting.* We allow hunting of bear, white-tailed deer, and turkey on designated areas of the hatchery and subject to the following conditions:

(i) The conditions set forth at paragraphs (b)(1)(i) through (iii) of this section apply.

(ii) We allow the use of portable stands and blinds for hunting, and hunters must remove them at the end of each day.

(iii) You must label tree stands with the owner's Department of Natural Resources sportcard number. The label, printed in legible English that can be easily read from the ground, must be affixed to the stand.

(c) *Leadville National Fish Hatchery*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the hatchery.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the hatchery.

(3) *Big game hunting.* We allow big game hunting on designated areas of the hatchery subject to the following conditions:

(i) You must label tree stands and ground blinds with the owner's State hunting license number. The label must be readable from the ground.

(ii) You may place tree stands and ground blinds on the refuge only from September 1 to December 31 annually.

(4) *Sport fishing.* See § 71.12(k) for hatchery-specific fishing regulations for this hatchery.

(d) *Leavenworth National Fish Hatchery*—(1) *Migratory game bird hunting.* We allow migratory game bird hunting on designated areas of the hatchery subject to the following condition: We allow the use of dogs for hunting in accordance with State of Washington hunting regulations.

(2) *Upland game hunting.* We allow upland game hunting on designated areas of the hatchery subject to the following condition: We allow the use of dogs for hunting in accordance with State of Washington hunting regulations.

(3) *Big game hunting.* We allow big game hunting on designated areas of the hatchery subject to the following condition: We allow the use of dogs for hunting in accordance with State of Washington hunting regulations.

(4) *Sport fishing.* See § 71.12(l) for hatchery-specific fishing regulations for this hatchery.

(e) *Little White Salmon National Fish Hatchery*—(1) *Migratory bird hunting.* We allow hunting of crow on designated areas of the hatchery subject to the following conditions:

(i) We only allow portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all equipment at the end of each day's hunt.

(ii) We allow the use of dogs when hunting.

(2) *Upland game hunting.* We allow hunting of bobcat, grouse, partridge, and porcupine on designated areas of the hatchery subject to the following condition: The conditions set forth at paragraphs (e)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow hunting of bear, elk, black-tailed deer, mule deer, and wild turkey on designated areas of the hatchery subject to the following condition: The conditions set forth at paragraphs (e)(1)(i) and (ii) of this section apply.

(4) *Sport fishing.* See § 71.12(m) for hatchery-specific fishing regulations for this hatchery.

(f) *Southwest Native Aquatic Resources and Recovery Center*—(1) *Migratory game bird hunting.* We allow the hunting of sandhill crane, light and dark goose, duck, merganser, coot, mourning and white-winged dove, and band-tailed pigeon on designated areas of the center.

(2) *Upland game hunting.* We allow the hunting of Eurasian collared dove; dusky (blue) grouse; pheasant; scaled quail; and Abert's, red, gray, and fox squirrel on designated areas of the center.

(3) [Reserved]

(g) *Spring Creek National Fish Hatchery*—(1) *Migratory bird hunting.* We allow hunting of crow on designated areas of the hatchery subject to the following conditions:

(i) We only allow portable blinds and temporary blinds constructed of nonliving natural materials. Hunters must remove all equipment at the end of each day's hunt.

(ii) We allow the use of dogs when hunting.

(2) *Upland game hunting.* We allow hunting of bobcat, grouse, partridge, and porcupine on designated areas of the hatchery subject to the following condition: The conditions set forth at paragraphs (g)(1)(i) and (ii) of this section apply.

(3) *Big game hunting.* We allow hunting of bear, elk, black-tailed deer, mule deer, and wild turkey on designated areas of the hatchery subject to the following condition: The conditions set forth at paragraphs (g)(1)(i) and (ii) of this section apply.

(4) *Sport fishing.* See § 71.12(o) for hatchery-specific fishing regulations for this hatchery.

■ 52. Amend § 71.12 by:

■ a. Redesignating paragraphs (g) through (m) as paragraphs (k) through (q), respectively; paragraphs (b) through (f) as paragraphs (e) through (i), respectively; and paragraph (a) as paragraph (c); and

■ b. Adding new paragraphs (a), (b), (d), (j), and (r).

The additions read as follows:

§ 71.12 National fish hatcheries open for sport fishing.

* * * * *

(a) *Abernathy Fish Technology Center.* We allow sport fishing on designated areas of the center.

(b) *Berkshire National Fish Hatchery.* We allow sport fishing on designated areas of the hatchery subject to the following conditions:

(1) Anglers must abide by posted signage.

(2) Anglers must remain at least 50 feet away from raceways and fish culture areas to maintain biosecurity of stocked fish populations.

(3) On the Konkapot River, we prohibit angling equipment, including,

but not limited to, live bait, boots, and rods, near the areas described in paragraph (b)(2).

(4) We limit access to Outreach Pond to youth (ages 13 and younger), supervised by an adult at all times.

(5) We allow fishing on Outreach Pond during open hatchery hours only.

(6) We prohibit the use of baitfish, shiners, and minnows in the Outreach Pond.

(7) We prohibit all fishing methods of take besides rods on Outreach Pond.

(8) We allow a daily creel limit of three (3) fish per individual at Outreach Pond. There is no creel limit during fishing derbies.

(9) We prohibit fishing during the winter in Outreach Pond.

(10) We prohibit the use of all lead, including tackle containing lead, when fishing in Outreach Pond.

* * * * *

(d) *Dwight D. Eisenhower National Fish Hatchery.* We allow sport fishing on designated areas of the hatchery subject to the following conditions:

(1) Anglers must abide by posted signage.

(2) Anglers must remain at least 50 feet away from the water intake from Furnace Brook, raceways, and fish culture areas for safety and to maintain biosecurity of stocked fish populations.

(3) We prohibit angling equipment, including, but not limited to, live bait, boots, and rods, near the areas described in paragraph (d)(2).

* * * * *

(j) *Lamar National Fish Hatchery.* We allow sport fishing on designated areas of the hatchery subject to the following condition: We only allow sport fishing from legal sunrise to legal sunset.

* * * * *

(r) *Willard National Fish Hatchery.* We allow sport fishing on designated areas of the hatchery.

Dated: March 20, 2020.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020–06258 Filed 4–8–20; 8:45 am]

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Part III

Department of Homeland Security

Coast Guard

46 CFR Parts 401, 403 and 404

Great Lakes Pilotage Rates—2020 Annual Review and Revisions to Methodology; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 401, 403, and 404

[USCG–2019–0736]

RIN 1625–AC56

Great Lakes Pilotage Rates—2020 Annual Review and Revisions to Methodology

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: In accordance with the Great Lakes Pilotage Act of 1960, the Coast Guard is establishing new base pilotage rates for the 2020 shipping season. This final rule will adjust the pilotage rates to account for changes in district operating expenses, an increase in the number of pilots, and anticipated inflation. The Coast Guard estimates that this final rule will result in a 1 percent net increase in pilotage costs, compared to the 2019 season. In addition, the Coast Guard is clarifying the rules related to the working capital fund.

DATES: This final rule is effective May 11, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2019–0736 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email Mr. Brian Rogers, Commandant (CG–WWM–2), Coast Guard; telephone 202–372–1535, email *Brian.Rogers@uscg.mil,* or fax 202–372–1914.

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K. Energy Effects
L. Technical Standards
M. Environment

I. Abbreviations

AMOU American Maritime Officers Union
APA American Pilots Association
BLS Bureau of Labor Statistics
CAD Canadian dollars
ECI Employment Cost Index
CFR Code of Federal Regulations
CPA Certified public accountant
CPI Consumer Price Index
DHS Department of Homeland Security
FOMC Federal Open Market Committee
FR Federal Register
GAO Government Accountability Office
GLPA Great Lakes Pilotage Authority (Canadian)
GLPAC Great Lakes Pilotage Advisory Committee
GLPMS Great Lakes Pilotage Management System
GLPO U.S. Coast Guard Great Lakes Pilotage Office
IRS Internal Revenue Service
JTR Joint Travel Rates
LPA Lakes Pilots Association
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
NTSB National Transportation Safety Board
OMB Office of Management and Budget
PCE Personal Consumption Expenditures
RA Regulatory analysis
REC Record of Environmental Consideration
RFA Regulatory Flexibility Act
SBA Small Business Administration
§ Section symbol
SLSMC Saint Lawrence Seaway Management Corporation
SLSPA Saint Lawrence Seaway Pilots' Association
U.S.C. United States Code
USD United States dollars
WLPA Western Great Lakes Pilot Association

II. Executive Summary

Pursuant to the Great Lakes Pilotage Act of 1960 (''the Act''),[1] the Coast Guard regulates pilotage for oceangoing vessels on the Great Lakes and St. Lawrence Seaway—including setting the rates for pilotage services and adjusting them on an annual basis. The rates, which currently range from $306 to $733 per pilot hour (depending on in which of the specific six areas pilotage service is provided), are paid by shippers to three U.S. pilot associations (each responsible for one of the three Districts). The three pilot associations, which are the exclusive U.S. source of registered pilots on the Great Lakes, use this revenue to cover operating expenses, maintain infrastructure, compensate working pilots, and train new pilots.

To compute the rate for pilotage services, we use a ratemaking methodology that we have developed since 2016, in accordance with our statutory requirements and regulations. Our ratemaking methodology calculates the revenue needed for each pilotage association (operating expenses, an increase in the number of pilots, and anticipated inflation), and then divides that amount by the expected shipping traffic over the course of the coming year, to produce an hourly rate. This process is currently effected through a 10-step methodology, which is explained in detail in section IV of the preamble to this final rule.

In this final rule, as part of our annual review, we are establishing new pilotage rates for 2020 based on the existing ratemaking methodology. The result is an increase in rates for five areas and a decrease in the rate for the one remaining area. These changes are due

[1] Title 46 of the United States Code (U.S.C.) Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

to a combination of four factors: (1) An increase in total operating expenses for the associations compared to the previous year,[2] (2) an increase in the amount of money needed for the working capital fund, (3) inflation of pilot compensation by 2 percent, and (4) the net addition of one working pilot at the beginning of the 2020 shipping season in District Two. In addition, in this final rule, the Coast Guard made two adjustments to the operating expenses based on public comment, which increased the final rates from those published in the notice of proposed rulemaking (NPRM). In the final rule we adjusted the operating expenses to include the 3 percent shared council fee which we incorrectly deducted in the NPRM; and added a surcharge adjustment for District 2 and District 3 to account for the differences between their accrued training expenses and the amount of money they collected via the surcharge in 2017. Based on the ratemaking model discussed in this final rule, we are finalizing the rates shown in table 1.

TABLE 1—CURRENT AND NEW PILOTAGE RATES ON THE GREAT LAKES

Area	Name	Final 2019 pilotage rate	Proposed 2020 pilotage rate	Final 2020 pilotage rate
District One: Designated	St. Lawrence River	$733	$757	$758
District One: Undesignated	Lake Ontario	493	462	463
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI	603	602	618
District Two: Undesignated	Lake Erie	531	573	586
District Three: Designated	St. Mary's River	594	621	632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	306	327	337

This final rule will impact 52 U.S. Great Lakes pilots, the 3 pilot associations, and the owners and operators of an average of 266 oceangoing vessels that transit the Great Lakes annually. This final rule is not economically significant under Executive Order 12866 and will not affect the Coast Guard's budget or increase Federal spending. The estimated overall annual regulatory economic impact of this rate change is a net increase of $279,845, which is a 1 percent net increase in estimated payments made by shippers from the 2019 shipping season. Because the Coast Guard must review, and, if necessary, adjust rates each year, we analyze these as single-year costs and do not annualize them over 10 years. Section VIII of this preamble provides the regulatory impact analyses of this final rule.

III. Basis and Purpose

The legal basis of this rulemaking is the Great Lakes Pilotage Act of 1960 (''the Act''),[3] which requires foreign vessels and U.S. vessels operating ''on register,'' meaning those U.S. vessels engaged in foreign trade to use U.S. or Canadian registered pilots while transiting the U.S. waters of the St. Lawrence Seaway and the Great Lakes system.[4] For the U.S. registered Great Lakes pilots (''pilots''), the Act requires the Secretary to ''prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.'' [5] The Act requires that rates be established or reviewed and adjusted each year, no later than March 1.[6] The Act requires that base rates be established by a full ratemaking at least once every 5 years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted.[7] The Secretary's duties and authority under the Act have been delegated to the Coast Guard.[8]

This final rule establishes new pilotage rates for the 2020 shipping season. The Coast Guard believes that the new rates will continue to promote pilot retention, ensure safe, efficient, and reliable pilotage services on the Great Lakes, and provide adequate funds to upgrade and maintain infrastructure.

IV. Background

Pursuant to the Act, the Coast Guard, in conjunction with the Canadian Great Lakes Pilotage Authority (GLPA), regulates shipping practices and rates on the Great Lakes and the St. Lawrence Seaway. Under Coast Guard regulations, all vessels engaged in foreign trade (often referred to as ''salties'') are required to engage U.S. or Canadian pilots during their transit through the regulated waters.[9] U.S. and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not affected.[10] Generally, vessels are assigned a U.S. or Canadian pilot depending on the order in which they transit a particular area of the Great Lakes, and do not choose the pilot they receive. If a vessel is assigned a U.S. pilot, that pilot will be assigned by the pilotage association responsible for the particular district in which the vessel is operating, and the vessel operator will pay the pilotage association for the pilotage services. The Canadian GLPA establishes the rates for Canadian registered pilots.

The U.S. waters of the Great Lakes and the St. Lawrence Seaway are divided into three pilotage districts. Pilotage in each district is provided by an association certified by the Coast Guard's Director of the Great Lakes Pilotage (''the Director'') to operate a pilotage pool. The Saint Lawrence Seaway Pilotage Association provides pilotage services in District One, which includes all U.S. waters of the St. Lawrence River and Lake Ontario. The Lakes Pilotage Association provides pilotage services in District Two, which includes all U.S. waters of Lake Erie, the Detroit River, Lake St. Clair, and the St. Clair River. Finally, the Western Great Lakes Pilotage Association provides pilotage services in District Three, which includes all U.S. waters of the St. Mary's River; Sault Ste. Marie Locks; and Lakes Huron, Michigan, and Superior.

Each pilotage district is further divided into ''designated'' and

[2] Operating expenses decreased for the District One: Undesignated area, the District Two: Undesignated area, and the District Three: Undesignated Lake Superior area. Operating expenses increased for the District One: Designated area, the District Two: Designated area, the District Three: Designated area, and the District Three: Undesignated Lakes Huron and Michigan area.

[3] 46 U.S.C. Chapter 93; Public Law 86–555, 74 Stat. 259, as amended.

[4] 46 U.S.C. 9302(a)(1).

[5] 46 U.S.C. 9303(f).

[6] *Ibid.*

[7] *Ibid.*

[8] Department of Homeland Security (DHS) Delegation No. 0170.1, para. II (92.f).

[9] See title 46 of the Code of Federal Regulations (CFR) part 401.

[10] 46 U.S.C. 9302(f). A ''laker'' is a commercial cargo vessel especially designed for and generally limited to use on the Great Lakes.

''undesignated'' areas, which is depicted in table 2 below. Designated areas, classified as such by Presidential Proclamation, are waters in which pilots must, at all times, be fully engaged in the navigation of vessels in their charge.[11] Undesignated areas, on the other hand, are open bodies of water not subject to the same pilotage requirements. While working in undesignated areas, pilots must ''be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.'' [12] For these reasons, pilotage rates in designated areas can be significantly higher than those in undesignated areas.

TABLE 2—AREAS OF THE GREAT LAKES AND ST. LAWRENCE SEAWAY

District	Pilotage association	Designation	Area No.[13]	Area name[14]
One	Saint Lawrence Seaway Pilotage Association.	Designated	1	St. Lawrence River.
		Undesignated	2	Lake Ontario.
Two	Lake Pilotage Association	Designated	5	Navigable waters from Southeast Shoal to Port Huron, MI.
		Undesignated	4	Lake Erie.
Three	Western Great Lakes Pilotage Association	Designated	7	St. Mary's River.
		Undesignated	6	Lakes Huron and Michigan.
		Undesignated	8	Lake Superior.

Each pilot association is an independent business and is the sole provider of pilotage services in the district in which it operates. Each pilot association is responsible for funding its own operating expenses, maintaining infrastructure, acquiring and implementing technological advances, training personnel or partners, and pilot compensation. Through a public rulemaking procedure, and with input from Great Lakes Pilots Advisory Committee (GLPAC), the Coast Guard developed a 10-step ratemaking methodology, based on a historic 10-year average of actual traffic, to derive a pilotage rate that covers these expenses. The methodology is designed to measure how much revenue each pilotage association would need to cover expenses and provide competitive compensation to working pilots. We then divide that amount by the historic 10-year average for pilotage demand, as estimated by using historic pilotage work hours. We recognize that, in years where traffic is above average, pilot associations will accrue more revenue than projected, while in years where traffic is below average, they will take in less. We believe that over the long term, however, this system ensures that infrastructure will be maintained and that pilots will receive adequate compensation and work a reasonable number of hours, with adequate rest between assignments to ensure retention of highly trained personnel.

Over the past 4 years, the Coast Guard made several adjustments to the Great Lakes pilotage ratemaking methodology. In 2016, we made significant changes to the methodology, moving to an hourly billing rate for pilotage services and changing the compensation benchmark to a more transparent model. In 2017, we added additional steps to the ratemaking methodology, including new steps that better account for the additional revenue produced by the application of weighting factors (discussed in detail in Steps 7 through 9 below, in this section of the preamble). In 2018, we revised the methodology by which we develop the compensation benchmark, based upon U.S. mariners rather than Canadian registered pilots. The current methodology, which was finalized in the Great Lakes Pilotage Rates—2019 Annual Review and Revisions to Methodology final rule (84 (FR 20551, May 10, 2019), is designed to accurately capture all of the costs and revenues associated with Great Lakes pilotage requirements and produce an hourly rate that adequately and accurately compensates pilots and covers expenses. The current methodology is summarized in the section below.

Summary of Ratemaking Methodology

As stated above, the ratemaking methodology, outlined in 46 CFR 404.101 through 404.110, consists of 10 steps that are designed to account for the revenues needed and total traffic expected in each district. The result is an hourly rate, determined separately for each of the areas administered by the Coast Guard.

In Step 1, ''Recognize previous operating expenses,'' (§ 404.101), the Director reviews audited operating expenses from each of the three pilotage associations. This number forms the baseline amount that each association is budgeted. Because of the time delay between when the association submits raw numbers and when the Coast Guard receives audited numbers, this number is 3 years behind the projected year of expenses. In calculating the 2020 rates in this proposal, the Coast Guard is beginning with the audited expenses from the 2017 shipping season.

While each pilotage association operates in an entire district, the Coast Guard determines costs by area. Thus, with regard to operating expenses, we allocate certain operating expenses to undesignated areas, and certain operating expenses to designated areas. In some cases (*e.g.,* insurance for applicant pilots who operate in undesignated areas only), we can allocate the costs based on where they are actually accrued. In other situations (*e.g.,* general legal expenses), expenses are distributed between designated and undesignated waters on a *pro rata* basis, based upon the proportion of income forecast from the respective portions of the district.

In Step 2, ''Project operating expenses, adjusting for inflation or deflation,'' (§ 404.102), the Director develops the 2020 projected operating expenses. To do this, we apply inflation adjustors for 3 years to the operating expense baseline received in Step 1. The inflation factors used are from the Bureau of Labor Statistics' (BLS) Consumer Price Index (CPI) for the Midwest Region, or, if not available, the Federal Open Market Committee (FOMC) median economic projections for Personal Consumption Expenditures (PCE) inflation. This step produces the total operating expenses for each area and district.

[11] Presidential Proclamation 3385, *Designation of restricted waters under the Great Lakes Pilotage Act of 1960,* December 22, 1960. 25 FR 13681 (December 24, 1960).

[12] 46 U.S.C. 9302(a)(1)(B).

[13] Area 3 is the Welland Canal, which is serviced exclusively by the Canadian GLPA and, accordingly, is not included in the United States pilotage rate structure.

[14] The areas are listed by name, see 46 CFR 401.405.

In Step 3, ''Estimate number of working pilots,'' (§ 404.103), the Director calculates how many pilots are needed for each district. To do this, we employ a ''staffing model,'' described in § 401.220, paragraphs (a)(1) through (a)(3), to estimate how many pilots would be needed to handle shipping during the beginning and close of the season. This number is helpful in providing guidance to the Director in approving an appropriate number of credentials for pilots.

For the purpose of the ratemaking calculation, we determine the number of working pilots provided by the pilotage associations (see § 404.103), which is what we use to determine how many pilots need to be compensated via the pilotage fees collected.

In Step 4, ''Determine target pilot compensation benchmark,'' (§ 404.104), the Director determines the revenue needed for pilot compensation in each area and District. This step contains two processes. In previous years, in the first process, we calculated the total compensation for each pilot using a ''compensation benchmark.'' Next, we multiplied the individual pilot compensation by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation. Because pilots are paid by the associations, but the costs of pilotage is divided by area for accounting purposes, we assigned a certain number of pilots for the designated areas and a certain number of pilots for the undesignated areas to determine the revenues needed for each area. To make the determination of how many pilots to assign, we used the staffing model designed to determine the total number of pilots described in Step 3, above.

In the past, as explained more fully below, the Coast Guard used two different benchmarks to calculate target pilot compensation: AMOU contract data and Canadian pilot compensation. The Coast Guard does not believe either benchmark is appropriate at this time. Instead, the Coast Guard has determined that the target compensation used in the 2019 ratemaking is an appropriate level of compensation for Great Lakes pilots because it serves the public interest and achieves the Coast Guard's goals of safety through rate and compensation stability while also promoting recruitment and retention of qualified United States registered pilots.

Prior to 2016, the Coast Guard based the compensation benchmark on data provided by the AMOU regarding its contract for first mates on the Great Lakes. However, in 2016 the AMOU elected to no longer provide this data to the Coast Guard, and thus, in the 2016 ratemaking (81 FR 11907, March 7, 2016) we used average compensation for a Canadian pilot plus a 10-percent adjustment. As a result of a legal challenge filed by the shipping industry, the court found that the Coast Guard did not adequately support the 10-percent addition to the Canadian GLPA benchmark, and thus its use was deemed arbitrary and capricious. *American Great Lakes Ports Association* v. *Zukunft,* 296 F.Supp 3d 27, 46–48 (D.D.C. 2017). The Coast Guard then based the 2018 benchmark on data provided by the AMOU regarding its contract for first mates on the Great Lakes in the 2011 to 2015 period, and adjusted it for inflation using FOMC median economic projections for PCE inflation. We used the information provided by the AMOU because it was the most recent publicly available information to which we had access.

For the 2019 ratemaking, the Coast Guard did not have access to current AMOU contract data and our research did not yield a better compensation benchmark; therefore, target pilot compensation was determined by taking the 2018 number and adjusting it for inflation.

For the 2020 ratemaking, the situation with regard to compensation benchmarks has not changed. The Coast Guard still lacks access to current AMOU contract data and, as discussed in prior rulemakings, the Coast Guard does not believe that other American or Canadian pilot compensation data is appropriate to use as a benchmark at this time. The Coast Guard, however, has determined that based on its experience over the past two ratemakings that the level of target pilot compensation for those years provides an appropriate level of compensation for American Great Lakes pilots. The Coast Guard therefore, will not, at this time, seek alternative benchmarks for target compensation and for 2020 and future ratemakings will instead simply adjust the amount of target pilot compensation for inflation. This benchmark successfully achieves the Coast Guard's goals of safety through rate and compensation stability while also promoting recruitment and retention of qualified United States registered pilots. Therefore, the Coast Guard uses this as the compensation benchmark for future rates.

In the second process of Step 4, set forth in § 404.104(c), the Director determines the total compensation figure for each District. To do this, the Director multiplies the compensation benchmark by the number of working pilots for each area and district (from Step 3), producing a figure for total pilot compensation.

In Step 5, ''Project working capital fund,'' (§ 404.105), the Director calculates a value that is added to pay for future unidentified expenses. For example, these expenses can be unforeseen facility repairs, infrastructure purchases, technology procurements, or training. This value is calculated by adding the total operating expenses (derived in Step 2) to the total pilot compensation (derived in Step 4), and multiplying that figure by the preceding year's average annual rate of return for new issues of high-grade corporate securities using Moody's Seasoned Aaa Corporate Bond Yield data. This figure constitutes the ''working capital fund'' for each area and district.

In Step 6, ''Project needed revenue,'' (§ 404.106), the Director simply adds up the totals produced by the preceding steps. The projected operating expense for each area and district (from Step 2) is added to the total pilot compensation (from Step 4) and the working capital fund contribution (from Step 5). The total figure, calculated separately for each area and district, is the ''needed revenue.''

In Step 7, ''Calculate initial base rates,'' (§ 404.107), the Director calculates an hourly pilotage rate to cover the needed revenue as calculated in Step 6. This step consists of first calculating the average hours of traffic over 10 years for each area. Next, the revenue needed in each area (calculated in Step 6) is divided by the average hours of traffic over 10 years to produce an initial base rate.

An additional element, the ''weighting factor,'' is required under § 401.400. Pursuant to that section, ships pay a multiple of the ''base rate'' as calculated in Step 7 by a number ranging from 1.0 (for the smallest ships, or ''Class I'' vessels) to 1.45 (for the largest ships, or ''Class IV'' vessels). As this significantly increases the revenue collected, we account for the added revenue produced by the weighting factors to ensure that shippers are not overpaying for pilotage services.

In Step 8, ''Calculate average weighting factors by Area,'' (§ 404.108), the Director calculates how much extra revenue, as a percentage of total revenue, has historically been produced by the weighting factors in each area. We do this by using a historical average of the applied weighting factors for each year since 2014 (the first year the current weighting factors were applied).

In Step 9, ''Calculate revised base rates,'' (§ 404.109), the Director modifies the base rates by accounting for the

extra revenue generated by the weighting factors. We do this by dividing the initial pilotage rate for each area (from Step 7) by the corresponding average weighting factor (from Step 8), to produce a revised rate.

In Step 10, ''Review and finalize rates,'' (§ 404.110), often referred to informally as ''Director's discretion,'' the Director reviews the revised base rates (from Step 9) to ensure that they meet the goals set forth in the Act and in 46 CFR 404.1(a), which include promoting efficient, safe, and reliable pilotage service on the Great Lakes; generating sufficient revenue for each pilotage association to reimburse necessary and reasonable operating expenses; compensating trained and rested pilots fairly; and providing appropriate profit for improvements. Because it is our goal to be as transparent as possible in our ratemaking procedure, we use this step sparingly to adjust rates.

After the base rates are set, § 401.401 permits the Coast Guard to apply surcharges. We previously used surcharges to pay for the training of new pilots, rather than incorporating training costs into the overall ''needed revenue'' used in the calculation of the base rates. The surcharge accelerates the reimbursement of certain necessary and reasonable expenses. Last year, we applied a surcharge to account for the associations' expenses for the Applicant Trainee and Apprentice Pilots, which included providing a stipend, lodging, training, transportation, and *per diem.* We implemented these surcharges for a few years because of a large number of pending pilot retirements, and a large amount of recruitment at the pilot associations. Without the surcharge, the associations would have been reimbursed for expenses associated with training new pilots 3 years later via the rate. However, any pilot who retired prior to that 3 year date would not have been reimbursed. Therefore, we applied a surcharge to facilitate the training of these replacements in last year's final rule. As the vast majority of registered pilots are not anticipated to reach the regulatory required retirement age of 70 in the next 20 years, we believe that pilot associations are now able to plan for the costs associated with retirements without relying on the Coast Guard to impose surcharges. Therefore, in this year's final rule we are not imposing surcharges.

V. Discussion of Methodological and Other Changes

For 2020, the Coast Guard implemented no new methodological changes to the ratemaking model. We believe that the methodology laid out in the 2019 Annual Review (84 FR 20551) will produce rates for the 2020 shipping season that will ensure safe, efficient, and reliable pilotage services are available on the Great Lakes in order to facilitate maritime commerce.

In previous years and in this current rulemaking, several commenters have raised issues regarding the working capital fund.[15] The purpose of the working capital fund is to ensure that associations have a way to set aside money to pay for high cost items and infrastructure improvements. The Coast Guard is making changes in this final rule to codify the procedures related to the use of funds and accounting requirements related to the working capital fund.

In this final rule, the Coast Guard is finalizing two changes to the regulatory text related to the working capital fund, formerly called ''return on investment.'' In 46 CFR 404.106, we are changing the words ''return on investment'' to ''working capital fund,'' as that is the current name for that fund. Prior to 2017, the working capital fund described in 46 CFR 404.105 was called ''return on investment.'' In the Great Lakes Pilotage Rates 2017 Annual Review final rule (82 FR 41466, August 31, 2017), the Coast Guard changed the name of that fund to the ''working capital fund,'' but the 2017 final rule did not change a reference to ''return on investment'' in 46 CFR 404.106. This change corrects that oversight, so both 46 CFR 404.105 and 46 CFR 404.106 will use consistent terminology.

In addition, the Coast Guard is incorporating into regulations the industry practice currently followed by the pilots associations regarding these funds. We are adding text to 46 CFR 403.110 requiring each pilot association set aside, in a separate account, an amount at least equal to the amount calculated in Step 5 of the ratemaking, and place restrictions on how those funds are expended. Under the final rule, pilot associations can only apply the funds in the working capital fund account to capital projects, infrastructure improvements, infrastructure maintenance, training, and non-recurring technology purchases that are necessary for providing pilotage services. The pilot associations may grow the working capital fund over successive shipping seasons for a future significant purchase, including for a down payment on a purchase that would also be financed in part. If needed, pilot associations could request a waiver from the requirements from the Director.

VI. Discussion of Comments

In response to the October 30, 2019 NPRM (84 FR 58099), the Coast Guard received six comment letters as well as a duplicate comment submission. These included one comment from the law firm K&L Gates (hereinafter ''District Lawyers''), which represents the interests of the three Great Lake pilot associations; a comment from the Shipping Federation of Canada, the American Great Lakes Ports Association, and the United States Great Lakes Shipping Association (hereinafter ''the User's Coalition'' or ''the Coalition''); a comment from the president of the St. Lawrence Seaway Pilots' Association (hereinafter ''SLSPA''); a comment from the president of the Lakes Pilots Association (hereinafter ''LPA''); a comment from the president of the Western Great Lakes Pilot Association (hereinafter ''WLPA''); and a comment made by Captain John Swartout, a pilot working for District Three. As each of these commenters touched on numerous issues, for each response below we note which commenters raised the specific points addressed. In situations where multiple commenters raised similar issues, we attempt to provide one response to those issues.

A. Operating Expenses

The first step of the ratemaking process outlines the criteria for evaluating operating expenses. Each expense must be necessary for providing pilotage service and reasonable in amount. The allowable operating expenses must comply with both criteria to recoup any costs for a given pilotage association. To do so, pilotage associations submit financial statements to third party auditors contracted by the Coast Guard. The third party auditors create financial reports for the Coast Guard to determine the allowable operating expenses. We use these expenses to establish pilotage rates. We received several comments, discussed below, from pilot associations and persons representing such interests requesting changes to these adjustments.

1. Legal Fees

Commenters from pilots' associations and shipping and port interests addressed legal fees and, in particular, the 2016 rulemaking concerning the exclusion of legal expenses for suits against the U.S. government or its agents, and the subsequent case contesting that exclusion.

[15] See the dockets for the 2019 ratemaking (*https://www.regulations.gov/docket?D=USCG-2018-0665*) and the 2018 ratemaking (*https://www.regulations.gov/docket?D=USCG-2017-0903*) for more information.

Two commenters contended that prior years' legal fees were improperly denied, and referred to *St. Lawrence Seaway Pilots Association* v. *U. S. Coast Guard,* 357 F.Supp 3d 30 (D.D.C. 2019). In that case, the court held that the Coast Guard improperly promulgated 46 CFR 404.2(b)(6) in the 2016 rulemaking that excluded any and all expenses associated with legal action against the U.S. government or its agents.

The Coast Guard disagrees with the commenters. In that case, the court went to great lengths to discuss the remedy for the pilots associations, and noted concerns about rates that were already paid. *St. Lawrence Seaway Pilots Association* v. *U. S. Coast Guard,* 357 F.Supp 3d 30, 38 (D.D.C. 2019), citing *Am. Great Lakes Ports Ass'n* v. *Zukunft,* 301 F.Supp.3d 99, 103–04 (D.D.C. 2018) (noting disruptive effect of upending already-paid pilotage rates) and *St. Lawrence Seaway Pilots Ass'n,* 85 F.Supp.3d, 197, 208 (D.D.C. 2015) (noting remedial difficulty of ordering pilots' entitlement to future payments and recognizing that remedial decision regarding 2014 rates likely impacts the propriety and validity of the 2015 rates).

The court held the following: ''At the hearing, Plaintiffs clarified they seek a *vacatur* of 46 CFR 404.2(b)(6) to prevent the Coast Guard from excluding legal fees in future rate settings, and do not seek to disturb any past rates. See Hr'g Tr. 12:7–13:3. With the benefit of this clarification, the remedial decision is simple: *Vacatur* is the presumptive remedy for arbitrary and capricious agency action, see 5 U.S.C. 706(2) (A court shall ''set aside agency action . . . found to be . . . arbitrary [and] capricious''), and there is no risk of disruption. The Court will therefore vacate 46 CFR 404.2(b)(6).'' *St. Lawrence Seaway Pilots Association* v. *U. S. Coast Guard,* 357 F.Supp 3d 30, 38 (D.D.C. 2019).

The court's holding was prospective, not retroactive, based upon the clarification of the Pilots Association at the hearing on the matter. The regulation has been removed from the CFR, and the Coast Guard has not denied any legal fees based on that vacated rule since the court's decision was handed down. The Coast Guard will not disturb past rate setting, in accordance with the court's ruling.

One commenter stated that the Coast Guard had a meritorious position regarding the denial of legal fees against the U.S. government and suggested that a clarification of legal fees be included in the final rule. The Coast Guard presently takes no position on this comment. That part of the 2016 rule with respect to 46 CFR 404.2(b)(6) was vacated because it was a change in policy that was not effected in accordance with the Administrative Procedure Act's notice and comment requirements and the court found the Coast Guard's actions were arbitrary and capricious. The court in the 2019 case stated, ''The Court takes no position on the relative wisdom of the policy. A rule excluding legal fees incurred against the U.S. government may well be a rational policy. But the process by which the Coast Guard enacted it was arbitrary and capricious.'' *St. Lawrence Seaway Pilots Association* v. *U. S. Coast Guard,* 357 F.Supp 3d 30, 38 (D.D.C. 2019). The Coast Guard did not include any language regarding legal fees in the final rule as there was nothing in the NPRM proposing any change. Any change in policy regarding future legal fees will be accomplished in accordance with the legally required notice and comment procedures in order for all parties to be heard on the matter.

2. Housing Allowances

There were two comments regarding the housing allowance not being considered an operating expense. The first commenter stated that ''[f]or the CG to determine that a mariner must live in the region where they work is unreasonable'' [16], and that specifically in District Three there is a ''tour de role'' dispatch system to prevent a pilot from working all over the district. The same commenter stated that, in not allowing a housing allowance, ''we [the pilot association] would be very severely handicapped on recruiting new Pilots into our District. Forcing a Pilot to move his family will undoubtedly cause some potential applicants to decide not to pursue a career in our District.'' [17] The Coast Guard disagrees with the first statement. Determining where to live is an individual's right and lifestyle decision. The Western Great Lakes Pilots association, the source of this comment, has multiple tours-de-role and holds meetings before the season. During these meetings, each registered pilot determines which port to work out of for the season. We expect the registered pilot to pay for housing during the season, which is consistent with Internal Revenue Service (IRS) regulations as discussed below. For example, if a registered pilot chooses to live in Virginia but elects to be dispatched out of Chicago for the season, the registered pilot will not be reimbursed for any housing in Chicago during the season because this dwelling is not a necessary expense for the shippers to reimburse. However, if the pilot is dispatched out of Port Huron, reasonable travel costs from Chicago and hotel bills in Port Huron may be considered for inclusion in the operating expenses. The shippers do not have to fund lifestyle choices. Additionally, the commenter did not provide any evidence or data to support the claim that not allowing a housing allowance will cause a recruitment and retention crisis.

The same commenter also stated that the housing allowance provides a great savings to the industry and should be continued. Another commenter echoed this comment. ''In the interests of efficient pilotage, Districts 2 and 3 have found that it is often more cost effective for pilots to lease an apartment or other dwelling rather than paying for a hotel.'' [18] The Coast Guard neither agrees nor disagrees with this comment, as the commenter provided no evidence to justify this claim. We suggest the commenter address this issue at a future GLPAC meeting and/or work with the stakeholders who pay for pilotage service to submit a joint letter for further consideration. In general, hotel bills should be 50 miles outside the pilot's tour-de-role port for the season in order to be considered reasonable and necessary and implemented into the rate. This 50-mile radius is per the IRS.[19]

B. Target Compensation

We received several comments on the Coast Guard's use of the Federal Reserve's projected Personal Consumption Expenditure (PCE) data in Step 4 of the ratemaking, as opposed to using historic Bureau of Labor Statics (BLS) Employment Cost Index (ECI) data. In Step 4, we adjust the existing target pilot compensation to account for inflation, following the procedures outlined in § 404.104(b), which require that PCE data only be used when ECI data is not available. In this ratemaking, we are inflating the 2019 pilot compensation to 2020 dollars, which

[16] USCG–2019–0736–0002.

[17] Id.

[18] USCG–2019–0736–0005.

[19] IRS Tax Topics, *Topic No. 511 Business Travel Expenses, https://www.irs.gov/taxtopics/tc511. (last visited 2/28/2020* Generally, your tax home is the entire city or general area where your main place of business or work is located, regardless of where you maintain your family home. For example, you live with your family in Chicago but work in Milwaukee where you stay in a hotel and eat in restaurants. You return to Chicago every weekend. You may not deduct any of your travel, meals or lodging in Milwaukee because that's your tax home. Your travel on weekends to your family home in Chicago isn't for your work, so these expenses are also not deductible. If you regularly work in more than one place, your tax home is the general area where your main place of business or work is located.

requires forecasted inflation data for 2020. The BLS ECI only provides historic data. Consequently, no 2020 ECI data was available at the time we conducted the analysis to support this rulemaking, and no 2020 ECI data will be available until April 30th 2020, which is after the 2020 shipping season begins. Therefore, we used the PCE data, in accordance with § 404.104(b), as the PCE provides estimates of inflation for 2020. As noted by commenters, for the past several years, the PCE inflation value has been about 1 percent lower than the ECI value, resulting in a lower target compensation value than if we had used the ECI value. Two commenters suggested that Coast Guard should use the ECI to readjust previous target compensation values to account for the difference between the predicted PCE value and the actual ECI value that published. The commenters raised several concerns with the use of the PCE, which are discussed below.

Several commenters noted that, while a full calendar year worth of ECI data was not available for 2019, at the time the NPRM was published, some 2019 data was available, and they said this data should have been used in the 2020 ratemaking.[20] [21] [22] However, the commenters are missuderstanding the reason the Coast Guard uses the PCE data in the ratemaking instead of the most recent ECI data. The reason we did not use the ECI data is not because of a lack of a full year's worth of 2019 inflation data, but rather because the ECI did not have any 2020 inflation data available.

Another commenter stated that, while the PCE index is published more frequently than the ECI, this does not make it a better inflation index. The commenter also stated that data which ''measure the wrong metrics'' should not be used just because it is newer.[23] The Coast Guard disagrees with both points made by the commenter. We are using the PCE because it provides an estimate of forecasted 2020 inflation data. Using the most recent ECI data does not address the issue that the ECI does not provide an estimate of forecasted inflation, and as part of the ratemaking process under steps 2 and 4, the Coast Guard requires an estimate of future inflation. Again, we are not using the PCE because it is published more frequently than the ECI, but, rather, because it provides necessary information that the ECI does not.

Two commenters stated that they believe the ECI is more appropriate to use to inflate pilot compensation than the PCE, because ''[the ECI] is based on wage and benefit costs, rather than general goods and prices,'' [24] and noted that the Coast Guard has previously acknowledged this point in the 2018 ratemaking rule (83 FR 26162).[25] [26] The Coast Guard agrees that the ECI is a better index to use to inflate pilot compensation, which is why § 404.104(b) requires that PCE data be used only when ECI data is unavailable. It is also important to note that the statement in the 2018 ratemaking discussed differences between the ECI and the CPI,[27] not the ECI and the PCE, as stated by the commenter. The statement quoted by the commenter does not accurately reflect the components of the PCE which differ from the CPI, and include the cost of employer provided health insurance.[28]

One commenter stated that they believe the use of the ''2019 ECI data to project 2020 [pilot compensation data] would be more accurate than using improperly low PCE data.'' The commenter provided no reasoning for why they believe historic ECI data is a better predictor of future inflation than the forecasted PCE data, nor did they provide any reasoning as to why only one year of historic data should be used. The forecasted PCE inflation data is generated by the Federal Reserve, which is responsible for setting monetary policy in the United States, and thus influencing inflation. The Federal Reserve bases these estimates on predictions of economic growth, the unemployment rate, other economic data, and the future policy path the Federal Reserve expects to take to meet its goals of maximizing employment and setting stable prices. The PCE is a reflection of the government's best prediction of what will happen, whereas the ECI is a reflection of what has already happened.

As stated above, the Coast Guard is using the best available data, the PCE data to inflate target pilot compensation, as required by § 404.104(b), and is not changing how target pilot compensation is calculated for this final rule. However, we will review this issue, and if we determine that any changes are needed, we will propose them as part of a future rulemaking.

1. Inflation Calculation

One commenter stated they believe pilot compensation is significantly below the market rate when compared with the salaries of other pilots across the United States. The commenter also discussed a multi-year compensation study the Coast Guard mentioned in the 2018 rule, and that the 2020 NPRM makes no mention of this study. The commenter stated that, as this study continues, the pilots are continually being undercompensated.

While the Coast Guard commissioned a study to analyze methodologies to determine pilot compensation, we decided not to finalize this study. The compensation study was a backup in the event that we failed to identify a compensation standard that remedied the recruitment and retention issues identified in previous rulemakings, and discussed during previous GLPAC meetings. The current compensation benchmark addresses our goals of promoting the recruitment and retention of highly qualified mariners and experienced U.S. registered pilots. Therefore, completion of this compensation study is no longer necessary.

2. Staffing Model

The LPA, District Lawyers, and the SLSPA made comments regarding the staffing model and the fact that each District needs to have one pilot added to the staffing model to account for the president of the association's workload. Since 2016, when Coast Guard developed this staffing model, the duties and responsibilities of the pilot association presidents have expanded. For example, we expect the pilot president to attend numerous meetings and conferences throughout the year, provide additional financial and traffic information to increase transparency and accountability, oversee and ensure the integrity of the association training program, evaluate technology, and coordinate with the American Pilots Association (APA) to implement and share best practices. The Coast Guard agrees that if a pilot association president is spending half or more of their time on administrative issues that the staffing model should account for that time. Therefore, we will review this issue and any data supporting the amount of time the association presidents spend on administrative issues and tasks. If we determine that any changes should be made to the

[20] USCG–2019–0736–0003 p. 3.

[21] USCG–2019–0736–0002 p. 5.

[22] USCG–2019–0736–0002 p. 5.

[23] USCG–2019–0736–0006, p.2.

[24] USCG–2019–0736–0005, p. 3.

[25] USCG–2019–0736–0005, p. 3.

[26] USCG–2019–0736–0003, p. 2.

[27] As stated in the 2018 Final Ratemaking (83 FR 26162 at 26171), ''[The Coast Guard] agree[s] with the commenters that, for the purposes of inflating compensation costs, the ECI provides a better gauge of compensation inflation than the CPI does''.

[28] *https://www.bls.gov/opub/btn/archive/differences-between-the-consumer-price-index-and-the-personal-consumption-expenditures-price-index.pdf,* page 2.

staffing model, we will propose them as part of a future rulemaking.

C. Target Pilot Compensation

The User's Coalition made several comments in regards to this step. They commented that ''Since at least 2015, the GLPO's ratemaking activities have repeatedly yielded revenues far above the target revenues fixed as representing a level necessary to cover pilot compensation and other recognized expense items.'' The Coast Guard disagrees with this statement. The only way for the associations to generate additional revenue is from the increase in ship traffic going through the system. Although the Coast Guard has seen increased traffic volumes over what was estimated in recent years, this is due to the Canadian domestic fleet using U.S. pilots, demand for global commodities (steel and grain), tankers shipping petroleum products, cruise ships, and winter demand (ordering pilots while the locks are closed for maintenance) on Lake Erie, Lake Huron, and Lake Michigan. The Coast Guard has no control or influence over any of the aforementioned activities. The variables in global commodities are complex and difficult to predict. Supply of many commodities can be forecasted from the analysis of data, but data regarding consumption is much more difficult to estimate. Some countries carefully guard commodities produced and stored within their borders, making certain market predictions even harder. Civil unrest and government sanctions can cause huge swings in the commodities markets. The use of the 10-year average may cause the average to lag short-term trends, but it reduces fluctuations in predicted traffic levels and results in a more stable rate on a year-to-year basis. This helps the associations and the shippers plan for upcoming years while reducing variables. The Coast Guard welcomes any validated information the commenter can provide as to the exact amount of pilotage demand each year, as well as the number of vessels that will be transporting commodities and needing pilotage service, along with the recent demand for pilots in the cruise industry.

The User's Coalition also made a comment regarding the figure for target pilot compensation, and stated that the 2019 compensation number was ''adopted'' and used as a benchmark. The Coast Guard used the 2019 number because it was clear that this number has had the desired effect of promoting recruitment of highly qualified mariners and retention of experienced U.S. registered pilots.

The Coalition also commented that this is the third year in which the U.S. Coast Guard Great Lakes Pilotage Office (GLPO) has set a benchmark compensation figure for Great Lakes pilots by reference to available data concerning the compensation of U.S. first mates subject to negotiated contracts between vessel owners and the AMOU. The Coast Guard disagrees with this statement. As explained above in Summary of Ratemaking Methodology, Step 4, the Coast Guard does not have access to information from the AMOU contract. In 2018, the best available information that we had was the pre-2016 contract data and that was adjusted for inflation.Target compensation for the 2020 rate is not being calculated with regard to 2020 union contract data. We are using the 2019 figure as a base because we believe that this is the proper target compensation benchmark for Great Lakes pilots. This compensation benchmark enables the Coast Guard to meet its statutory requirement to set pilotage rates giving consideration to the public interest and the costs of providing pilotage services. We are ensuring the provision of safe, reliable, and efficient pilotage services by correcting the recruitment and retention issues discussed in previous rulemakings without increasing the costs of pilotage services to an unreasonable level.

D. Initial Base Rates

One commenter stated that, for several years, the Coast Guard's use of a 10-year average severely understates likely upcoming bridge hours because of low traffic volumes in the period of depressed international economic activity caused by the economic recession in 2008–12.

The Coast Guard disagrees that the 10-year average should not be used. We believe that the 10-year average in is the public interest, because this approach provides rate stability. These stable and predictable rates allows shippers and pilots to forecast revenues. In Step 7 of the ratemaking methodology, the Coast Guard calculates an hourly pilotage rate to generate the revenue needed by each district. This step requires an estimate of the expected hours of traffic. To derive this estimate, the Coast Guard takes the average of the previous 10 years of traffic in each area on the Great Lakes. The use of the historical traffic figure was unanimously recommended by the GLPAC in 2014, and we believe that it is the best tool to estimate traffic. While in recent years, high levels of traffic have been greater than the historical average, we also note that in some years the level of traffic has been lower than average. The use of the 10-year average may cause the average to lag short-term trends, but it reduces fluctuations in predicted traffic levels and results in a more stable rate on a year-to-year basis. No commenter has suggested a different time period for calculating the historical average that would produce better predictions or prevent wildly fluctuating rates. While we are open to suggestions as to how to better predict total traffic, we would encourage the commenters to raise these suggestions at the GLPAC, as we are currently continuing to follow its recommendation on this subject.

The User's Coalition suggested that, to minimize the inflation effect on hourly rates that is caused by use of inaccurate bridge hour projections, the Coast Guard either base its projections on the most recent previous year actuals, or derive projections by collecting upcoming year forecast data from affected stakeholders, including the Seaway Authority, U.S. and Canadian pilots, vessel operators, ports and terminals, shipping agents and other knowledgeable sources. The Coast Guard disagrees. Although we have seen increased traffic volumes over what was estimated in recent years, this is mainly due to the Canadian domestic fleet using U.S registered pilots. If the Coast Guard only used the previous year's numbers, there would be large annual variations in the rates, which would not be in the public's interest. We welcome any information or the suggested resources the commenter can provide as to the exact number of Canadian domestic vessels that will be using pilots each year, as well as the number of vessels that will be transporting commodities and requiring pilotage service. In addition, the Coast Guard has historically been unable to accurately forecast the international shipping trends that can be impacted by highly variable factors; *e.g.,* global weather impacting the supply and demand for grain in the United States, Canada, and overseas, and the imposition or removal of tariffs on a global basis. This inability to accurately forecast demand led to the decision to rely on historical data instead. The User's Coalition has not proposed a specific source of forecasting the demand for pilotage services that would be consistently more accurate than using historical data.

E. Working Capital Fund

There were three comments made by the User's Coalition, the SLSPA, and the District Lawyers regarding the working capital fund. The User's Coalition stated that this fund is misnamed, and that it

is a recognized expense. The Coast Guard disagrees with the statement that it is considered a recognized expense. The working capital fund is intended to provide the pilots associations with working capital for future expenses associated with capital improvements, technology investments, and future training needs, with the goal of eliminating the need for surcharges (as was accomplished this year). The fund is structured so that the pilots associations can demonstrate credit worthiness when seeking funds from a financial institution for needed infrastructure projects.

Recognized expenses are those operating expenses that are deemed necessary and reasonable. The working capital fund is meant to provide the associations with capital that is in addition to the money needed to cover its standard operating expenses and pilot compensation. Its use is to fund infrastructure and technology improvement projects. Regarding the suggestion for renaming the working capital fund, the Coast Guard is willing to discuss an alternative name at a future GLPAC meeting.

The District Lawyers commented that the fund improperly fails to include a return on investment. The Coast Guard disagrees with this statement. In 2016, we created this fund to provide credit worthiness for pilot associations to have access to capital that would enable them to provide safe, efficient, and reliable service. In previous years, the goal of the precursor of the working capital fund, named the ''return on investment', was to provide a return to monies invested by the pilots in associations. The amount of the money invested (the investment base) by pilots was relatively small, and thus the return on that investment was small in absolute terms. However, when the Coast Guard recalibrated the return on investment (renamed the working capital fund) to be based on the total income of the associations, rather than simply the money invested in capital improvements (as was the case prior to 2016), the goal was to increase infrastructure spending by providing a more substantial pool of available funds. The goal of the working capital fund is not to provide a windfall for the associations, but to improve maritime safety. The working capital fund does this by supporting capital projects, infrastructure improvements and maintenance, non-recurring technology purchases, and training that is necessary for providing safe, efficient, and reliable pilotage. As with all other expenses, the funds applied must be reasonable in amount.

The SLSPA commented that the working capital fund provides a basis to reinvest into the system or make up for minor shortfalls in revenue. The Coast Guard agrees in part. The working capital fund is a funding mechanism that allows for the associations to have cash on hand for future and/or unidentified expenses to improve pilotage service, and in some cases prevent delays that would occur from failing equipment, and for assets that are needed to continuously pilot vessels through the system. The Coast Guard disagrees that the working capital fund can make up for minor shortfalls in revenue. The fund cannot be used for the compensation of pilots during unexpected low traffic years.

F. Surcharge Offsets

The Coast Guard received two comments regarding the amount of surcharges [29] collected in 2017. The commenters stated that, because the 2017 rate did not take effect until October, the districts were only able to collect a small portion of the training surcharge approved for that year. The commenters requested that the difference between what was collected via the rate and the amount spent on training in 2017 be accounted for in this rule as operating expenses—specifically that $174,087 be added to the operating expenses for District 2 and $291,72 be added to the operating expenses for District 3.

The Coast Guard agrees that the difference between the amount collected via the surcharge in 2017 and the amount spent on training in 2017 needs to be included as an operating expenses. Therefore, we included a surcharge offset in the operating expenses for both Districts 2 and 3 in this final rule. Specifically, in 2017, District 3 spent $647,606 on the salary and benefits for 7 applicant pilots, and collected $382,297 via the surcharge. The Coast Guard added a surcharge adjustment of $265,309 for District 3 ($647,606–$382,297) to account for the difference between training expense and training funds from the surcharge. District 2 spent $1,829,671 on the salary and benefits for 2 applicant pilots, and collected $141,692 in training surcharges. The Coast Guard does not believe that spending $914,836 per applicant pilot is a reasonable expense. Therefore, we are not reimbursing the entire difference to the District. Instead, we are including a surcharge offset of $158,308, which is the difference between the approved surcharge amount of $300,000 and the amount collected by the district of $141,692. For both Districts, the surcharge offset amount approved by the Coast Guard differs from the amount the commenters requested, as the commenters adjusted these differences to account for inflation and the working capital fund adjustments. However, these adjustments are already included as part of the 10-step ratemaking methodology and do not need to be completed for each individual operating expense.

G. Surcharges

We received several comments regarding the removal of surcharges. Beginning in 2016, the Coast Guard began implementing surcharges on shipping rates to encourage the recruitment and training of new pilots on the Great Lakes. Unlike pilot compensation, reasonable and necessary costs relating to the compensation and training of applicant pilots are fully reimbursable as operating expenses. However, the Coast Guard used surcharges so that pilot associations could receive the money needed to provide immediate funding for achieving the goal of hiring and training new pilots. This goal has been accomplished,[30] and currently the average pilot's age is under 50. In District One, 56 percent of registered pilots are under the age of 50. In District Two, 69 percent are under the age of 50, and in District Three, 44 percent are under the age of 50. This is more than adequate for retirement planning purposes. One commenter specifically stated that District Three very much needs the surcharge. The Coast Guard disagrees. In 2015, District Three only had 5 out of 20 registered pilots under the age of 50. In 2019 that number doubled to 10 out of 19, which is more than enough to properly plan for applicant pilots and retirement via the rate.

H. Other Comments

The User's Coalition submitted several comments that we will address individually. The Coalition stated that the U.S. Great Lakes Pilot Associations are a government-sustained monopoly. The Coast Guard disagrees; the U.S. Great Lakes Pilot Associations are federally-regulated monopolies. It should be noted that all pilotage associations throughout the United

[29] Surcharge is money that is paid upfront by the shipper in addition to the rate in order to meet an immediate need for the pilots. When calculating the rate, Coast Guard uses the operating expenses from three years prior as one of the factors to determine how much the shippers will pay via the rate. The surcharge offset or adjustment is the money collected or not collected three years prior that is either taken out or added to the rate via the methodology.

States are government-regulated monopolies.

The User's Coalition stated that the rates are dictated by the Coast Guard. The Coast Guard disagrees. The rates are derived via a 10-step methodology outlined in the Code of Federal Regulations. We comply with notice and comment procedure outlined in the Administrative Procedure Act. In fact, in a recent report, the Government Accountability Office (GAO) stated that while individual stakeholders may not agree with the specific inputs and assumptions used by the Coast Guard, the current process is generally transparent and provides an opportunity for informed stakeholder feedback.[31] The GAO report also stated that coupled with the rulemaking requirements that incorporate public review and comments, we found that the existing mechanisms represent a fairly transparent system of pilotage rate-setting as compared to the process used by some coastal states.[32]

The User's Coalition stated that, over the past five rate-setting cycles, the overall costs of U.S. pilotage to ratepayers (and, ultimately, to ports, cargo interests, and shore-based maritime interests) have risen substantially. The Coast Guard agrees that the overall cost of U.S. pilotage to ratepayers has risen. There are two primary reasons for this increase. The first reason is that, because of an error in the methodology and billing scheme from the mid 90's and up until 2016, shippers were provided an unintended 20–40% ''discount.'' This discount prevented the pilot associations from generating and collecting the revenues we determined were necessary to provide safe, efficient, and reliable pilotage service. In 2016, we addressed this issue and removed the discount. The second reason is the cost of added pilots, which has increased needed revenues. Since 2016, we have added 18 working pilots to the System in order to preserve and promote maritime safety, minimize delays, and provide for recuperative rest.

The User's Coalition stated that there is an absence of current, reality-based (as opposed to speculative or theoretical) data in the ratemaking process for critical elements, such as pilotage expenses, traffic volume or bridge-hour forecasts, and pilot compensation. The Coast Guard disagrees with this statement. The Coast Guard employs a third party auditing firm to generate financial reports to evaluate pilotage expenses for the annual rulemaking. We include these reports with the appropriate rulemaking docket. Forecasts are predictions of future events and are by nature speculative or theoretical, but our forecasts are based on objective, historical data. In addition, our Bridge Hour Study examined the actual number of hours pilots spent completing all parts of a pilotage assignment in the various Areas to determine how many assignments a pilot could complete in a given time period. This audited and studied data[33] is empirical and reality based, not theoretical. The ability to use current data is somewhat limited by the time required to complete a full notice and comment ratemaking. The GAO report published June 2019, titled *Stakeholders' Views on Issues and Options for Managing the Great Lakes Pilotage Program,*[34] states ''that the Coast Guard is currently performing this independent function as its rate-setting process includes many of the characteristics identified as a best practice, such as a defined methodology, clear data submission and review process, and the absence of any direct material interest in the outcome of the rate determinations.'' The report goes on to say that, ''While individual stakeholders may not agree with the specific inputs and assumptions used by the Coast Guard, the current process is generally transparent and provides an opportunity for informed stakeholder feedback and identification of any grounds on which they can choose to take legal action.''

The User's Coalition stated that there is a lack of assertive Coast Guard supervision and control. The Coast Guard disagrees. The Coast Guard develops clear and timely regulations, policy, and direction to three U.S. pilot associations to provide safe, efficient, and reliable pilotage service to U.S. vessels operating under registry and foreign vessels transiting the Saint Lawrence and Great Lakes System. This regime of regulation, policy, and direction provides supervision and control. The commenter also failed to provide specific examples or data to support this claim.

The User's Coalition raised questions about the difference between U.S. and Canadian pilotage cost structures. The commenter stated that ''sample comparisons of the costs of U.S. versus Canadian pilotage on the same or similar voyages by the same or similar vessels show that U.S. pilotage costs are often nearly twice as high as those of the Canadian counterparts.'' The Coast Guard is aware that the United States and Canada do not charge for service in identical ways. One significant difference is that the United States has three different Districts that must each support themselves, whereas the Canadian GLPA operates as a unified whole. This means that there may be a level of cross-subsidization among Canadian pilots that is impossible to replicate on the American side, which could result in higher rates in some areas and lower rates in others. Comparisons on a single voyage, such as what the Users Coalition did in the comment, where one system uses ancillary fees such as docking, anchoring, short notice dispatching and the other system does not, cannot provide the Coast Guard with the comprehensive information needed to determine if there is a system-wide problem with rates or if we are merely seeing an atypical incident. Taken as a whole, the revenues earned by the U.S. system of pilotage across the Great Lakes are comparable to the revenues earned by the Canadian system. This is further complicated by the fact that Canadians provide the exclusive source of pilotage services in parts of the system.

The User's Coalition also stated that there is a failure to develop, obtain, and maintain accurate information on recruitment, retention, and attrition issues as they affect the availability and compensation of qualified pilots. The Coast Guard disagrees with this statement. Coast Guard personnel in the Office of Waterways and Ocean Policy (CG–WWM) monitor recruitment, retention, and attrition issues by following the hiring and training of new pilots and conducting exit interviews with departing pilots. The commenter failed to articulate or provide any examples or data to support their statement.

The User's Coalition stated that the past record of significant, consistent revenue overruns justifies an adjustment in methodology. Failure to make this adjustment will once again result in an artificial increase in pilotage costs, in contravention of 46 U.S.C. 9303(f), and exacerbate the current misalignment of U.S. and Canadian pilotage costs. The Coast Guard disagrees with this comment. Consistent increases in pilotage demand does not justify an adjustment. Since the commenter provided no further evidence to justify

[31] *https://www.gao.gov/products/GAO-19-493.*

[32] *Id.*

[33] United States Coast Guard, *Bridge Hour Definition and Methology Study: Final Report,* (25 June 2013) *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/Office%20of%20Waterways%20and%20Ocean%20Policy/Pilotage%20Study%20Final%20Report%2028%20JUN%202013.pdf?ver=2017-06-08-082809-570.*

[34] *https://www.gao.gov/products/GAO-19-493.*

the statement, no further action will be taken. The Coast Guard also disagrees that there is a current misalignment of U.S. and Canadian pilotage cost. As the commenter provided no evidence to support this claim, no further action will be taken. In addition, we note that these increases in demand do not equate to any increased cost to the User's Coalition, and, further, because the demand increases bridge hours, it could be argued that these ''consistent revenue overruns'' actually decrease the rate over the long run, due to the way bridge hours are used in the 10-Step ratemaking methodology. To estimate the initial base rate, we divide the total estimated revenue needed for each area by the total estimated bridge hours.

The User's Coalition stated that prior years' comments on this recurring issue have been dismissed without analysis or discussion by GLPO as ''not a highly salient issue. . . .'' (83 FR 26175), and the observation that pilotage rates had not reached ''. . . levels that threaten the economic viability of Great Lakes shipping.'' Id. The Coast Guard disagrees that issues have been dismissed without analysis or discussion. The User's Coalition comment lacks context. The Coast Guard noted that the over-realization was not a highly salient issue in the 2018 final rule because the over-realization was caused by two factors, one of which had been corrected previously. The lack of incorporation of weighting factor fees into the ratemaking methodology was revised per the suggestion of industry commenters in the 2018 rulemaking. The second factor was demand for pilotage services, which was higher than predicted—a point discussed at length in the sections entitled ''Target Pilot Compensation'' and ''Initial Base Rate'' above. The commenter's second quote is a reference to the conclusion of an independent study the Coast Guard commissioned analyzing the secondary economic impact of pilotage rates, hardly a dismissal without analysis. The GAO recently completed a comprehensive ''stem-to-stern'' review of the GLPO,[35] assessing a plethora of recurring issues, and decided not to recommend any changes to the GLPO. The court has settled some of the issues and is reviewing the legality of other issues. We have and will continue to comply with the court's decision(s).

The User's Coalition stated that revenue overruns are paid for in real money in a system that has yet to provide relief for overcharges to ratepayers or redress to other interests affected by non-service-related, government-dictated prices, and that the results of the past several navigation seasons on the Lakes describe a situation of considerable economic waste. The Coast Guard disagrees with this statement. All charges paid were for actual services provide by the pilots to vessels; there were no non-service-related charges. If vessel owners and operators believe they have been charged in error, we provide a billing dispute mechanism that allows shippers adequate time to submit billing disputes for consideration. As the commenter provided no evidence of an overcharge to ratepayers, nor any evidence of ''considerable economic waste,'' no further action will be taken.

This commenter implies that the User's coalition has exclusive rights to the Great Lakes/Saint Lawrence River System. The User's Coalition is not entitled to revenues generated by the Canadian domestic fleet, cruise ships, and/or tankers shipping petroleum products that are not represented by the coalition. These waters are for all law abiding mariners to enjoy and utilize for commercial purposes. We will ensure that all modes of international and domestic traffic are treated fairly.

The Lakes Pilots Association (LPA) commented on changing the number of days in the season to 365 days. The Coast Guard disagrees. The 270 day season applies to the AMOU contracts. We are no longer utilizing those contracts to determine target pilot compensation. Therefore, the 365-day argument does not apply. We have identified a standard that corrected the historic recruitment and retention issues as previously discussed.

One commenter suggested that the Coast Guard did not adequately explain why we expect the total costs generated in 2020 to be less than the total pilotage revenue in 2019, despite proposing higher pilotage rates for 4 of the 6 areas in 2020. They stated that the NPRM did not provide any explanation for the reduction in pilotage services, and that we should not claim that the final rule will ''result in an overall reduction in pilotage costs''.[36]

The Coast Guard disagrees. In the NPRM, we did not state that we expect a decrease in pilotage costs. Rather, we estimated the total expected revenue in 2020 and compared that value to the estimated 2019 revenue. This value is a reflection of the pilotage rates, as well as other factors, such as operating expenses and surcharges (if there are any). In the NPRM, we estimated that the total revenue generated in 2020 would be less than the total estimated revenue generated in 2019 for two reasons: (1) A reduction in operating expenses for some districts driven by large one-time capital purchases made in 2016, and (2) the removal of surcharges. The latter is the main driver in reducing the expected revenue between 2019 and 2020. Neither of these revenue components is a reflection of traffic or pilotage hours. In addition, the cost of the surcharges is not included in the rate, but is included in the total revenue calculations, meaning that the removal of the surcharges does not impact the rates, but does decrease the estimated total revenue. Table 44 in the preamble of this rule provides a comparison of the revenue components between 2019 and 2020, and demonstrates that these changes are mainly driven by the removal of the surcharges. It should be noted that, in this final rule, the Coast Guard modified operating expenses for all three districts based on public comment, and, as a result, we now estimate that revenues generated in 2020 will be $279,845 greater than those generated in 2019.

VII. Discussion of Rate Adjustments

In this final rule, based on the current methodology described in the previous section of this preamble, the Coast Guard is establishing new pilotage rates for 2020. We conducted the 2020 ratemaking as an ''interim year,'' as was done in 2019, rather than a full ratemaking as was conducted in 2018. Thus, the Coast Guard is adjusting the compensation benchmark pursuant to § 404.104(b) for this purpose, rather than § 404.104(a).

In this section, we discuss the rate changes using the ratemaking steps provided in 46 CFR part 404 detailing all ten steps of the ratemaking procedure for each of the three districts to show how we arrived at the new rates.

District One

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2017 expenses and revenues.[37] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, costs are applied to the

[35] *https://www.gao.gov/products/GAO-19-493.*

[36] USCG–2019–0736–0007, p. 4.

[37] These reports are available in the docket for this rulemaking (see Docket # USCG–2019–0736).

designated or undesignated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs accrued by the pilot associations generally, such as employee benefits, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District One are shown in table 3.

As noted above, in 2016 the Coast Guard began authorizing surcharges to cover the training costs of applicant pilots. The surcharges were intended to reimburse pilot associations for training applicants in a more timely fashion than if those costs were listed as operating expenses, which would have required 3 years to reimburse. The rationale for using surcharges to cover these expenses rather than including the costs as operating expenses was so these non-recurring costs could be recovered in a more timely fashion and so that retiring pilots would not have to cover the costs of training their replacements. Because operating expenses incurred are not actually recouped for a period of 3 years, the Coast Guard added a $150,000 surcharge per applicant pilot beginning in 2016 to recoup those costs in the year incurred. Now that these issues are no longer a concern, we are not issuing any surcharges for the 2020 shipping season.

For District One, we are not implementing any Director's adjustments other than the lobbying expenses described above. Other adjustments have been made by the auditors and are explained in the auditor's reports, which are available in the docket for this rulemaking where indicated under the **ADDRESSES** portion of the preamble.

TABLE 3—2017 RECOGNIZED EXPENSES FOR DISTRICT ONE

Reported expenses for 2017	District One		
	Designated	Undesignated	Total
	St. Lawrence River	Lake Ontario	
Operating Expenses:			
Other Pilotage Costs:			
Subsistence/Travel—Pilot	$440,456	$293,637	$734,093
Certified Public Accountant (CPA) Deduction	−189	−126	−315
Subsistence/Travel—Trainee	22,008	14,672	36,680
License Insurance—Pilots	48,620	32,413	81,033
License Insurance—Trainee	0	0	0
Payroll Taxes—Pilots	137,788	91,858	229,646
Payroll Taxes—Trainee	705	470	1,175
Training—Full Pilots Continuing Education	32,197	21,464	53,661
Cell and Internet Allowance—Pilots	24,312	16,208	40,520
Cell and Internet Allowance—Applicants	2,210	1,474	3,684
Other	675	450	1,125
Total Other Pilotage Costs	708,782	472,520	1,181,302
Pilot Boat and Dispatch Costs:			
Pilot Boat Expense	297,942	198,628	496,570
Dispatch Expense	50,100	33,400	83,500
Payroll Taxes	19,706	13,137	32,843
Total Pilot and Dispatch Costs	367,748	245,165	612,913
Administrative Expenses:			
Legal—General Counsel	2,098	1,399	3,497
Legal—Shared Counsel (K&L Gates)	26,835	17,890	44,725
Office Rent	0	0	0
Insurance	21,593	14,395	35,988
Employee Benefits	7,720	5,146	12,866
Payroll Taxes	6,665	4,444	11,109
Other Taxes	70,942	47,294	118,236
Travel	4,091	2,728	6,819
Depreciation/Auto Leasing/other	94,944	63,296	158,240
Interest	35,143	23,428	58,571
Dues and Subscriptions	19,471	12,981	32,452
Utilities	18,479	12,320	30,799
Salaries	69,953	46,636	116,589
Accounting/Professional Fees	6,111	4,074	10,185
Pilot Training	0	0	0
Applicant Pilot Training	0	0	0
Other	26,338	17,559	43,897
Total Administrative Expenses	410,383	273,590	683,973
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,486,913	991,275	2,478,188
Adjustments (Director):			
Total Director's Adjustments	0	0	0
Total Operating Expenses (OpEx + Adjustments)	1,486,913	991,275	2,478,188.00

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2017 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation for 2017 to 2018 using the BLS data from the CPI for the Midwest Region of the United States.[38] Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2019 and 2020 inflation modification.[39] [40] Based on that information, the calculations for Step 2 are as follows:

TABLE 4—ADJUSTED OPERATING EXPENSES FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Total Operating Expenses (Step 1)	$1,486,913	$991,275	$2,478,188
2018 Inflation Modification (@1.9%)	28,251	18,834	47,085
2019 Inflation Modification (@1.8%)	27,273	18,182	45,455
2020 Inflation Modification (@2%)	30,849	20,566	51,415
Adjusted 2020 Operating Expenses	1,573,286	1,048,857	2,622,143

C. Step 3: Estimate Number of Working Pilots

In accordance with the text in § 404.103, we estimate the number of working pilots in each district. We determine the number of working pilots based on data provided by the Saint Lawrence Seaway Pilots Association (SLSPA). Using these numbers, we estimate there will be 17 working pilots in 2020 in District One. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 5. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 5—AUTHORIZED PILOTS

Item	District One
Maximum number of pilots (per § 401.220(a)) [41]	17
2020 Authorized pilots (total)	17
Pilots assigned to designated areas	10
Pilots assigned to undesignated areas	7

D. Step 4: Determine Target Pilot Compensation Benchmark

In this step, we determine the total pilot compensation for each area. As we are conducting an interim ratemaking this year, we follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. Because we do not have a value for the employment cost index for 2020, we multiply the 2019 compensation benchmark of $359,887 by the Median PCE Inflation value of 2.0 percent.[42] Based on the projected 2020 inflation estimate, the compensation benchmark for 2020 is $367,085 per pilot.

Next, we verify that the number of pilots estimated for 2020 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 17 pilots for District One, which is more than or equal to the numbers of working pilots provided by the pilot associations. In accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for District One, as shown in table 6.

TABLE 6—TARGET COMPENSATION FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Target Pilot Compensation	$367,085	$367,085	$367,085
Number of Pilots	10	7	17
Total Target Pilot Compensation	$3,670,850	$2,569,595	$6,240,445

[38] The 2018 inflation rate is available at *https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical_midwest_table.pdf.* Specifically the CPI is defined as ''All Urban Consumers (CPI–U), All Items, 1982–4=100''. Downloaded June 12, 2019.

[39] The 2019 CPI data was not available at the time of analysis, December 2019.

[40] The 2019 and 2020 inflation rates are available at *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20190320.pdf.* We used the PCE median inflation value found in table 1. Downloaded June 12, 2019.

[41] For a detailed calculation, refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[42] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20190320.pdf.*

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add together the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high-grade corporate securities. Using Moody's data, the number is 3.93 percent.[43] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 7.

TABLE 7—WORKING CAPITAL FUND CALCULATION FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2)	$1,573,286	$1,048,857	$2,622,143
Total Target Pilot Compensation (Step 4)	3,670,850	2,569,595	6,240,445
Total 2020 Expenses (Step 2 + Step 4)	5,244,136	3,618,452	8,862,588
Working Capital Fund (Total Expenses × 3.93%)	206,095	142,205	348,300

F. Step 6: Project Needed Revenue

In this step, we add together all of the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). We show these calculations in table 8.

TABLE 8—REVENUE NEEDED FOR DISTRICT ONE

	District One		
	Designated	Undesignated	Total
Adjusted Operating Expenses (Step 2, See Table 4)	$1,573,286	$1,048,857	$2,622,143
Total Target Pilot Compensation (Step 4, See Table 6)	3,670,850	2,569,595	6,240,445
Working Capital Fund (Step 5, See Table 7)	206,095	142,205	348,300
Total Revenue Needed	5,450,231	3,760,657	9,210,888

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps to develop an hourly rate, we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the average hours of traffic over 10 years in District One, using the total time on task or pilot bridge hours.[44] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 9.

TABLE 9—TIME ON TASK FOR DISTRICT ONE

[Hours]

Year	District One	
	Designated	Undesignated
2018	6,943	8,445
2017	7,605	8,679
2016	5,434	6,217
2015	5,743	6,667
2014	6,810	6,853
2013	5,864	5,529
2012	4,771	5,121
2011	5,045	5,377
2010	4,839	5,649
2009	3,511	3,947

TABLE 9—TIME ON TASK FOR DISTRICT ONE—Continued

[Hours]

Year	District One	
	Designated	Undesignated
Average	5,657	6,248

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. We present the calculations for each area in table 10.

TABLE 10—INITIAL RATE CALCULATIONS FOR DISTRICT ONE

	Designated	Undesignated
Revenue needed (Step 6)	$5,450,231	$3,760,657

[43] Moody's Seasoned Aaa Corporate Bond Yield, average of 2018 monthly data (2019 data was not available at the time of analysis, December 2019). The Coast Guard uses the most recent year of complete data. Moody's is taken from Moody's Investors Service, which is a bond credit rating business of Moody's Corporation. Bond ratings are based on creditworthiness and risk. The rating of ''Aaa'' is the highest bond rating assigned with the lowest credit risk. See *https://fred.stlouisfed.org/series/AAA.* (June 12, 2019).

[44] To calculate the time on task for each district, the Coast Guard uses billing data from the Great Lakes Pilotage Management System (GLPMS). We pull the data from the system filtering by district, year, job status (we only include closed jobs), and flagging code (we only include U.S. jobs). After we have downloaded the data, we remove any overland transfers from the dataset, if necessary, and sum the total bridge hours, by area. We then subtract any non-billable delay hours from the total.

TABLE 10—INITIAL RATE CALCULATIONS FOR DISTRICT ONE—Continued

	Designated	Undesignated
Average time on task (hours)	5,657	6,248
Initial rate (Step 6÷Average Time on Task)	963	602

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 11 and 12.[45]

TABLE 11—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, DESIGNATED AREAS

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 1 (2014)	31	1	31
Class 1 (2015)	41	1	41
Class 1 (2016)	31	1	31
Class 1 (2017)	28	1	28
Class 1 (2018)	54	1	54
Class 2 (2014)	285	1.15	327.75
Class 2 (2015)	295	1.15	339.25
Class 2 (2016)	185	1.15	212.75
Class 2 (2017)	352	1.15	404.8
Class 2 (2018)	559	1.15	642.85
Class 3 (2014)	50	1.3	65
Class 3 (2015)	28	1.3	36.4
Class 3 (2016)	50	1.3	65
Class 3 (2017)	67	1.3	87.1
Class 3 (2018)	86	1.3	111.8
Class 4 (2014)	271	1.45	392.95
Class 4 (2015)	251	1.45	363.95
Class 4 (2016)	214	1.45	310.3
Class 4 (2017)	285	1.45	413.25
Class 4 (2018)	393	1.45	569.85
Total	3,556	.....	4,528
Average weighting factor (weighted transits/number of transits)	.....	1.27	.....

TABLE 12—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, UNDESIGNATED AREAS

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 1 (2014)	25	1	25
Class 1 (2015)	28	1	28
Class 1 (2016)	18	1	18
Class 1 (2017)	19	1	19
Class 1 (2018)	22	1	22
Class 2 (2014)	238	1.15	273.7
Class 2 (2015)	263	1.15	302.45
Class 2 (2016)	169	1.15	194.35
Class 2 (2017)	290	1.15	333.5
Class 2 (2018)	352	1.15	404.8
Class 3 (2014)	60	1.3	78
Class 3 (2015)	42	1.3	54.6
Class 3 (2016)	28	1.3	36.4
Class 3 (2017)	45	1.3	58.5
Class 3 (2018)	63	1.3	81.9
Class 4 (2014)	289	1.45	419.05
Class 4 (2015)	269	1.45	390.05
Class 4 (2016)	222	1.45	321.9

[45] To calculate the number of transits by vessel class, we use the billing data from GLPMS (2019 data was not available at the time of analysis, December 2019), filtering by district, year, job status (we only include closed jobs), and flagging code (we only include U.S. jobs). We then count the number of jobs by vessel class and area.

TABLE 12—AVERAGE WEIGHTING FACTOR FOR DISTRICT ONE, UNDESIGNATED AREAS—Continued

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 4 (2017)	285	1.45	413.25
Class 4 (2018)	382	1.45	553.9
Total	3,109		4,028
Average weighting factor (weighted transits/number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered; the total cost of pilotage would be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in table 13.

TABLE 13—REVISED BASE RATES FOR DISTRICT ONE

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised Rate (Initial rate ÷ average weighting factor)
District One: Designated	$963	1.27	$758
District One: Undesignated	602	1.30	463

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish that the rates do meet the goal of ensuring safe, efficient and reliable pilotage, the Director considers whether the rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the rates will cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on this information, the Director is not making any alterations to the rates in this step. We modified the text in § 401.405(a) to reflect the final rates shown in table 14.

TABLE 14—FINAL RATES FOR DISTRICT ONE

Area	Name	Final 2019 pilotage rate	Proposed 2020 pilotage rate	Final 2020 pilotage rate
District One: Designated	St. Lawrence River	$733	$757	$758
District One: Undesignated	Lake Ontario	493	462	463

District Two

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2017 expenses and revenues.[46] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, costs are applied to the designated or undesignated area based on where they were actually incurred. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs accrued by the pilot associations generally, such as employee benefits, for example, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Two are shown in table 15, below.

In addition to the surcharge adjustment and lobbying expenses described for District One in Section VII A. of this preamble, *Step 1: Recognize previous operating expenses,* and the adjustments made by the auditor, as explained in the auditor's reports (available in the docket where indicated in the **ADDRESSES** portion of this document), the Director is finalizing two adjustments to District Two's operating expenses. The first is to disallow $120,350 in ''housing allowance'' expenses. The Coast Guard agrees with the IRS that an employer-provided housing allowance is a fringe benefit, and we consider it to be employee compensation. In addition, the Coast Guard expects those appointed as registered pilots to live in the region in which they are employed. We expect that, if a pilot chooses to live outside their region of employment, they should have to pay for their accommodations, and this cost should not be passed on to the shippers via the rate. Therefore, we are not including any housing allowance the district chooses to

[46] These reports are available in the docket for this rulemaking (see Docket No. USCG–2019–0736).

provide their pilots in the ratemaking calculation.

The second Director's adjustment is a $158,308 surcharge adjustment to account for the difference between in the amount the district spent on applicant pilot wages and benefits in 2017 to cover the training costs for two applicant pilots, and the amount actually collected via the surcharge. In total, District Two spent $1,829,671 on applicant pilot compensation for two applicant pilots and received $141,692 via the surcharge in 2017. However, as stated in Section VI.F of this preamble, the Coast Guard does not believe that spending $914,836 per applicant pilot is fair and reasonable, and, therefore, we are only recognizing applicant pilot compensation of $150,000 per applicant pilot, or $300,000 in total for the district. As a result, the Coast Guard is including a $158,308 surcharge adjustment ($300,000 − $141,692) in the recognized expenses for District Two. We allocated this adjustment to each area based on their proportional bridge hours in 2017 (see table 21 for bridge hours).

TABLE 15—2017 RECOGNIZED EXPENSES FOR DISTRICT TWO

Reported expenses for 2017	District Two		
	Undesignated	Designated	Total
	Lake Erie	Southeast shoal to Port Huron	
Operating Expenses:			
Other Pilotage Costs:			
Subsistence/Travel—Pilots	$116,402	$174,602	$291,004
Subsistence/Travel—Applicants	52,212	78,317	130,529
Housing Allowance—Pilots	30,212	45,318	75,530
Housing Allowance—Applicants	17,928	26,892	44,820
Winter Meeting Allowance	8,280	12,420	20,700
Telecommunication Allowance	11,662	17,493	29,155
Payroll taxes—Pilots	57,126	85,688	142,814
Payroll taxes—Applicants	26,025	39,038	65,063
License Insurance	8,326	12,490	20,816
Training	2,079	3,119	5,198
Total Other Pilotage Costs	330,252	495,377	825,629
Pilot Boat and Dispatch Costs:			
Pilot Boat Cost	217,514	326,272	543,786
CPA Adjustment	−34,860	−52,291	−87,151
Dispatch Expense	0	0	0
Employee Benefits	78,680	118,020	196,700
Payroll Taxes	12,230	18,344	30,574
Total Pilot and Dispatch Costs	273,564	410,345	683,909
Cost Affiliated Entity Expenses:			
Office Rent	26,275	39,413	65,688
CPA Adjustment	−4,742	−7,113	−11,855
Total Affiliated Entity Expense	21,533	32,300	53,833
Administrative Expenses:			
Legal—General Counsel	3,505	5,258	8,763
Legal—Shared Counsel (K&L Gates)	15,604	23,405	39,009
Employee benefits—Admin employees	79,534	119,301	198,835
Workman's Compensation—Pilots	48,663	72,994	121,657
Payroll taxes—Admin Employees	6,872	10,308	17,180
Insurance	10,844	16,265	27,109
Other Taxes	12,065	18,097	30,162
Admin Travel	6,316	9,475	15,791
Depreciation/Auto Lease/Other	24,168	36,251	60,419
Interest	21,526	32,288	53,814
CPA Adjustment	−20,920	−31,379	−52,299
Dues and subscriptions	10,760	16,140	26,900
CPA Adjustment	−581	−871	−1,452
Utilities	6,277	9,415	15,692
Salaries—Admin employees	60,568	90,852	151,420
Accounting	14,507	21,761	36,268
Other	13,936	20,904	34,840
Total Administrative Expenses	313,644	470,464	784,108
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	938,993	1,408,486	2,347,479
Adjustments (Director):			
Housing allowance for Pilots	−30,212	−45,318	−75,530
Housing allowance for Applicants	−17,928	−26,892	−44,820
Surcharge Adjustment	72,554	85,754	158,308

TABLE 15—2017 RECOGNIZED EXPENSES FOR DISTRICT TWO—Continued

Reported expenses for 2017	District Two		
	Undesignated	Designated	Total
	Lake Erie	Southeast shoal to Port Huron	
Total Director's Adjustments	24,414	13,544	37,958
Total Operating Expenses (OpEx + Adjustments)	963,407	1,422,030	2,385,437

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2017 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation for 2017 to 2018 using the BLS data from the CPI for the Midwest Region of the United States.[47] Because the BLS does not provide forecasted inflation data, we use economic projections from the Federal Reserve for the 2019 and 2020 inflation modification.[48] [49] Based on that information, the calculations for Step 1 are as follows in table 16:

TABLE 16—ADJUSTED OPERATING EXPENSES FOR DISTRICT TWO

Item	District Two		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$963,407	$1,422,030	$2,385,437
2018 Inflation Modification (@1.9%)	18,305	27,019	45,324
2019 Inflation Modification (@1.8%)	17,671	26,083	43,754
2020 Inflation Modification (@2%)	19,988	29,503	49,491
Adjusted 2020 Operating Expenses	1,019,371	1,504,635	2,524,006

C. Step 3: Estimate Number of Working Pilots

In accordance with the text in § 404.103, we estimate the number of working pilots in each district. We determine the number of working pilots based on input from the LPA. Using these numbers, we estimate that there will be 15 working pilots in 2020 in District Two. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 17. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 17—AUTHORIZED PILOTS

Item	District Two
Maximum number of pilots (per § 401.220(a)) [50]	15
2020 Authorized pilots (total)	15
Pilots assigned to designated areas	7
Pilots assigned to undesignated areas	8

D. Step 4: Determine Target Pilot Compensation Benchmark

In this step, we determine the total pilot compensation for each area. As we are conducting an interim ratemaking this year, we follow the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. Because we do not have a value for the employment cost index for 2020, we multiply the 2019 compensation benchmark of $359,887 by the Median PCE Inflation value of 2.0 percent.[51] Based on the projected 2020 inflation estimate, the compensation benchmark for 2020 is $367,085 per pilot.

Next, we verify that the number of pilots estimated for 2020 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed is 15 pilots for District Two, which is more than or equal to the numbers of working pilots provided by the pilot associations.[52]

Thus, in accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for District Two, as shown in table 18.

TABLE 18—TARGET COMPENSATION FOR DISTRICT TWO

	Undesignated	Designated	Total
Target Pilot Compensation	$367,085	$367,085	$367,085

[47] USCG–2019–0736–0003, p. 3.

[48] USCG–2019–0736–0002, p. 5.

[49] USCG–2019–0736–0002, p. 5.

[50] For a detailed calculation refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[51] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20190320.pdf.*

[52] See table 6 of the Great Lakes Pilotage Rates—2017 Annual Review final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

TABLE 18—TARGET COMPENSATION FOR DISTRICT TWO—Continued

	Undesignated	Designated	Total
Number of Pilots	8	7	15
Total Target Pilot Compensation	$2,936,680	$2,569,595	$5,506,275

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add together the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high-grade corporate securities. Using Moody's data, the number is 3.93 percent.[53] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 19.

TABLE 19—WORKING CAPITAL FUND CALCULATION FOR DISTRICT TWO

Item	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$1,019,371	$1,504,635	$2,524,006
Total Target Pilot Compensation (Step 4)	2,936,680	2,569,595	5,506,275
Total 2020 Expenses (Step 2 + Step 4)	3,956,051	4,074,230	8,030,281
Working Capital Fund (Total Expenses × 3.93%)	155,473	160,117	315,590

F. Step 6: Project Needed Revenue

In this step, we add together all of the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). We show these calculations in table 20.

TABLE 20—REVENUE NEEDED FOR DISTRICT TWO

	District Two		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2, See Table 16)	$1,019,371	$1,504,635	$2,524,006
Total Target Pilot Compensation (Step 4, See Table 18)	2,936,680	2,569,595	5,506,275
Working Capital Fund (Step 5, See Table 19)	155,473	160,117	315,590
Total Revenue Needed	4,111,524	4,234,347	8,345,871

G. Step 7: Calculate Initial Base Rates

Having determined the needed revenue for each area in the previous six steps to develop an hourly rate, we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the average hours of traffic over 10 years in District Two, using the total time on task or pilot bridge hours.[54] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 21.

TABLE 21—TIME ON TASK FOR DISTRICT TWO

[Hours]

Year	Undesignated	Designated
2018	6,150	6,655
2017	5,139	6,074
2016	6,425	5,615
2015	6,535	5,967
2014	7,856	7,001
2013	4,603	4,750
2012	3,848	3,922
2011	3,708	3,680
2010	5,565	5,235
2009	3,386	3,017
Average	5,322	5,192

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in table 22.

TABLE 22—INITIAL RATE CALCULATIONS FOR DISTRICT TWO

Item	Undesignated	Designated
Revenue needed (Step 6)	$4,111,524	$4,234,347

[53] USCG–2019–0736–0005, p. 3.

[54] USCG–2019–0736–0002 p. 5.

TABLE 22—INITIAL RATE CALCULATIONS FOR DISTRICT TWO—Continued

Item	Undesignated	Designated
Average time on task (hours)	5,322	5,192
Initial rate (Step 6÷Average Time on Task)	773	816

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculated the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 23 and 24.[55]

TABLE 23—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, UNDESIGNATED AREAS

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 1 (2014)	31	1	31
Class 1 (2015)	35	1	35
Class 1 (2016)	32	1	32
Class 1 (2017)	21	1	21
Class 1 (2018)	37	1	37
Class 2 (2014)	356	1.15	409.4
Class 2 (2015)	354	1.15	407.1
Class 2 (2016)	380	1.15	437
Class 2 (2017)	222	1.15	255.3
Class 2 (2018)	123	1.15	141.45
Class 3 (2014)	20	1.3	26
Class 3 (2015)	0	1.3	0
Class 3 (2016)	9	1.3	11.7
Class 3 (2017)	12	1.3	15.6
Class 3 (2018)	3	1.3	3.9
Class 4 (2014)	636	1.45	922.2
Class 4 (2015)	560	1.45	812
Class 4 (2016)	468	1.45	678.6
Class 4 (2017)	319	1.45	462.55
Class 4 (2018)	196	1.45	284.20
Total	3,814		5,023
Average weighting factor (weighted transits/number of transits)		1.32	

TABLE 24—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, DESIGNATED AREAS

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 1 (2014)	20	1	20
Class 1 (2015)	15	1	15
Class 1 (2016)	28	1	28
Class 1 (2017)	15	1	15
Class 1 (2018)	42	1	42
Class 2 (2014)	237	1.15	272.55
Class 2 (2015)	217	1.15	249.55
Class 2 (2016)	224	1.15	257.6
Class 2 (2017)	127	1.15	146.05
Class 2 (2018)	153	1.15	175.95
Class 3 (2014)	8	1.3	10.4
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	4	1.3	5.2
Class 3 (2017)	4	1.3	5.2
Class 3 (2018)	14	1.3	18.2
Class 4 (2014)	359	1.45	520.55
Class 4 (2015)	340	1.45	493
Class 4 (2016)	281	1.45	407.45
Class 4 (2017)	185	1.45	268.25

[55] USCG–2019–0736–0006, p.2.

TABLE 24—AVERAGE WEIGHTING FACTOR FOR DISTRICT TWO, DESIGNATED AREAS—Continued

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 4 (2018)	379	1.45	549.55
Total	2,660		3,510
Average weighting factor (weighted transits/number of transits)		1.32	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage would be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in table 25.

TABLE 25—REVISED BASE RATES FOR DISTRICT TWO

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate ÷ average weighting factor)
District Two: Designated	$816	1.32	$618
District Two: Undesignated	773	1.32	586

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish that the rates do meet the goal of ensuring safe, efficient and reliable pilotage, the Director considers whether the rates incorporate appropriate compensation for pilots to handle heavy traffic periods, and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the rates will cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on this information, the Director is not making any alterations to the rates in this step. We modified the text in § 401.405(a) to reflect the final rates shown in table 26.

TABLE 26—FINAL RATES FOR DISTRICT TWO

Area	Name	Final 2019 pilotage rate	Proposed 2020 pilotage rate	Final 2020 pilotage rate
District Two: Designated	Navigable waters from Southeast Shoal to Port Huron, MI.	$603	$602	$618
District Two: Undesignated	Lake Erie	531	573	586

District Three

A. Step 1: Recognize Previous Operating Expenses

Step 1 in our ratemaking methodology requires that the Coast Guard review and recognize the previous year's operating expenses (§ 404.101). To do so, we begin by reviewing the independent accountant's financial reports for each association's 2017 expenses and revenues.[56] For accounting purposes, the financial reports divide expenses into designated and undesignated areas. In certain instances, costs are applied to the undesignated or designated area based on where they were actually accrued. For example, costs for ''Applicant pilot license insurance'' in District One are assigned entirely to the undesignated areas, as applicant pilots work exclusively in those areas. For costs accrued by the pilot associations generally, for example, employee benefits, the cost is divided between the designated and undesignated areas on a *pro rata* basis. The recognized operating expenses for District Three are shown in table 27.

In addition to the surcharge adjustment and lobbying expenses described for District One in Section VII A. of this preamble, *Step 1: Recognize previous operating expenses* and the adjustments made by the auditor, as explained in the auditor's reports, which are available in the docket for this rulemaking where indicated in the **ADDRESSES** portion of this document, the Director is finalizing two adjustments to District Three's operating expenses, listed as Director's adjustments.

The first disallows $32,800 in ''housing allowance'' expenses. The Coast Guard agrees with the IRS that an employer-provided housing allowance is a fringe benefit, and we consider it to be employee compensation. In addition, we expect those appointed as registered pilots pilot to live in the region in which they are employed. We expect that, if a pilot chooses to live outside their region of employment, they should have to pay for their accommodations, and this cost should not be passed on to the shippers via the rate. Therefore, we are not including any housing allowance the district chooses to

[56] These reports are available in the docket for this rulemaking (see Docket # USCG–2019–0736).

provide their pilots in the ratemaking calculation.

The second Director's adjustment is a $265,309 surcharge adjustment to account for the difference between the amount the district spent on applicant pilot wages and benefits in 2017 to cover the training costs for seven applicant pilots, and the amount actually collected via the 2017 surcharge. In total, District Three spent $647,606 on applicant pilot compensation for seven applicant pilots and received $382,297 via the surcharge in 2017. As a result, we are including a $265,309 surcharge adjustment ($647,606—$382,297) in the recognized expenses for District Three. We allocated this adjustment to each area based on their proportional bridge hours in 2017 (See table 33 for bridge hours).

TABLE 27—2017 RECOGNIZED EXPENSES FOR DISTRICT THREE

Reported expenses for 2017	District Three			Total
	Undesignated [57] (Area 6)	Designated (Area 7)	Undesignated [58] (Area 8)	
	Lakes Huron and Michigan	St. Mary's River	Lake Superior	
Operating Expenses:				
Other Pilotage Costs:				
Subsistence/Travel—Pilot	$237,036	$93,461	$92,458	$422,955
CPA Adjustment	−11,178	−4,407	−4,360	−19,945
Subsistence/Travel—Applicant	90,123	35,535	35,154	160,812
Payroll Taxes—Pilots	124,088	48,927	48,402	221,417
Payroll Taxes—Applicants	25,553	10,075	9,967	45,595
License Insurance—Pilots	15,631	6,163	6,097	27,891
Training—Pilots	25,830	10,185	10,075	46,090
Training—Applicants	16,325	6,437	6,368	29,130
Housing Allowance	18,382	7,248	7,170	32,800
Winter Meeting	14,795	5,834	5,771	26,400
Cell Phone Allowance	26,186	10,325	10,214	46,725
Other Pilotage Costs	49,252	19,420	19,211	87,883
CPA Adjustment	−3,699	−1,446	−1,431	−6,576
Total Other Pilotage Costs	628,324	247,757	245,096	1,121,177
Pilot Boat and Dispatch Costs:				
Pilot boat costs	397,610	156,774	155,092	709,476
CPA Adjustment	−27,756	−10,944	−10,826	−49,526
Dispatch costs	99,705	39,313	38,891	177,909
Payroll taxes	9,351	3,687	3,648	16,686
Dispatch Employee Benefits	3,927	1,548	1,532	7,007
Total Pilot and Dispatch Costs	482,837	190,378	188,337	861,552
Administrative Expenses:				
Legal—General Counsel	32,149	12,676	12,540	57,365
Legal—Shared Counsel	18,730	7,385	7,306	33,421
Office Rent	4,733	1,866	1,846	8,445
Insurance	3,715	1,465	1,449	6,629
Employee benefits	76,093	30,003	29,681	135,777
Workers Compensation	1,513	597	590	2,700
Payroll Taxes	6,408	2,527	2,500	11,435
Other Taxes	1,034	408	403	1,845
Admin Travel	676	267	264	1,207
Depreciation/Auto Leasing/Other	50,959	20,093	19,877	90,929
Interest	2,262	892	882	4,036
APA Dues	20,544	8,100	8,013	36,657
Utilities	5,335	2,103	2,081	9,519
Admin Salaries	64,004	25,236	24,966	114,206
Accounting/Professional Fees	34,390	13,560	13,414	61,364
Other	6,170	2,433	2,407	11,010
Total Administrative Expenses	328,715	129,611	128,219	586,545
Total Operating Expenses (Other Costs + Pilot Boats + Admin)	1,439,876	567,746	561,652	2,569,274
Adjustments (Director):				
Housing Allowance	−18,382	−7,248	−7,170	−32,800
Surcharge Adjustment	116,056	33,197	116,056	265,309
Total Director's Adjustments	97,674	25,949	108,886	232,509
Total Operating Expenses (OpEx + Adjustments)	1,537,550	593,695	670,538	2,801,783

B. Step 2: Project Operating Expenses, Adjusting for Inflation or Deflation

Having identified the recognized 2017 operating expenses in Step 1, the next step is to estimate the current year's operating expenses by adjusting those expenses for inflation over the 3-year period. We calculate inflation for 2017 to 2018 using the BLS data from the CPI for the Midwest Region of the United States.[59] Because the BLS does not provide forecast inflation data, we use economic projections from the Federal Reserve for the 2019 and 2020 inflation modification.[60, 61] Based on that information, the calculations for Step 1 are as follows:

TABLE 28—ADJUSTED OPERATING EXPENSES FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Total Operating Expenses (Step 1)	$2,208,088	$593,695	$2,801,783
2018 Inflation Modification (@1.9%)	41,954	11,280	53,234
2019 Inflation Modification (@1.8%)	40,501	10,890	51,391
2020 Inflation Modification (@2%)	45,811	12,317	58,128
Adjusted 2020 Operating Expenses	2,336,354	628,182	2,964,536

C. Step 3: Estimate Number of Working Pilots

In accordance with the text in § 404.103, we estimate the number of working pilots in each district. We determine the number of working pilots based on input from the Western Great Lakes Pilots Association. Using these numbers, we estimate that there will be 20 working pilots in 2020 in District Three. Furthermore, based on the seasonal staffing model discussed in the 2017 ratemaking (see 82 FR 41466), we assign a certain number of pilots to designated waters and a certain number to undesignated waters, as shown in table 29. These numbers are used to determine the amount of revenue needed in their respective areas.

TABLE 29—AUTHORIZED PILOTS

	District Three
Maximum number of pilots (per § 401.220(a))[62]	22
2020 Authorized pilots (total)	20
Pilots assigned to designated areas	4
Pilots assigned to undesignated areas	16

D. Step 4: Determine Target Pilot Compensation Benchmark

In this step, we determine the total pilot compensation for each area. As we are conducting an ''interim'' ratemaking this year, we are following the procedure outlined in paragraph (b) of § 404.104, which adjusts the existing compensation benchmark by inflation. Because we do not have a value for the employment cost index for 2020, we multiply the 2019 compensation benchmark of $359,887 by the Median PCE Inflation value of 2.0 percent.[63] Based on the projected 2020 inflation estimate, the compensation benchmark for 2020 is $367,085 per pilot.

Next, we verify that the number of pilots estimated for 2020 is less than or equal to the number permitted under the staffing model in § 401.220(a). The staffing model suggests that the number of pilots needed for District Three is 22 pilots,[64] which is more than or equal to the numbers of working pilots provided by the pilot associations.

Thus, in accordance with § 404.104(c), we use the revised target individual compensation level to derive the total pilot compensation by multiplying the individual target compensation by the estimated number of working pilots for District Three, as shown in table 30.

TABLE 30—TARGET COMPENSATION FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Target Pilot Compensation	$367,085	$367,085	$367,085
Number of Pilots	16	4	20
Total Target Pilot Compensation	$5,873,360	$1,468,340	$7,341,700

E. Step 5: Project Working Capital Fund

Next, we calculate the working capital fund revenues needed for each area. First, we add together the figures for projected operating expenses and total pilot compensation for each area. Next, we find the preceding year's average annual rate of return for new issues of high grade corporate securities. Using Moody's data, the number is 3.93 percent.[65] By multiplying the two figures, we obtain the working capital fund contribution for each area, as shown in table 31.

[57] The undesignated areas in District Three (areas 6 and 8) are treated separately in table 27. In table 28 and subsequent tables, both undesignated areas are combined and analyzed as a single undesignated area.

[58] For a detailed calculation, refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[59] USCG–2019–0736–0003, p. 3.

[60] USCG–2019–0736–0002, p. 5.

[61] USCG–2019–0736–0002, p. 5.

[62] For a detailed calculation refer to the Great Lakes Pilotage Rates—2017 Annual Review final rule, which contains the staffing model. See 82 FR 41466, table 6 at 41480 (August 31, 2017).

[63] *https://www.federalreserve.gov/monetarypolicy/files/fomcprojtabl20190320.pdf.*

[64] See table 6 of the Great Lakes Pilotage Rates—2017 Annual Review final rule, 82 FR 41466 at 41480 (August 31, 2017). The methodology of the staffing model is discussed at length in the final rule (see pages 41476–41480 for a detailed analysis of the calculations).

[65] USCG–2019–0736–0005, p. 3.

TABLE 31—WORKING CAPITAL FUND CALCULATION FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2)	$2,336,354	$628,182	$2,964,536
Total Target Pilot Compensation (Step 4)	5,873,360	1,468,340	7,341,700
Total 2020 Expenses (Step 2 + Step 4)	8,209,714	2,096,522	10,306,236
Working Capital Fund (Total Expenses × 3.93%)	322,642	82,393	405,035

F. Step 6: Project Needed Revenue

In this step, we add together all of the expenses accrued to derive the total revenue needed for each area. These expenses include the projected operating expenses (from Step 2), the total pilot compensation (from Step 4), and the working capital fund contribution (from Step 5). We show these calculations in table 32.

TABLE 32—REVENUE NEEDED FOR DISTRICT THREE

	District Three		
	Undesignated	Designated	Total
Adjusted Operating Expenses (Step 2, See Table 28)	$2,336,354	$628,182	$2,964,536
Total Target Pilot Compensation (Step 4, See Table 30)	5,873,360	1,468,340	7,341,700
Working Capital Fund (Step 5, See Table 31)	322,642	82,393	405,035
Total Revenue Needed	8,532,356	2,178,915	10,711,271

G. Step 7: Calculate Initial Base Rates

Having determined the revenue needed for each area in the previous six steps to develop an hourly rate, we divide that number by the expected number of hours of traffic. Step 7 is a two-part process. In the first part, we calculate the average hours of traffic over 10 years in District Three, using the total time on task or pilot bridge hours.[66] Because we calculate separate figures for designated and undesignated waters, there are two parts for each calculation. We show these values in table 33.

TABLE 33—TIME ON TASK FOR DISTRICT THREE (HOURS)

Year	District Three	
	Undesignated	Designated
2018	19,967	3,455
2017	20,955	2,997
2016	23,421	2,769
2015	22,824	2,696
2014	25,833	3,835
2013	17,115	2,631
2012	15,906	2,163
2011	16,012	1,678
2010	20,211	2,461
2009	12,520	1,820
Average	19,476	2,651

Next, we derive the initial hourly rate by dividing the revenue needed by the average number of hours for each area. This produces an initial rate, which is necessary to produce the revenue needed for each area, assuming the amount of traffic is as expected. The calculations for each area are set forth in table 34.

TABLE 34—INITIAL RATE CALCULATIONS FOR DISTRICT THREE

	Undesignated	Designated
Revenue needed (Step 6)	$8,532,356	$2,178,915
Average time on task (hours)	19,476	2,651

[66] USCG–2019–0736–0002, p. 5.

TABLE 34—INITIAL RATE CALCULATIONS FOR DISTRICT THREE—Continued

	Undesignated	Designated
Initial rate	$438	$822

H. Step 8: Calculate Average Weighting Factors by Area

In this step, we calculate the average weighting factor for each designated and undesignated area. We collect the weighting factors, set forth in 46 CFR 401.400, for each vessel trip. Using this database, we calculate the average weighting factor for each area using the data from each vessel transit from 2014 onward, as shown in tables 35 and 36.[67]

TABLE 35—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, UNDESIGNATED AREAS

Vessel class/year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Area 6:			
Class 1 (2014)	45	1	45
Class 1 (2015)	56	1	56
Class 1 (2016)	136	1	136
Class 1 (2017)	148	1	148
Class 1 (2018)	103	1	103
Class 2 (2014)	274	1.15	315.1
Class 2 (2015)	207	1.15	238.05
Class 2 (2016)	236	1.15	271.4
Class 2 (2017)	264	1.15	303.6
Class 2 (2018)	169	1.15	194.35
Class 3 (2014)	15	1.3	19.5
Class 3 (2015)	8	1.3	10.4
Class 3 (2016)	10	1.3	13
Class 3 (2017)	19	1.3	24.7
Class 3 (2018)	9	1.3	11.7
Class 4 (2014)	394	1.45	571.3
Class 4 (2015)	375	1.45	543.75
Class 4 (2016)	332	1.45	481.4
Class 4 (2017)	367	1.45	532.15
Class 4 (2018)	337	1.45	488.65
Total for Area 6	3,504	.....	4,507.05
Area 8:			
Class 1 (2014)	3	1	3
Class 1 (2015)	0	1	0
Class 1 (2016)	4	1	4
Class 1 (2017)	4	1	4
Class 1 (2018)	0	1	0
Class 2 (2014)	177	1.15	203.55
Class 2 (2015)	169	1.15	194.35
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	151	1.15	173.65
Class 2 (2018)	102	1.15	117.3
Class 3 (2014)	3	1.3	3.9
Class 3 (2015)	0	1.3	0
Class 3 (2016)	7	1.3	9.1
Class 3 (2017)	18	1.3	23.4
Class 3 (2018)	7	1.3	9.1
Class 4 (2014)	243	1.45	352.35
Class 4 (2015)	253	1.45	366.85
Class 4 (2016)	204	1.45	295.8
Class 4 (2017)	269	1.45	390.05
Class 4 (2018)	188	1.45	272.6
Total for Area 8	1,976	.....	2623.1
Combined total	5,480	.....	7,130.15
Average weighting factor (weighted transits/number of transits)	.....	1.30	.....

[67] USCG–2019–0736–0006, p.2

TABLE 36—AVERAGE WEIGHTING FACTOR FOR DISTRICT THREE, DESIGNATED AREAS

Vessel class per year	Number of transits (A)	Weighting factor (B)	Weighted transits (A × B)
Class 1 (2014)	27	1	27
Class 1 (2015)	23	1	23
Class 1 (2016)	55	1	55
Class 1 (2017)	62	1	62
Class 1 (2018)	47	1	47
Class 2 (2014)	221	1.15	254.15
Class 2 (2015)	145	1.15	166.75
Class 2 (2016)	174	1.15	200.1
Class 2 (2017)	170	1.15	195.5
Class 2 (2018)	126	1.15	144.9
Class 3 (2014)	4	1.3	5.2
Class 3 (2015)	0	1.3	0
Class 3 (2016)	6	1.3	7.8
Class 3 (2017)	14	1.3	18.2
Class 3 (2018)	6	1.3	7.8
Class 4 (2014)	321	1.45	465.45
Class 4 (2015)	245	1.45	355.25
Class 4 (2016)	191	1.45	276.95
Class 4 (2017)	234	1.45	339.3
Class 4 (2018)	225	1.45	326.25
Total	2,296		2,977
Average weighting factor (weighted transits per number of transits)		1.30	

I. Step 9: Calculate Revised Base Rates

In this step, we revise the base rates so that once the impact of the weighting factors are considered, the total cost of pilotage would be equal to the revenue needed. To do this, we divide the initial base rates, calculated in Step 7, by the average weighting factors calculated in Step 8, as shown in table 37.

TABLE 37—REVISED BASE RATES FOR DISTRICT THREE

Area	Initial rate (Step 7)	Average weighting factor (Step 8)	Revised rate (initial rate ÷ average weighting factor)
District Three: Designated	$822	1.30	$632
District Three: Undesignated	438	1.30	337

J. Step 10: Review and Finalize Rates

In this step, the Director reviews the rates set forth by the staffing model and ensures that they meet the goal of ensuring safe, efficient, and reliable pilotage. To establish that the rates do meet the goal of ensuring safe, efficient, and reliable pilotage, the Director considers whether the rates incorporate appropriate compensation for pilots to handle heavy traffic periods and whether there is a sufficient number of pilots to handle those heavy traffic periods. The Director also considers whether the rates will cover operating expenses and infrastructure costs, and takes average traffic and weighting factors into consideration. Based on this information, the Director is not making any alterations to the rates in this step. We modified the text in § 401.405(a) to reflect the final rates shown in table 38.

TABLE 38—FINAL RATES FOR DISTRICT THREE

Area	Name	Final 2019 pilotage rate	Proposed 2020 pilotage rate	Final 2020 pilotage rate
District Three: Designated	St. Mary's River	$594	$621	$632
District Three: Undesignated	Lakes Huron, Michigan, and Superior	306	327	337

K. Surcharges

The Coast Guard is not implementing any surcharges in this ratemaking. As stated earlier, we previously used surcharges to pay for the training of new pilots, rather than incorporating training costs into the overall ''needed revenue'' that is used in the calculation of the base rate, because the surcharge accelerates the reimbursement of certain necessary and reasonable expense. For the 2019 ratemaking, this

reimbursement needed to be accelerated because of the large number of registered pilots retiring, and the large number of new pilots being trained to replace them. As the vast majority of registered pilots are not anticipated to retire in the next 20 years, the Coast Guard believes that pilot associations are now able to plan for the costs associated with retirements without relying on the Coast Guard to impose surcharges.

VIII. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled ''Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows.

The purpose of this final rule is to establish new base pilotage rates. The Great Lakes Pilotage Act of 1960 requires that rates be established or reviewed and adjusted each year. The Act requires that base rates be established by a full ratemaking at least once every five years, and in years when base rates are not established, they must be reviewed and, if necessary, adjusted. The last full ratemaking was concluded in June of 2018.[68] The Coast Guard estimates an increase in cost of approximately $279,845 to industry as a result of the change in revenue needed in 2020 compared to the revenue needed in 2019. This is a 1 percent net increase in estimated payments made by shippers from the 2019 shipping season. Table 39 summarizes changes with no cost impacts or where the cost impacts are captured in the final rate change. Table 40 summarizes the affected population, costs, and benefits of the final rate change. The Coast Guard estimates an increase in cost of approximately $279,845 to industry as a result of the change in revenue needed in 2020 compared to the revenue needed in 2019. This is a 1 percent net increase in estimated payments made by shippers from the 2019 shipping season.

TABLE 39—CHANGES WITH NO COSTS OR COST CAPTURED IN THE FINAL RATE

Change	Description	Affected population	Basis for no cost	Benefits
Working capital fund requirements.	The Coast Guard is adding regulatory text to § 403.110 requiring the pilotage associations keep money allocated to the working capital fund in a separate account and limit the use of the funds to infrastructure expenses.	The 3 pilotage associations ..	All three districts opened accounts for the working capital fund in response to a policy letter sent by the Coast Guard in November, 2018; therefore, there is no additional cost as a result of this rulemaking. In addition, based on discussion with the associations, the cost to open these accounts was negligible, as each association was able to open a bank account online with their existing financial institutions with minimal effort. Record-keeping associated with the new bank accounts may be conducted simultaneously with the record-keeping for the existing accounts, as all accounts are with the same financial institution. In addition, the associations must already report and keep records on their infrastructure expense as part of their reporting requirements under § 403.105.	Provides increased transparency and oversight of how the money in the working capital fund is spent and how much each association has allocated for infrastructure expenses.

[68] Great Lakes Pilotage Rates—2018 Annual Review and Revisions to Methodology (83 FR 26162), published June 5, 2018.

TABLE 39—CHANGES WITH NO COSTS OR COST CAPTURED IN THE FINAL RATE—Continued

Change	Description	Affected population	Basis for no cost	Benefits
Address inconsistent terms.	The Coast Guard is replacing the text in § 404.106, "return on investment" with "working capital fund".	The 3 pilotage associations ..	The Coast Guard previously renamed the "return on investment" as the "working capital fund" in the Great Lakes Pilotage Rates 2017 Annual Review final rule (82 FR 41466); however, this text was not modified in that rulemaking.	Creates consistency across the CFR and reduces confusion.
Target pilot compensation.	The Coast Guard is changing the base pilot compensation benchmark in § 401.405(a) to the 2019 compensation benchmark after adjusting for inflation.	Owners and operators of 266 vessels journeying the Great Lakes system annually, 52 U.S. Great Lakes pilots, and 3 pilotage associations.	Pilot compensation costs are accounted for in the base pilotage rates.	This compensation target achieves the Coast Guard's goals of safety through rate and compensation stability, while promoting recruitment and retention of qualified U.S. registered pilots.

TABLE 40—ECONOMIC IMPACTS DUE TO RATE CHANGES

Change	Description	Affected population	Costs	Benefits
Rate and surcharge changes.	Under the Great Lakes Pilotage Act of 1960, the Coast Guard is required to review and adjust base pilotage rates annually.	Owners and operators of 266 vessels transiting the Great Lakes system annually, 52 U.S. Great Lakes pilots, and 3 pilotage associations.	Increase of $279,845 due to change in revenue needed for 2020 ($28, 268,030) from revenue needed for 2019 ($27,988,185) as shown in Table 41 below.	Promotes safe, efficient, and reliable pilotage service on the Great Lakes. Provides fair compensation, adequate training, and sufficient rest periods for pilots. New rates cover an association's necessary and reasonable operating expenses. Ensures the association receives sufficient revenues to fund future improvements.

Table 41 summarizes the changes in the regulatory analysis from the NPRM to the final rule. The Coast Guard made these changes as a result of public comments received after publication of the NPRM. The Coast Guard did not receive any comments on the regulatory analysis itself, but did receive comments on the operating expenses that affected the calculation of projected revenues. In the final rule, the Coast Guard made two adjustments to the operating expenses based on public comment: (1) We adjusted the operating expenses to include the 3 percent shared council fee which we incorrectly deducted in the NPRM; and (2) we added a surcharge adjustment for District 2 and District 3 to account for the differences between their accrued training expenses and the amount of money they collected via the surcharge. An in-depth discussion of these comments is located in Section VI of the preamble, Discussion of Comments.

TABLE 41—SUMMARY OF CHANGES FROM NPRM TO FINAL RULE

Element of the analysis	NPRM	Final rule	Resulting change in RA
Operating Expenses (Step 1).	Incorrectly deducted 3% shared council expenses from the operating expenses for all districts. Did not include required surcharge adjustments for District 2 and District 3.	Removes deduction for all three districts. Includes a $158,308 surcharge adjustment for District 2 and a $265,309 surcharge adjustment for District 3.	Data affects the calculation of projected revenues.

The Coast Guard is required to review and adjust pilotage rates on the Great Lakes annually. See Sections III and IV of this preamble for detailed discussions of the legal basis and purpose for this rulemaking and for background information on Great Lakes pilotage ratemaking. Based on our annual review for this rulemaking, we adjusted the pilotage rates for the 2020 shipping season to generate sufficient revenues for each district to reimburse its necessary and reasonable operating expenses, fairly compensate trained and rested pilots, and provide an appropriate working capital fund to use for improvements. The rate changes in this final rule will increase the rates for

five areas (District One: Designated, all of District Two, and all of District Three), and decrease the rates for the remaining area (District One: Undesignated). In addition, the final rule will not implement a surcharge. These changes lead to a net increase in the cost of service to shippers. However, because the rates will increase for most areas and decrease for one, the change in per unit cost to each individual shipper will be dependent on their area of operation, and if they previously paid a surcharge.

A detailed discussion of our economic impact analysis follows.

Affected Population

This final rule will impact U.S. Great Lakes pilots, the three pilot associations, the Saint Lawrence Seaway Pilotage Association, the Lakes Pilotage Association, and the Western Great Lakes Pilotage, and the owners and operators of oceangoing vessels that transit the Great Lakes annually. We estimate that there will be 52 pilots working during the 2020 shipping season. The shippers affected by these rate changes are the owners and operators of domestic vessels operating ''on register'' (engaged in foreign trade) and owners and operators of non-Canadian foreign vessels on routes within the Great Lakes system. These owners and operators must have pilots or pilotage service as required by 46 U.S.C. 9302. There is no minimum tonnage limit or exemption for these vessels. The statute applies only to commercial vessels and not to recreational vessels. U.S.-flagged vessels not operating on register and Canadian ''lakers,'' which account for most commercial shipping on the Great Lakes, are not required by 46 U.S.C. 9302 to have pilots. However, these U.S.- and Canadian-flagged lakers may voluntarily choose to engage a Great Lakes registered pilot. Vessels that are U.S.-flagged may opt to have a pilot for varying reasons, such as unfamiliarity with designated waters and ports, or for insurance purposes.

The Coast Guard used billing information from the years 2016 through 2018 from the Great Lakes Pilotage Management System (GLPMS) to estimate the average annual number of vessels affected by the rate adjustment.[69] The GLPMS tracks data related to managing and coordinating the dispatch of pilots on the Great Lakes, and billing in accordance with the services. As described in Step 7 of the methodology, we use a 10-year average to estimate the traffic. However, when we reviewed 10 years of the most recent billing data, we found that the data included vessels that have not used pilotage services in recent years. Therefore, we used 3 years of the most recent billing data to estimate the affected population. Using 3 years of billing data is a better representation of the vessel population currently using pilotage services and, therefore, mostly likely be impacted by this rulemaking. We found that 457 unique vessels used pilotage services during the years 2016 through 2018. That is, these vessels had a pilot dispatched to the vessel, and billing information was recorded in the GLPMS. Of these vessels, 420 were foreign-flagged vessels and 37 were U.S.-flagged vessels. As previously stated, U.S.-flagged vessels not operating on register are not required to have a registered pilot per 46 U.S.C. 9302, but can voluntarily choose to have one.

Numerous factors affect vessel traffic, which varies from year to year. Therefore, rather than using the total number of vessels over the time period, we took an average of the unique vessels using pilotage services from the years 2016 through 2018 as the best representation of vessels estimated to be affected by the rates in this rulemaking. From 2016 through 2018, an average of 266 vessels used pilotage services annually.[70] On average, 248 of these vessels were foreign-flagged vessels and 18 were U.S.-flagged vessels that voluntarily opted into the pilotage service.

Total Cost to Shippers

The rate changes from this final rule will result in a net increase in the cost of service to shippers. However, because the rates will increase for five areas and decrease for one, the change in per unit cost to each individual shipper is dependent on their area of operation, and if they previously paid a surcharge.

The Coast Guard estimates the effect of the rate changes on shippers by comparing the total projected revenues needed to cover costs in 2019 with the total projected revenues to cover costs in 2020, including any temporary surcharges we have authorized.[71] We set pilotage rates so that pilot associations receive enough revenue to cover their necessary and reasonable expenses. Shippers pay these rates when they have a pilot, as required by 46 U.S.C. 9302. Therefore, the aggregate payments of shippers to pilot associations are equal to the projected necessary revenues for pilot associations. The revenues each year represent the total costs that shippers must pay for pilotage services. The change in revenue from the previous year is the additional cost to shippers discussed in this rule.

The impacts of the rate changes on shippers are estimated from the district pilotage projected revenues (shown in tables 8, 20, and 32 of this preamble). The Coast Guard estimates that for the 2020 shipping season, the projected revenue needed for all three districts is $28,268,030.

To estimate the change in cost to shippers from this rule, the Coast Guard compared the 2020 total projected revenues to the 2019 projected revenues. Because we review and prescribe rates for the Great Lakes Pilotage annually, the effects are estimated as a single-year cost rather than annualized over a 10-year period. In the 2019 rulemaking, we estimated the total projected revenue needed for 2019, including surcharges, as $27,988,185.[72] This is the best approximation of 2019 revenues, as, at the time of this publication, we do not have enough audited data available for the 2019 shipping season to revise these projections. Table 42 shows the revenue projections for 2019 and 2020 and details the additional cost increases to shippers by area and district as a result of the rate changes on traffic in Districts One, Two, and Three.

[69] 2019 GLPMS was not available at the time of analysis, December 2019.

[70] Some vessels entered the Great Lakes multiple times in a single year, affecting the average number of unique vessels utilizing pilotage services in any given year.

[71] While the Coast Guard implemented a surcharge in 2019, we are not implementing any surcharges for 2020.

[72] 84 FR 20551, see table 36.

TABLE 42—EFFECT OF THE RULE BY AREA AND DISTRICT
[$U.S.; Non-discounted]

Area	Revenue needed in 2019	2019 temporary surcharge	Total 2019 projected revenue	Revenue needed in 2020	2020 temporary surcharge	Total 2020 projected revenue	Change in costs of this rule	Percentage change from previous year
Total, District One	$9,271,852	$300,000	$9,571,852	$9,210,888	$0	$9,210,888	−$360,964	−4
Total, District Two	7,864,224	150,000	8,014,224	8,345,871	0	8,345,871	331,647	4
Total, District Three	9,802,109	600,000	10,402,109	10,711,271	0	10,711,271	309,162	3
System Total	26,938,185	1,050,000	27,988,185	28,268,030	0	28,268,030	279,845	1

The resulting difference between the projected revenue in 2019 and the projected revenue in 2020 is the annual change in payments from shippers to pilots as a result of the rate change imposed by this rule. The effect of the rate change to shippers varies by area and district. The rate changes, after taking into account the change in pilotage rates, will lead to affected shippers operating in District One experiencing a decrease in payments of $360,964 over the previous year. District Two and District Three will experience an increase in payments of $331,647 and $309,162 respectively, when compared with 2019. The overall adjustment in payments will be an increase in payments by shippers of $279,845 across all three districts (a 1-percent increase when compared with 2019). Again, because the Coast Guard reviews and sets rates for Great Lakes Pilotage annually, we estimate the impacts as single-year costs rather than annualizing them over a 10-year period.

Table 43 shows the difference in revenue by revenue-component from 2019 to 2020, and presents each revenue-component as a percentage of the total revenue needed. In both 2019 and 2020, the largest revenue-component was pilotage compensation (66 percent of total revenue needed in 2019 and 68 percent of total revenue needed in 2020), followed by operating expenses (27 percent of total revenue needed in 2019 and 29 percent of total revenue 2020).

TABLE 43—DIFFERENCE IN REVENUE BY COMPONENT

Revenue-component	Revenue needed in 2019	Percentage of total revenue needed in 2019 (percent)	Revenue needed in 2020	Percentage of total revenue needed in 2020 (percent)	Difference (2020 revenue–2019 revenue)	Percentage change from previous year (percent)
Adjusted Operating Expenses	$7,565,310	27	$8,110,685	29	$545,375	7
Total Target Pilot Compensation	18,354,237	66	19,088,420	68	734,183	4
Working Capital Fund	1,018,638	4	1,068,925	4	50,287	5
Total Revenue Needed, without Surcharge	26,938,185	96	28,268,030	100	1,329,845	5
Surcharge	1,050,000	4	0	0	−1,050,000	−100
Total Revenue Needed, with Surcharge	27,988,185	100	28,268,030	100	279,845	1

Note: Totals may not sum due to rounding.

Table 44 presents the percentage change in revenue by area and revenue-component, excluding surcharges, as they are applied at the district level.[73] The majority of the increase in revenue is due to inflation of operating expenses, and the net addition of one additional pilot. The target compensation for each pilot is $367,085; therefore, the net addition of this pilot to full working status accounts for $367,085 of the increase in the revenue needed. The change in revenue also accounts for the inflation of pilotage compensation and the removal of surcharges to cover the cost of applicant pilot training expenses. The total difference in the revenues needed in 2019 compared to the revenues needed in 2020 is $279,845, which takes into account the effect of increasing compensation for the other 51 pilots. The remaining amount is attributed to increases in the working capital fund.

TABLE 44—DIFFERENCE IN REVENUE BY COMPONENT AND AREA

Area	Adjusted operating expenses	Total target pilot compensation	Working capital fund	Total revenue needed								
				2019	2020	Percentage change	2019	2020	Percentage change	2019	2020	Percentage change
	(A)	(B − A) ÷ B	(B)	(C)	(D)	(D − C) ÷ D	(E)	(F)	(F − E) ÷ F	(G = A + C + E)	(H = B + D + F)	(H − G) ÷ H
District One: Designated	$1,467,171	$1,573,286	7	$3,598,870	$3,670,850	2	$199,095	$206,095	3	$5,265,136	$5,450,231	3
District One: Undesignated	1,335,997	1,048,857	−27	2,519,209	2,569,595	2	151,510	142,205	−7	4,006,716	3,760,657	−7
District Two: Undesignated	1,072,441	1,019,371	−5	2,519,209	2,936,680	14	141,152	155,473	9	3,732,802	4,111,524	9
District Two: Designated	1,455,988	1,504,635	3	2,519,209	2,569,595	2	156,225	160,117	2	4,131,422	4,234,347	2
District Three: Undesignated	1,703,896	2,336,354	27	5,758,192	5,873,360	2	293,260	322,642	9	7,755,348	8,532,356	9
District Three: Designated	529,817	628,182	16	1,439,548	1,468,340	2	77,396	82,393	6	2,046,761	2,178,915	6

[73] The 2019 projected revenues are from the Great Lakes Pilotage Rates—2019 Annual Review and Revisions to Methodology final rule (84 FR 20551) tables 15–17. The 2020 projected revenues are from tables 8, 20, and 32 of this final rule.

Benefits

This final rule allows the Coast Guard to meet the requirements in 46 U.S.C. 9303 to review the rates for pilotage services on the Great Lakes. The rate changes will promote safe, efficient, and reliable pilotage service on the Great Lakes by: (1) Ensuring that rates cover an association's operating expenses; (2) providing fair pilot compensation, adequate training, and sufficient rest periods for pilots; and (3) ensuring pilot associations produce enough revenue to fund future improvements. The rate changes will also help recruit and retain pilots, which will ensure a sufficient number of pilots to meet peak shipping demand, helping reduce delays caused by pilot shortages.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. 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.

For this rule, the Coast Guard considered the potential impact to vessel owners and operators, the three pilotage associations, as well as any other entities that may be impacted by the rule, such as not-for-profit organizations and governmental jurisdictions. First, we reviewed recent company ownership data for the vessels identified in the GLPMS, and then reviewed their business revenue and employment size data provided by publicly available sources such as Manta[74] and ReferenceUSA.[75] As described in Section VIII.A of this preamble, Regulatory Planning and Review, we found that a total of 457 unique vessels used pilotage services from 2016 through 2018. These vessels are owned by 55 entities. We found that, of the 55 entities that own or operate vessels engaged in trade on the Great Lakes that would be affected by this rule, 43 are foreign entities that operate primarily outside the United States, and we do not consider the impact on these entities under the Regulatory Flexibility Act (RFA).[76] The remaining 12 entities are U.S. entities. For each entity, we compared the revenue and employee data found in the company search described above to the Small Business Administration's (SBA) small business threshold as defined in the SBA's ''Table of Size Standards'' for small businesses to determine how many of these companies are small entities.[77] Table 45 shows the North American Industry Classification System (NAICS) codes of the U.S. entities and the small entity standard size established by the SBA.

TABLE 45—NAICS CODES AND SMALL ENTITIES SIZE STANDARDS

NAICS	Description	Small entity size standard
211120	Crude Petroleum Extraction	1,250 employees.
238910	Site Preparation Contractors	$15.0 million.
488330	Navigational Services to Shipping	$38.5 million.
523910	Miscellaneous Intermediation	$38.5 million.
532411	Commercial Air, Rail, and Water Transportation Equipment Rental and Leasing	$32.5 million.
551111	Offices of Bank Holding Companies	$20.5 million.
561510	Travel Agencies	$20.5 million.
928110	National Security	Population of 50,000 People.

Of the 12 U.S. entities, 10 exceed the SBA's small business standards for small entities. To estimate the potential impact on the 2 small entities, the Coast Guard used their 2018 invoice data to estimate their pilotage costs in 2020. We increased their 2018 costs to account for the changes in pilotage rates resulting from this rule and the Great Lakes Pilotage Rates—2019 Annual Review and Revisions to Methodology final rule (84 FR 20551). We estimated the change in cost to these entities resulting from this rule by subtracting their estimated 2019 costs from their estimated 2020 costs. We then compared the estimated change in pilotage costs between 2019 and 2020 with each firm's annual revenue and compared their total estimated 2020 pilotage costs to their annual revenue. In both cases, the change in their estimated pilotage expenses were below 1 percent of their annual revenue. Table 46 presents the calculation of these cost estimates for both entities.

TABLE 46—ESTIMATED 2020 PILOTAGE COSTS FOR SMALL ENTITIES

Entity	2018 pilotage expenses	Estimated change in pilotage costs between 2018 and 2019[78]	Estimated 2019 pilotage expenses	Estimated change in pilotage costs between 2019 and 2020	Estimated 2020 pilotage expenses	Estimated change in pilotage expenses from 2019 to 2020
(%) (%)	(a)	(b)	(c) = (a) × (1 + (b))	(d)	(e) = (c) × (1 + (d))	(f) = (e) − (c)
Small Entity A	$4,754	11	$5,277	1	$5,330	$53

[74] See *https://www.manta.com/.*

[75] See *http://resource.referenceusa.com/.*

[76] The RFA (5 U.S.C. 601(3)) refers to the Small Business Act for the definition of a small business. The Small Business Act in turn allows the SBA Administrator to specify detailed definitions or standards by which a business may be determined to be small, under 15 U.S.C. 632(a)(2)(A). Under this authority, the SBA defines a small business at 13 CFR 121.105(a)(1), which states that, ''Except for small agricultural cooperatives, a business concern eligible for assistance from SBA as a small business is a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.'' Therefore, we do not include impact on foreign entities in our impact analysis under the RFA.

[77] See: *https://www.sba.gov/document/support—table-size-standards.* SBA has established a ''Table of Size Standards'' for small businesses that sets small business size standards by NAICS code. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be in order to remain classified as a small business for SBA and Federal contracting programs.

TABLE 46—ESTIMATED 2020 PILOTAGE COSTS FOR SMALL ENTITIES—Continued

Entity	2018 pilotage expenses	Estimated change in pilotage costs between 2018 and 2019 [78]	Estimated 2019 pilotage expenses	Estimated change in pilotage costs between 2019 and 2020	Estimated 2020 pilotage expenses	Estimated change in pilotage expenses from 2019 to 2020
(%) (%)	(a)	(b)	(c) = (a) × (1 + (b))	(d)	(e) = (c) × (1 + (d))	(f) = (e) − (c)
Small Entity B	148,389	11	164,712	1	166,359	1,647

In addition to the owners and operators discussed above, three U.S. entities that receive revenue from pilotage services will be affected by this final rule: The three pilot associations that provide and manage pilotage services within the Great Lakes districts. Two of the associations operate as partnerships, and one operates as a corporation. These associations are designated with the same NAICS code and small-entity size standards described above, but have fewer than 500 employees. Combined, they have approximately 65 employees in total and, therefore, are designated as small entities. The Coast Guard expects no adverse effect on these entities from this final rule because the three pilot associations will receive enough revenue to balance the projected expenses associated with the projected number of bridge hours (time on task) and pilots.

Finally, the Coast Guard did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields that will be impacted by this rule. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people that will be impacted by this rule. Based on this analysis, we conclude this rulemaking will not affect a substantial number of small entities, nor have a significant economic impact on any of the affected entities.

Based on our analysis, this rule will have a less-than 1 percent annual impact on 2 small entities; therefore, 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.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). This rule will not change the burden in the collection currently approved by OMB under OMB Control Number 1625–0086, Great Lakes Pilotage Methodology.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

Congress directed the Coast Guard to establish ''rates and charges for pilotage services.'' See 46 U.S.C. 9303(f). This regulation is issued pursuant to that statute and is preemptive of State law as specified in 46 U.S.C. 9306. Under 46 U.S.C. 9306, a ''State or political subdivision of a State may not regulate or impose any requirement on pilotage on the Great Lakes.'' As a result, States or local governments are expressly prohibited from regulating within this category. Therefore, this final rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

F. Unfunded Mandates

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

[78] 84 FR 20551, see table 37

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a 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. A Record of Environmental Consideration (REC) supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** portion of this preamble.

This rule is categorically excluded under paragraphs A3 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01, Rev. 1.[79] Paragraph A3 pertains to the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, advisory circulars, and other guidance documents of the following nature: (a) Those of a strictly administrative or procedural nature; (b) those that implement, without substantive change, statutory or regulatory requirements; or (c) those that implement, without substantive change, procedures, manuals, and other guidance documents; and d) those that interpret or amend an existing regulation without changing its environmental effect. Paragraph L54 pertains to regulations which are editorial or procedural. This rule involves: (1) Clarifying the rules related to the working capital fund, (2) adjusting the base pilotage rates, and (3) eliminating surcharges for administering the 2020 shipping season in accordance with applicable statutory and regulatory mandates pursuant to the Great Lakes Pilotage Act of 1960.

[79] *https://www.dhs.gov/sites/default/files/publications/DHS_InstructionManual023-01-001-01Rev01_508compliantversion.pdf.*

List of Subjects

46 CFR Part 401

Administrative practice and procedure, Great Lakes; Navigation (water), Penalties, Reporting and recordkeeping requirements, Seamen

46 CFR Part 403

Great Lakes, Navigation (water), Reporting and recordkeeping requirements, Seamen, Uniform System of Accounts

46 CFR Part 404

Great Lakes, Navigation (water), Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 401, 403, and 404 as follows:

PART 401—GREAT LAKES PILOTAGE REGULATIONS

■ 1. The authority citation for part 401 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.d), (92.e), (92.f).

■ 2. Amend § 401.405 by revising paragraph (a) to read as follows:

§ 401.405 Pilotage rates and charges.

(a) The hourly rate for pilotage service on—

(1) The St. Lawrence River is $758;

(2) Lake Ontario is $463;

(3) Lake Erie is $586;

(4) The navigable waters from Southeast Shoal to Port Huron, MI is $618;

(5) Lakes Huron, Michigan, and Superior is $337; and

(6) The St. Mary's River is $632.

* * * * *

PART 403—GREAT LAKES PILOTAGE UNIFORM ACCOUNTING SYSTEM

■ 3. The authority citation for part 403 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

■ 4. Amend § 403.110 by:

■ a. Designating the text as paragraph (a); and

■ b. Adding paragraph (b).

The addition reads as follows:

§ 403.110 Accounting entities.

* * * * *

(b) Each Association will maintain a separate account called the ''Working Capital Fund.'' Each Association will deposit into the working capital fund an amount each year at least equal to the amount calculated in Step 5, 46 CFR 404.105. Working capital funds may only be used for infrastructure improvements and infrastructure maintenance necessary to provide safe, efficient, and reliable pilot service such as pilot boat replacements, major repairs to pilot boats, non-recurring technology purchases necessary for providing pilot services, or for the acquisition of real property for use as a dispatch center, office space, or pilot lodging. The Director may grant exceptions to the requirements of this paragraph (403.110(b)) upon request by an Association.

PART 404—GREAT LAKES PILOTAGE RATEMAKING

■ 5. The authority citation for part 404 continues to read as follows:

Authority: 46 U.S.C. 2103, 2104(a), 9303, 9304; Department of Homeland Security Delegation No. 0170.1(II)(92.a), (92.f).

§ 404.106 [Amended]

■ 6. Amend § 404.106 by removing the words ''return on investment'' and adding their place ''working capital fund''.

Dated: March 30, 2020.

R.V. Timme,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2020–06968 Filed 4–8–20; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Part 711

TSCA Chemical Data Reporting Revisions Under TSCA Section 8(a); Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 711

[EPA–HQ–OPPT–2018–0321; FRL–10005–56]

RIN 2070–AK33

TSCA Chemical Data Reporting Revisions Under TSCA Section 8(a)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: EPA is finalizing a rule under the Toxic Substances Control Act (TSCA) to amend the Chemical Data Reporting (CDR) requirements. The CDR rule requires manufacturers (including importers) of certain chemical substances listed on the TSCA Chemical Substance Inventory (TSCA Inventory) to report data on chemical manufacturing, processing, and use every four years. EPA is finalizing several changes to the CDR rule to make regulatory updates that align with new statutory requirements of TSCA, to improve the CDR data collected as necessary to support the implementation of TSCA, and potentially to reduce burden for certain CDR reporters. In addition, these regulatory modifications may result in additional information to EPA and the public that is currently not collected; improve the usability and reliability of the reported data; and ensure that data are available in a timely manner.

DATES: This final rule is effective May 11, 2020.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2018–0321, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Susan Sharkey, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8789; email address: *sharkey.susan@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(9) to include import) chemical substances, including if you are a chemical user or processor who manufactures byproduct chemical substances. Any use of the term ''manufacture'' in this document will encompass ''import,'' the term ''manufacturer'' will encompass ''importer,'' and the term ''chemical substance'' will encompass ''byproduct chemical substance,'' unless otherwise stated.

The potentially regulated community consists of entities that produce domestically or import into the United States chemical substances listed on the TSCA Inventory. The Agency's previous experience with TSCA section 8(a) collections has shown that most respondents affected by this collection activity are from the following North American Industrial Classification System (NAICS) code categories:

- NAICS 325—Chemical Manufacturing; and
- NAICS 324—Petroleum and Coal Product Manufacturing.

In addition to the anticipated respondents from the NAICS listed previously, the potentially regulated community consists of manufacturers of byproducts that are required to report under certain TSCA section 8(a) rules, including CDR. Byproduct manufacturers may be listed under a different primary activity for a site, such as NAICS codes 22, 322, 327310, 331, and 3344, representing utilities, paper manufacturing, cement manufacturing, primary metal manufacturing, and semiconductor and other electronic component manufacturing, respectively.

The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicable provisions at 40 CFR 711.8. If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed under **FOR FURTHER INFORMATION CONTACT.**

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

TSCA section 8(a)(1) authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances must maintain such records, and submit such information, as the EPA Administrator may reasonably require (15 U.S.C. 2607). TSCA section 8(a) generally excludes small manufacturers and processors of chemical substances from the reporting requirements established in TSCA section 8(a). However, EPA is authorized by TSCA section 8(a)(3)(A)(ii) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA sections 4, 5(b)(4), or 6; that is the subject of an order in effect under TSCA sections 4 or 5(e); that is subject to a consent agreement under TSCA section 4; or that is the subject of relief granted pursuant to a civil action under TSCA section 5 or 7.

TSCA section 8(a)(5) requires the EPA Administrator, to the extent feasible, not to require unnecessary or duplicative reporting, and to minimize the cost of compliance for small manufacturers.

TSCA section 14 imposes requirements for the assertion, substantiation, and Agency review of confidential business information (CBI) claims.

C. What action is the Agency taking?

In this action, EPA is promulgating several amendments to the CDR rule, taking into consideration comments received on the proposed rule (EPA–HQ–OPPT–2018–0321). Although included in the proposal, EPA is addressing the proposed amendment to update the size standards definition for small manufacturers for reporting and recordkeeping requirements under TSCA section 8(a) in a separate final rule (identified by RIN 2070–AK57), as discussed in the proposed rule (Ref. 1). The following is a brief listing of the primary amendments being finalized, some of which have been modified from the proposal, as described in this unit. EPA is finalizing these modifications based on comments received during the public comment period. These amendments are described in more detail in Unit III.

1. Changing requirements for making confidentiality claims, including to identify when upfront substantiation is required (which is being finalized as proposed), update the substantiation

questions, and identify data elements that cannot be claimed as confidential (which is being finalized as proposed), so as to align with the Frank R. Lautenberg Chemical Safety for the 21st Century Act (2016 Amendments). The substantiation questions have been modified from the proposal based on comments received during the public comment period;

2. Replacing certain processing and use codes (industrial function and commercial/consumer product use) with codes based on the Organisation for Economic Co-operation and Development's (OECD) functional use and product and article use codes. EPA is also adding the requirement to report the OECD-based functional use codes for consumer and commercial use information. This provision is being finalized as proposed with some modifications from the proposal: the new codes will be codified in the Code of Federal Regulations (CFR) rather than listed in guidance, codes associated with non-TSCA uses will be folded into the overarching non-TSCA use code, and reporting using the OECD-based codes will be required during the 2020 CDR submission period for the chemical substances designated in 2019 by EPA as a high priority for risk evaluation (84 FR 71924, December 30, 2019) (FRL–10003–15) and required for all chemical substances during the 2024 CDR submission (reporting using the OECD-based codes would be voluntary for all reporters during the 2020 CDR submission period);

3. Adding the requirement to report the NAICS code(s) for the site of manufacture, which is being finalized as proposed;

4. Modifying the requirement to indicate whether a chemical is removed from the waste stream and recycled, remanufactured, reprocessed, or reused, by changing the requirement to indicate whether a chemical is removed from the waste stream and recycled. This modification is being finalized as proposed;

5. Adding a voluntary data element to identify the percent total production volume of a chemical substance that is a byproduct. This proposed requirement is being finalized with modification from the proposal, by including that percent byproduct reporting be in ranges and making the reporting of the data element voluntary;

6. Requiring that the secondary submitter of a joint submission report the specific function of the chemical along with the percentage of the chemical in the imported product. This requirement is being finalized as proposed;

7. Modifying the reporting of ''parent company'' to require the use of a naming convention; add the requirement to report a foreign parent company, when applicable; and codify reporting scenarios in a new definition for ''highest-level parent company.'' These definitions, requirements, and reporting scenario codifications are being finalized with modification from the proposal;

8. Simplifying the reporting process by providing two reporting mechanisms for co-manufacturers by enabling a multi-reporter process for reporters to separately report directly to EPA within the e-CDRweb reporting tool. These changes are being finalized with minor modification from the proposal, with the finalization of two separate reporting methodologies;

9. Adding exemptions (1) for specifically identified byproducts that are recycled in a site-limited, enclosed system (which is being finalized as proposed with the addition of another chemical substance) and (2) for byproducts that are manufactured as part of non-integral pollution control and boiler equipment (which is being finalized as proposed); and

10. Clarifying regulatory text by removing outdated text and making other improvements. These changes are being finalized as proposed.

Some proposed provisions will not be finalized based on comments received during the public comment period. For a more detailed discussion of what was proposed but not finalized, please see Unit II.C., *Public Comments and Other Public Input.*

As described in the proposal, EPA is taking other, non-regulatory steps to minimize the burden on reporters, by improving the reporting application and database to be user-friendly and dynamic, with straightforward questions that include fill-in-the-blank fields, check boxes, and drop-down menus. In addition, EPA is replacing the current pre-formatted Form U with a customized report that will be based on the actual information submitted by a site through e-CDRweb, the electronic reporting tool. This change will enable fields to expand or contract as needed to display the entered information in one spot, eliminating the need for continuation pages or for large empty spaces in the printed report. For example, some chemical names are very short and need only 10 or 20 characters, while other chemical names are very long and use multiple lines of text. Although these changes are not discussed further in this final rule, they are an important component of the effort to reduce burden and modernize the data collection system.

EPA is making this update as a result of feedback received from reporters and other stakeholders following the 2016 submission period (Ref. 2) and during an extensive negotiated rulemaking effort, which included participation by all stakeholder groups, and subsequent public comment period from October 12, 2017–December 11, 2017, at the conclusion of the negotiated rulemaking (Ref. 3 and Ref. 4). EPA is adding an addendum to the current CDR rule ICR (OMB Control Number 2070–0162) for the regulatory changes finalized in this document (Ref. 5). In addition to the changes outlined in this final rule, if needed, EPA will provide a second addendum to this ICR to address non-regulatory changes. As was done for previous CDR collections, EPA will provide reporters with the opportunity to test and comment on the updated e-CDRweb reporting tool prior to the 2020 CDR submission period. The testing, by a group of volunteer reporters, will be conducted under a generic ICR for EPA software testing (OMB Control Number 2010–0042) (Ref. 6). EPA anticipates holding a webinar to introduce the revised e-CDRweb reporting tool to the regulated community directly following the publication of this rule. During the webinar, EPA will issue a general invitation to interested parties to participate in a short testing period of the revised e-CDRweb reporting tool. EPA will open the testing period shortly after publication of this rule. Because of resource constraints, the testing period will be limited to 25 participants. For additional information, contact the person under **FOR FURTHER INFORMATION CONTACT**. Also, information will be posted on the CDR website (*https://www.epa.gov/chemical-data-reporting*).

D. Why is the Agency taking this action?

EPA is revising the CDR rule for three primary reasons: First, aligning CDR reporting with the 2016 Amendments; second, improving the CDR data collected to support the implementation of TSCA; and third, potentially reducing burdens for certain CDR reporters pursuant to TSCA section 8(a)(5).

The 2016 Amendments to TSCA changed requirements associated with confidentiality claims, including identifying the data elements eligible for confidentiality claims and identifying the situations under which substantiation of claims is required. EPA is revising the CDR rule to address these changes.

As described in the proposed rule, EPA is also finalizing changes to CDR reporting so that the information

collected is tailored to better meet the Agency's overall information needs and is aligned with specific needs for chemical substance prioritization and risk evaluation under TSCA section 6. TSCA section 2 specifies that ''adequate information should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such information should be the responsibility of those who manufacture and those who process such chemical substances and mixtures'' (TSCA section 2(b)(1)). EPA's changes include the addition of data elements that must be reported, such as site-specific NAICS codes; modification to multi-reporter submission requirements, including adding a process for jointly reporting co-manufactured chemicals; and changes to current data elements, such as codes used for reporting processing and use information and the addition of the percentage of a chemical that is a byproduct (in ranges) as a data element that can be reported voluntarily. In addition, changes to the parent company reporting requirements will increase EPA's ability to protect confidential information while better enabling EPA to make information publicly available. As described in the proposed rule, these changes should help to meet the Agency's requirement under TSCA section 26(h), in carrying out TSCA sections 4, 5, and 6, to make scientific decisions consistent with the best available science; to improve the CDR data collected to support the implementation of TSCA; and to improve EPA's ability to provide public access to the information. Furthermore, these changes should aid in meeting the Agency's objective to obtain new and updated information relating to potential exposures to a major subset of chemical substances listed on the TSCA Inventory.

EPA is interested in streamlining reporting requirements and processes while maintaining the Agency's ability to receive the information it needs to understand exposure to these chemicals (TSCA section 8(a)(5)). As described in the proposed rule, EPA's proposed revisions were informed by information provided in 2016 and 2017 during the 2016 CDR submission period, public comment opportunities, and an extensive negotiated rulemaking effort, which included participation by all stakeholder groups, and subsequent public comment period from October 12, 2017, to December 1, 2017, at the conclusion of the negotiated rulemaking (Ref. 3 and Ref. 4).

This final rule takes into account comments received on the proposed rule, from April 25, 2019, to June 24, 2019. EPA received 24 comments from various stakeholders and the public that helped inform the finalization of this rule. In response to stakeholder input, EPA is finalizing the introduction of two new exemptions related to byproducts and a revised approach to reporting for co-manufactured chemicals. In addition, harmonizing the function and product codes with those used by OECD is expected to reduce potential confusion for those reporting under multiple country requirements.

Additionally, EPA has received comments that modernizing the CDR data collection and public access to the database may reduce reporting burden and facilitate ease of use by reporters and the public. These comments were used to develop this final rule and will be used to inform other non-regulatory changes that EPA plans to make to the reporting process, such as the reporting tool modernization described in Unit I.C.

E. What are the incremental costs of this action?

EPA has evaluated the potential costs and benefits of revising CDR reporting requirements as required by the rulemaking process. Some requirements in this rule increase burden and cost, while other requirements and flexibilities decrease burden and result in cost savings. Overall, EPA estimates that the combined impact of all the amendments would increase the total burden and result in a cost to industry and government reporters. This analysis, which is available in the docket (Ref. 7), is discussed in Unit III., and is briefly summarized here.

The finalized amendments are estimated to result in an overall net increase in burden and costs. The estimated increases in burden and costs include rule familiarization, increases in compliance determination, and the duration of time for form completion. The next future cycle burden and costs or cost savings are listed by type of change:

(1) For changes to claiming confidentiality (discussed in Unit III.A.), the incremental burden is expected to decrease by 14,000 hours with an associated cost savings of $1.1 million. The incremental burden and cost changed from the proposed rule due to a correction to a cell reference in the model used for the unit burden estimates (Ref. 8).

(2) For changes to modify or add reportable data elements (*e.g.,* processing and use codes, NAICS codes, byproduct percentage, chemical function, and parent company—discussed in Unit III.B.), the incremental burden is expected to increase by 188,000 hours with an associated cost increase of $14.5 million. The incremental burden and cost estimates changed from the proposed rule due to the elimination of the site public contact, the use of intelligent sorting and search functions in the reporting tool related to the reporting of processing and use information, and the addition of burden of the function category for consumer and commercial products (Table 4–13 in Ref. 7).

(3) For changes to add byproducts exemptions (discussed in Unit III.D.), the incremental burden is expected to decrease by 68,000 hours with an associated cost savings of $5.2 million.

In sum, the overall incremental impacts to industry and government reporters result in a net increase in burden and cost. Estimates include rule familiarization, compliance determination, and CDR form completion (Ref. 7). Estimated changes to recordkeeping burden and cost are negligible and estimated at zero. An estimated 5,660 sites are expected to report during the next CDR submission period in 2020. The total incremental burden and cost are estimated at 32,000 hours and $2.5 million for the CDR 2020 submission period (first cycle), 34,000 hours and $2.7 million for the 2024 CDR submission period (second cycle), and 27,000 hours and $2.1 million for the 2028 CDR submission period (future cycles). On an annualized basis, using a 3 percent and a 7 percent discount rate over a 10-year period, the annualized incremental cost both round to an estimated $2.5 million per year (Ref. 7).

II. Background

A. What is the Chemical Data Reporting rule?

As described in the proposed rule, the CDR rule requires U.S. manufacturers of certain chemicals listed on the TSCA Inventory to report to EPA every four years certain information about chemical substances manufactured for all years since the last principal reporting year. To minimize reporting burden, detailed information is required only for the principal reporting year (*i.e.,* 2019), including a breakout of the production volume to provide separate volumes for domestically manufactured and imported amounts. Generally, reporting is required for substances whose production volumes are 25,000 pounds or more at any single site during any of the calendar years since the last principal reporting year. However, a

lower threshold applies for chemical substances that are the subject of certain TSCA actions (see 40 CFR 711.8(b)). The CDR rule generally excludes several groups of chemical substances from its reporting requirements, *e.g.,* polymers, microorganisms, naturally occurring chemical substances, certain forms of natural gas, and water (see 40 CFR 711.5 and 711.6). For the 2016 CDR cycle, EPA received CDR site reports (Form U's) from 5,660 sites with an associated 42,464 chemical reports, providing information on 8,717 unique chemicals.

Persons domestically manufacturing or importing chemical substances are required to report information such as company name, site location and other identifying information, production volume of the reportable chemical substance, and exposure-related information associated with the manufacture of each reportable chemical substance, including the physical form and maximum concentration of the chemical substance, the number of potentially exposed workers at the reporting site, and certain processing and use information (40 CFR 711.15). Under CDR, submitters report information to the extent that it is ''known to or reasonably ascertainable'' (40 CFR 711.15), which means ''all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know'' (40 CFR 711.3, referencing 40 CFR 704.3). Reported information can be claimed as confidential, with certain exceptions (40 CFR 711.30).

B. EPA's Proposed Rule for Revisions to the CDR Rule

On April 25, 2019, EPA proposed the rule ''TSCA Chemical Data Reporting Revisions and Small Manufacturer Definition Update for Reporting and Recordkeeping Requirements under TSCA section 8(a)'' (Ref. 1). EPA proposed several changes to the CDR rule to make regulatory updates to align with new statutory requirements of TSCA and improve the CDR data collected as necessary to support the implementation of TSCA, which could have potentially reduced or increased burden for certain CDR reporters. In particular, EPA proposed to:

1. Harmonize the CDR processing and use codes with OECD codes;
2. Add the requirement to report the NAICS code(s) for the site of manufacture;
3. Modify the requirement to indicate whether a chemical is removed from the waste stream and recycled, remanufactured, reprocessed, or reused to instead require an indication of whether a chemical is removed from the waste stream and recycled;
4. Add a requirement to identify the percent total production volume of a chemical substance that is a byproduct; require that the secondary submitter of a joint submission report the chemical specific function along with the percentage of the chemical in the imported product;
5. Add a voluntary data element to provide a public contact;
6. Modify the definition of ''parent company'' to clarify the definition;
7. Add the requirement to report a foreign parent company, when applicable, and codify reporting scenarios;
8. Simplify the reporting process for co-manufacturers by enabling a multi-reporter process for reporters to separately report directly to EPA within the e-CDRweb reporting tool;
9. Allow reporting in specified metal categories for inorganic byproducts;
10. Add exemptions for specifically identified byproducts that are recycled in a site-limited, enclosed system and for byproducts that are manufactured as part of non-integral pollution control and boiler equipment;
11. Clarify regulatory text by removing outdated text, consolidating exemptions, and making other improvements; and
12. Update the size standards definition for small manufacturers for reporting and recordkeeping requirements under TSCA section 8(a) (Ref. 1).[1]

C. Public Comments and Other Public Input

The proposed rule provided for a 60-day public comment period, ending on June 24, 2019. EPA received 24 comments. Commenters included industry trade associations (18 comments representing 23 organizations), government entities (one comment), the National Tribal Toxics Council (one comment), and non-governmental organizations (three comments representing six organizations). Comments addressed many provisions of EPA's proposed rule and generally supported EPA's proposal. Of the 24 comments received, 23 addressed provisions in this rule. Specifically, EPA received 13 comments regarding some proposed changes to reportable data elements that either supported EPA's proposal or raised issues that EPA intends to address in the Instructions for Reporting (Ref. 9).[2] Separately, EPA received 12 comments that provided information on the reporting burden related to these or similar data elements.

For the proposed co-manufacturing reporting mechanism, comments were generally supportive of the proposal but requested additional flexibility. EPA received 14 comments about the two proposed exemptions for byproducts, most of which were supportive. Commenters who were not supportive of the proposed exemptions for byproducts explained that the exemptions could increase the complexity of reporting and that the byproduct exemptions were not sufficiently expansive to meaningfully reduce reporting burden. EPA also received 12 comments on changes to existing exemptions and other potential future changes, all of which are outside of the scope of this action.

EPA received eight comments about changes to requirements for claiming confidentiality. Five commenters did not support EPA's proposal regarding which data elements could not be claimed as confidential, while other commenters suggested that additional data elements should not be able to be claimed as confidential. Following consideration of the comments received, EPA is finalizing as proposed the following: (1) Barring certain processing and use data considered ''general'' from confidentiality claims, and (2) requiring upfront substantiation for all CBI claims except for production volume. As described in Unit III., EPA is finalizing with some limited modifications the proposed substantiation questions for data elements requiring upfront substantiation. In consideration of comments received and with an interest in engaging with reporters' concerns about disclosure, EPA is modifying the proposed substantiation questions. An overview of the revisions to the substantiation questions in 40 CFR 711.30 is in Unit III.A.1. Additionally, based on comments received, EPA is not finalizing the proposed voluntary public contact data element or the proposed

[1] While the CDR revisions and the updates to the small manufacturer definition were proposed together in the same document, EPA is addressing the proposed small manufacturer definition in a separate final rule, identified by RIN 2070–AK57.

[2] These proposed changes addressed by the commenters included harmonizing the CDR processing and use codes with OECD codes; adding the requirement to report the NAICs code(s) for the site of manufacture; requiring reporting of the chemical-specific function in a joint submission; modifying the definition of parent company and requiring reporting of a foreign parent company; modifying the requirement to indicate whether a chemical is recycled, remanufactured, reprocessed, or reused, by changing the requirement to indicate whether a chemical is removed from the waste stream and recycled; and adding a requirement to identify the percent total production volume of a chemical that is a byproduct.

alternative reporting in specified categories for inorganic byproducts.

In this preamble, EPA has responded to many of the comments relevant to the proposed revisions to CDR; EPA's comprehensive response to comments related to this final action is in the Response to Comments document (Ref. 10). EPA is finalizing in a separate action an amendment to update the size standards definition for small manufacturers for reporting and recordkeeping requirements under TSCA section 8(a), which includes a separate Response to Comment document addressing comments specific to the small manufacturing definition.

In addition to public comments received on the proposal, EPA solicited information through other mechanisms. Specifically, EPA conducted two identical sessions as part of tribal outreach on the proposed rule to provide background information on the proposed rule and to obtain feedback (Ref. 11). EPA received no follow-up comments from the tribal outreach. EPA also met with IPC (Association Connecting Electronics Industries) at EPA headquarters, toured a printed circuit board manufacturing site (TTM Technologies, Inc.), and, with Lehigh Hanson Cement, toured a Portland cement clinker manufacturing site. (Ref. 12, Ref. 13, and Ref. 14). In the meetings and on these tours, EPA received information on how byproducts and wastes are stored and eventually transported offsite for recycling; this information was useful in the development of this final rule.

III. Detailed Discussion of the Modifications to the CDR Rule

EPA is making a number of revisions to the CDR rule, as described in this Unit. The regulatory text of this document describes the specific CDR reporting requirements being amended and includes both the modified and selected unmodified portions of the regulatory text (see 40 CFR part 711). EPA has also developed information for the public that includes specific reporting instructions, questions and answers, and case studies, and EPA intends to conduct webinars to help potential CDR submitters become familiar with the revised reporting processes and amended reporting requirements. The information sources and information on the webinars will be available on the CDR website (*http://www.epa.gov/cdr*).

A. What changes have been made to requirements for claiming confidentiality?

EPA is finalizing changes to requirements related to claiming CDR data as confidential, so as to be consistent with the new statutory requirements in TSCA section 14. The 2016 amendments to TSCA included mandated new procedural requirements for the submission and Agency management of CBI claims, including new substantiation requirements, a certification requirement, and a requirement for Agency review of specified CBI claims within 90 days after receipt of the claim. The revisions to this rule implement and facilitate the new TSCA requirements. Specific changes are discussed in this Unit and in Unit III.A. of the proposed rule (Ref. 1). EPA estimates that the changes to the CBI substantiation requirements will result in a decrease in burden, which is explained in detail in Chapter 4.3.2 in the Economic Analysis (Ref. 7). Public comments regarding claims of confidentiality generally addressed: Data elements that are not eligible for confidentiality claims, data elements that are exempt from upfront substantiation, and substantiation questions.

One commenter provided detailed comments on the proposed questions and additionally referenced a recent Supreme Court decision (*Food Marketing Institute* v. *Argus Leader Media,* 139 S. Ct. 2356 (2019)) addressing the test for determining whether commercial information qualifies as ''confidential'' for purposes of Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4). In that decision, the Court rejected the ''substantial competitive harm'' test that had long been applied by the U.S. Court of Appeals for the D.C. Circuit, under which certain commercial information could not be deemed ''confidential'' unless disclosure was likely to cause substantial harm to the competitive position of the person from whom the information was obtained. 139 S. Ct. at 2361, 2364–66. EPA also received a request to reopen the comment period to allow others to provide comment on this Court decision (Ref. 15).

EPA determined that the Supreme Court decision did not impact the finalization of the substantiation questions or CBI review criteria that were proposed in this TSCA rulemaking because Congress amended TSCA section 14 in 2016 to, among other things, specifically require any person asserting a CBI claim under TSCA to include a certified statement that the person has ''a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person.'' TSCA section 14(c)(1)(B)(iii), (c)(5); see also TSCA section 14(c)(1)(C)(ii)(II) (referencing substantial competitive harm). Based on these requirements in TSCA section 14, EPA determined that neither the ''substantial competitive harm'' review criterion nor any related substantiation question for the TSCA CBI claims addressed in this rulemaking should be removed based on the Supreme Court's decision. EPA accordingly decided not to reopen the comment period. See the Response to Comments document for additional discussion. (Ref. 10).

1. Substantiations. EPA interprets TSCA section 14(c)(3) as requiring substantiation of any non-exempt CBI claim at the time the information claimed as CBI is submitted to EPA (Ref. 16). The Agency is finalizing the amendment of the CDR substantiation provisions to require substantiation for all confidentiality claims except for those types of information exempt from substantiation under TSCA section 14(c)(2), which are described later in this Unit. EPA modified the proposed regulatory text to remove references to data elements that were proposed and not finalized, such as the public contact information discussed in Unit III.F.1., to change text for clarity, and to correct cross-references.

EPA is finalizing revisions to the substantiation questions in 40 CFR 711.30, with some changes between the proposed changes and those that are being finalized. In consideration of comments received and with an interest in engaging with reporters' concerns about disclosure, EPA is modifying the proposed substantiation questions. An overview of the revisions to the substantiation questions in 40 CFR 711.30 is as follows.

A set of standard questions, set forth in 40 CFR 711.30(b), applies to all non-exempt CBI claims. In response to comments received, EPA modified the questions to facilitate clarity and understanding of the questions themselves and to help ensure that submitters are correctly and appropriately substantiating their confidentiality claims. For example, to the question about substantial competitive harm (40 CFR 711.30(b)(1)), EPA has expanded the proposed statement ''If you answered yes, explain the substantial harm'' to a clearer description: ''If you answered yes, describe the substantial harmful effects that would likely result to your

competitive position if the information is disclosed, including but not limited to how a competitor could use such information and the causal relationship between the disclosure and the harmful effects.'' Likewise, EPA added additional examples to the question about where the information may have been publicly disclosed (40 CFR 711.30(b)(3)), and split the question into three parts so that the first part discusses disclosure required under other Federal law, the second part addresses more general public documents, and the third part is specific to patents.

EPA proposed additional questions that were targeted to specific data elements. An additional series of four questions for specific chemical identity CBI claims is set forth in 40 CFR 711.30(c). The first proposed question, at 40 CFR 711.30(c)(1), addresses whether the chemical substance is publicly known to be in commerce in the United States. EPA modified this question to remove language identified as confusing by a commenter and to clarify that the inquiry is intended to address knowledge by the public at large as well as by competitors within the industry. The second and third proposed questions, at 40 CFR 711.30(c)(2)–(3), address the ability for others to reverse engineer the chemical identity. The second question has been slightly modified to be worded in a consistent manner with other questions. The third question has been modified to clarify EPA's expectation that the response takes into account existing technologies, and that it addresses whether a chemical identity is ''readily'' discoverable. The fourth proposed question, at 40 CFR 711.30(c)(4), addresses the release of confidential process information and has been finalized as proposed.

Information about substantiating for company, site, and technical contact identity is finalized in 40 CFR 711.30(a)(6), proposed in 40 CFR 711.30(d). As proposed, there was one additional question at 40 CFR 711.30(d)(1) for the substantiation of these claims (Ref. 1). EPA did not finalize this question because it is substantially the same as the question finalized at 40 CFR 711.30(b)(3), which submitters must already answer for these data element claims. EPA is retaining the 40 CFR 711.30(d) paragraph, finalized in 40 CFR 711.30(a)(6), because it explains when the submitter may assert a claim for the linkage between the company, site, or technical contact identity and the chemical substance.

Requirements to substantiate confidentiality claims for certain processing and use information are set forth in 40 CFR 711.30(a)(7). As proposed, there were two additional questions for these claims. EPA did not finalize either question because EPA determined that these questions solicited the same information that claimants would already be required to provide in their responses to the substantiation questions applicable to all CBI claims, and would not provide additional information that is uniquely necessary for adjudicating CBI claims for these data elements. The question proposed at 40 CFR 711.30(e)(1) is substantially the same as the question finalized at 40 CFR 711.30(b)(3), and the question proposed at 40 CFR 711.30(e)(2) is substantially the same as the question finalized at 40 CFR 711.30(b)(2), which submitters must already answer for these data element claims.

EPA is finalizing, with some changes from the proposal, 40 CFR 711.30(a)(3), which describes the data elements that are exempt from the requirement to provide substantiations at the time the data are submitted. EPA believes that the only data elements collected under CDR that may be subject to the TSCA section 14(c)(2) exemption from upfront substantiation requirements are (1) production volume (711.30(a)(3)(i)) and (2) supplier information associated with joint submissions, such as supplier identity and details of the full composition of a mixture (711.30(a)(3)(ii) and (iii)). In addition, EPA believes that a petition submitted under 40 CFR 711.6(b)(2)(iii) or 40 CFR 711.10(d)(1)(ii) may contain information that is described in TSCA section 14(c)(2) (711.30(a)(3)(iv)). However, the data elements that are exempted from upfront substantiation may still be subject to substantiation and CBI review under the circumstances described in TSCA section 14(f).

a. Regarding production volume. EPA is finalizing its proposal not to require substantiation at the time the claim of confidentiality is made for five production volume data elements (so, for the 2020 reporting cycle, the volume domestically manufactured in 2019, the volume imported in 2019, and the total production volume for each of the three years 2016 through 2018). For each reported chemical, total production volume is reported for each of the years since the last principal reporting year—except for the current principal reporting year, for which the production volume is reported as domestically manufactured and imported volumes.

While commenters in general agreed with the proposal, some commenters wanted EPA to expand the exemption from upfront substantiation to include all data elements that contain a volume (*i.e.,* volume used on site and volume directly exported) because such information relates to the production volume of a chemical substance. EPA disagrees with the suggestion that TSCA section 14(c)(2)(F), which exempts from upfront substantiation requirements ''[s]pecific production or import volumes of the manufacturer or processor,'' is intended to exempt any data element referencing a volume. Because volume used on site and volume directly exported provide information about the disposition of the chemical after it is produced or imported, rather than information about the total amount originally produced or imported by the manufacturer, these data elements are not the ''production or import volumes'' listed in TSCA section 14(c)(2)(F). Therefore, EPA did not add these two data elements to the list at 40 CFR 711.30(a)(3) of data elements that do not require substantiation of confidentiality claims at the time of submission.

b. Regarding information associated with a joint submission. EPA is finalizing as proposed requirements associated with making confidentiality claims for joint submissions, described in 40 CFR 711.30(d)(1). This includes the requirement that in a joint submission, the primary submitter identify whether the supplier information, including the supplier identity and chemical substance name (trade name), is confidential. Because EPA interprets these data elements as ''[i]nformation identifying a supplier'' under TSCA section 14(c)(2)(C), substantiation of the confidentiality claims for this information will not be required at the time of submission. The secondary submitter of the joint submission will provide its company name and location, a technical contact, trade name, chemical identity(ies), and percentage of each chemical substance in the composition of the substance or mixture represented by the trade name.

The secondary submitter is responsible for asserting all confidentiality claims for the data elements that it submits directly to EPA and for substantiating those claims not exempt under 40 CFR 711.30(a)(3)(iii). Secondary submitters should note that EPA is finalizing the requirement to collect the function of each chemical in the mixture in a joint submission, as described in Unit III.B.5. The function of the chemical is one of the processing and use data elements that are barred

from claims of confidentiality by 40 CFR 711.30(a)(2)(ii). Other data elements, such as the chemical substance identity, can be claimed as confidential by the secondary submitter following the provisions in 40 CFR 711.30. Except for the percentage composition information, which is generally exempt from substantiation pursuant to TSCA section 14(c)(2)(D), all other reported data elements are subject to substantiation at the time the information is submitted.

2. Certification. The authorized official submitting confidentiality claims must certify that all claims for confidentiality are true and correct, and that all information submitted to substantiate such claims is true and correct. In addition, all persons asserting a confidentiality claim must include the statement described in TSCA section 14(c)(1)(B), and the authorized official must certify that this statement is true and correct. EPA previously combined these requirements into a single certification statement, which was implemented in the CDR electronic reporting tool in June 2016. EPA is finalizing as proposed the codification of the language of the certification statement in the CDR rule (see the final regulatory text for 40 CFR 711.30(a)(5)).

3. Processing and use data not protected from disclosure: EPA is finalizing its proposal to bar confidentiality claims for certain data elements that are ineligible for confidential treatment pursuant to TSCA section 14(b)(3)(B). The finalized regulatory text includes a correction to the proposed regulatory text to match the Agency's intent as described in the preamble to the proposed rule.

a. Final requirements. EPA is finalizing the codification that the following data elements cannot be claimed as confidential because they constitute general descriptions of processes, functions, and uses, including information that customarily would be shared with the general public or within an industry or industry sector, under TSCA section 14(b)(3)(B):

- *Certain Industrial processing and use data elements.* The data elements directly related to how the chemical is used or processed, *i.e.,* the type of process or use; the industrial sector; and the industrial function (40 CFR 711.15(b)(4)(i)(A), (B), and (C)).
- *Certain Consumer and Commercial use data elements.* The data elements directly related to how the chemical is used, *i.e.,* the product category (40 CFR 711.15(b)(4)(ii)(A)); whether the chemical is used in commercial or consumer products (40 CFR 711.15(b)(4)(ii)(C)); whether the chemical is likely to be used in children's products (40 CFR 711.15(b)(4)(ii)(D)); and the function of the chemical in the consumer or commercial product (40 CFR 711.15(b)(4)(ii)(B)) (the function is a new data element—see Unit III.B.1.a. for additional information).

With the final regulatory text, EPA corrected the proposed regulatory text to include whether the chemical is likely to be used in children's products (40 CFR 711.15(b)(4)(ii)(D)) as a data element that is barred from confidentiality claims. The preamble to the proposed rule described the Agency's intent to include this data element as a general description of the use of the chemical substance (Ref. 1).

Similarly, EPA is finalizing the proposal that submitters may continue to assert claims of confidentiality for the following processing and use data elements, because they do not offer a ''general description'' of a process or use and therefore do not fall within the limits of TSCA section 14(b)(3)(B):

- *Certain Industrial Processing and use data elements.* Percent production volume, number of sites, and number of workers (40 CFR 711.15(b)(4)(i)(D), (E), and (F)).
- *Certain Consumer and Commercial use data elements.* Percent production volume, maximum concentration, and number of commercial workers (40 CFR 711.15(b)(4)(ii)(E), (F), and (G)).

b. Discussion of TSCA section 14(b)(3)(B) and public comments received. TSCA section 14(b)(3)(B) limits protection from disclosure for general descriptions of process, function, and use information, including information that customarily would be shared with the general public or within an industry or industry sector. EPA proposed to codify in the regulatory text that several data elements could not be claimed as confidential because they constitute general descriptions of processes and uses that customarily would be shared with the general public or within an industry or industry sector. EPA received comments that supported and opposed the proposal to bar certain confidentiality claims.

Some commenters opposed to barring confidentiality claims disagreed with the Agency position that TSCA section 14(b)(3)(B) categorically prohibits protection from disclosure for any particular information such as certain processing and use data elements. EPA disagrees with those comments, and believes that the statutory text in TSCA section 14(b)(3) (entitled ''Other information not protected from disclosure'') and (b)(5) is clear that the information described in section 14(b)(3)(B) is not eligible for the protections from disclosure afforded to businesses under TSCA section 14 or FOIA Exemption 4 (pertaining to confidential business information).

Other commenters opposed to barring these confidentiality claims agreed that these processing and use data elements do not typically require CBI claims, but asserted that with the proposed expansion to the more-specific OECD codes, there would be greater potential for some combinations of codes to reveal specific and unique use information that may be confidential. These commenters also asserted that in certain situations, chemicals can have unique functions in consumer/commercial products, and therefore CBI claims should be permitted. However, none of the commenters offered examples to illustrate situations in which the combinations of generic category codes would reveal specific information about a use or function, as opposed to a general description. Following careful consideration of these comments, EPA determined that, even in combinations with the newly-finalized OECD harmonized codes, the information remains general and therefore not eligible for CBI status under TSCA section 14(b)(3)(B).

Commenters that supported barring confidentiality claims for these data elements asserted that EPA needs to do more to prevent unjustified claims of confidentiality, advocated for increased transparency of CDR data, and asserted that other data elements also qualify as a ''general description of a process used in the manufacture or processing and . . . functions and uses'' under TSCA section 14(b)(3)(B) that should be barred from CBI status or alternatively are barred from CBI status because they are part of a health and safety study under TSCA section 14(b)(2). EPA recognizes the importance of transparency and the need to enable submitters to protect information that meets the standards for confidentiality. Concerning the TSCA section 14(b)(3)(B) assertion, the commenters provided no support for why other data elements might be considered process information, a necessary part of the ''general description of a process . . .'' as described in TSCA section 14(b)(3)(B). Concerning the TSCA section 14(b)(2) assertion, EPA disagrees with the suggestion that data in a CDR submission could be characterized as a health and safety study or information from a health and safety study. See the Response to Comments for additional discussion (Ref. 10).

B. What changes have been made to the reportable data elements?

1. Processing and use codes. The CDR rule requires manufacturers to report industrial, consumer, and commercial processing and use information for chemical substances manufactured during the principal reporting year. EPA is finalizing, with modification from the proposal, changes to the data elements comprising this processing and use information. Specifically, EPA is finalizing the replacement of the CDR industrial function and commercial/consumer product use codes with codes based on OECD function, product, and article use categories and adding the requirement to report the function of the chemical in commercial/consumer products. As a result of public comments received, EPA is phasing-in the implementation of the OECD-based codes, such that reporting during the 2020 CDR submission period for the chemical substances designated by EPA as a high priority for risk evaluation (84 FR 71924, December 30, 2019) are required to use the OECD-based codes and reporters for all other chemical substances may report using either the OECD-based codes or the current CDR codes. Reporting using the OECD-based codes will be fully implemented and required for all chemical substances beginning with the 2024 CDR submission period. In addition, EPA proposed to list the updated codes in the instructions for CDR reporting. As a result of public comments received, EPA is codifying the updated codes in the CFR.

Some commenters expressed concern with the level of understanding that manufacturers have for the downstream processing and use of chemicals. EPA recognizes that some manufacturers may have less knowledge than other manufacturers about the downstream processing and use of their reported chemical substances. As described in the Instructions for Reporting, submitters are to exercise certain levels of due diligence in gathering the information required by the CDR rule and, if the knowledge is *not known or reasonably ascertainable,* to indicate so on the reporting form by selecting ''NKRA.'' See the Instructions for Reporting for examples (Ref. 9). EPA recognizes that downstream processors and users may have better knowledge of the functions and uses than the chemical manufactures, but the agency is balancing the need for reduced reporting burden with maintaining the ability to receive the information needed to understand potential chemical exposure.

Other public comments related to the proposed processing and use code amendments, and EPA's responses, can be found in the response to comment document (Ref. 10). These new codes can be found at 40 CFR 711.15 in Tables 6 and 9.

At the time of proposal, EPA did not develop burden estimates associated with replacing the current CDR codes with ones based on the OECD codes, because such estimates heavily rely on the e-CDRweb user interface that will feature burden-reducing guided data entry. EPA noted that the addition of the function categories for commercial/consumer products is a new data element whose addition could potentially result in an increase in burden. Ultimately, EPA did not foresee a substantial increase in burden due to the use of the new codes and is finalizing the use of these new codes as proposed. To manage the potential burden increase, EPA planned to take non-regulatory steps to reduce burden, including: (1) Incorporating intelligent sorting and a smart search option into the reporting tool, (2) publishing cross references to current codes, and (3) publishing detailed definitions and examples for each code. EPA has incorporated these features into the eCDRweb reporting tool and the Instructions for Reporting (Ref. 9). The intelligent sorting feature will be implemented into the eCDRweb reporting tool for 2024 reporting; the smart search option is implemented for the 2020 reporting. Although the number of codes has increased, the inclusion of these features results in a slight decrease in estimated burden once all features are fully implemented in the eCDRweb reporting tool (a decrease of 0.461 hours per report, see Appendix C of the Economic Analysis (Ref. 7) for further details).

Under CDR, there are two main categories of use codes: Function codes and product codes. The function of a chemical, combined with the type of product that the chemical is used in, provides information about an exposure scenario with unique characteristics. Information about exposure scenarios is necessary for implementation of TSCA section 6 for prioritization and risk evaluations.

a. Function codes (industrial and consumer/commercial). EPA is finalizing the requirement to report function categories for both industrial applications and commercial/consumer products and to adopt categories based on the OECD functional use categories. Under this final rule, the current 35 function codes have been replaced by 117 OECD-based function codes. EPA finalized the function codes as proposed, with one modification. In response to a comment that there was not an appropriate code to report the function of a substrate metal in an alloy when the alloy is imported, EPA changed the definition for function code U040A from ''Alloying Element—Chemical substances that are added to materials/metals formulated to modify properties such as strength, hardness, or to facilitate treatment'' to ''Alloys—Chemical substances that are a combination of materials/metals formulated for specific properties such as strength, hardness, or to facilitate treatment.''

In this final rule, not all of the OECD harmonized codes are adopted as individual CDR function codes because some are for functional uses not covered by TSCA (*e.g.,* in the circumstances where, because of a chemical's particular use, it is not a ''chemical substance'' under TSCA section 3(2)(B)(vi)). For the proposal, EPA requested comments on whether all of the OECD harmonized codes should be listed so that the codes are an exact match, even if the uses are not covered by TSCA. After consideration of the public comments received, EPA has finalized the list as proposed, which does not separately list the functional uses not covered by TSCA and continues to include a non-TSCA code as a blanket code for these applications, such as for a food or cosmetic (other than soap), when the chemical is reportable to CDR because the chemical is also used in a way that falls under the jurisdiction of TSCA.

EPA is listing these codes in the CFR at 40 CFR 711.15 Table 6. Additional details about the function categories, how they are related to the OECD functional use categories, and a crosswalk with the current CDR function codes are in the supplemental document *Technical Support Document: Harmonizing CDR Functional and Product codes with OECD Functional, Product, and Article Codes* (Ref. 17).

b. Commercial/consumer product codes. Under this final rule, the current 33 consumer/commercial product categories have been replaced by 96 OECD-based product categories. Under TSCA, the definition of ''chemical substance'' excludes certain products, including pesticides, tobacco, and food. Some of the OECD harmonized product categories cover the TSCA-excluded products; those particular codes were not adopted in CDR. The former CDR codes contained a catch-all ''non-TSCA code'' for products that are not covered under TSCA. Under this final rule, EPA

will continue to provide the same ''non-TSCA'' code as a blanket code for these applications. EPA also agrees with one comment requesting ''to exclude the use of the OECD code for articles intended for food contact'' and, as a result, is consolidating both C206A (Articles for food contact, including metal articles) and C301A (Articles intended for food contact including paper articles; plastic articles (soft); plastic articles (hard); rubber articles; metal articles; fabrics, textiles, and apparel) with CC990, the ''Non-TSCA use'' code (Ref. 10) For a more detailed discussion of these changes, see Unit III.B.1. of the proposed rule (Ref. 1).

c. Implementation of the OECD-based codes. Under this final rule, EPA is phasing in reporting of the OECD-based codes. For reporting during the 2020 CDR submission period, (from June 1, 2020, to September 30, 2020), submitters are required to use the OECD-based codes for the chemical substances designated by EPA as a high priority for risk evaluation and, for all other chemical substances, may use either the OECD-based codes or the CDR codes. The chemical substances designated by EPA as a high priority for risk evaluation are listed in 40 CFR 711.15, Table 7. For reporting during the 2024 and future submission periods, submitters are required to use the OECD-based codes for all chemical substances for which the submitter is reporting processing and use information.

2. NAICS codes for manufacturers. EPA is finalizing the requirement that submitters report the 6-digit NAICS code that best describes the manufacturing activities conducted at the reporting site. The NAICS was developed under the direction and guidance of the Office of Management and Budget (OMB) as the standard for use by Federal statistical agencies in classifying business establishments for the collection, tabulation, presentation, and analysis of statistical data. NAICS is based on a production-oriented concept, meaning that it groups establishments into industries according to similarity in the processes used to produce goods or services (Ref. 18). Use of the standard provides uniformity and comparability in the presentation and understanding of data. EPA estimates that this finalized change will result in a small increase in burden, which is explained in detail in Chapter 4.3.2 in the Economic Analysis (Ref. 7). For a more detailed discussion of this change, see Unit III.B.2. of the proposed rule (Ref. 1).

EPA received comments on the proposed rule regarding the addition of the NAICS codes for manufacturing sites that supported and opposed the revision. Commenters that supported the addition agreed with EPA that including NAICS codes provides practical utility for the Agency because the use of NAICS codes will enable industry-specific analysis and increase the ability to combine CDR data with other sources (*e.g.,* TRI). Commenters that opposed the addition stated that identifying a single NAICS code for some reporters could be overly burdensome, especially for reporters that consolidate imports at the company headquarters, for which multiple NAICS codes could apply. In consideration of these comments, EPA is finalizing the requirement for reporting a 6-digit NAICS code, but will allow the reporter to indicate up to three NAICS codes to address the concerns expressed for some importers that identifying a single NAICS code would be difficult. Given that CDR data are higher-level data intended for screening purposes, EPA determined that three NAICS codes would be adequate. If more than three NAICS codes could apply, the reporter should identify and report the three more representative NAICS codes. EPA believes that the increase in burden caused by this change is minimal, compared to the increase in practical utility the information can provide to the Agency to better analyze the data by industry sector. In most situations, submitters will report the single NAICS code that best represents the activities associated with the site, to the extent that it is known or reasonably ascertainable. In situations where multiple NAICS could apply and the reporter is unable to identify a single NAICS, such as for reporters that consolidate imports for multiple sites, submitters will be allowed to report up to three NAICS codes that best represent the activities associated with the intended use of the imported chemical substances. See the Instructions for Reporting for examples (Ref. 9). For more information, see the EPA's *Response to Comment Document* (Ref. 10).

3. Modifying recycled information. EPA is finalizing as proposed the requirement to report whether a reportable chemical substance is recycled or otherwise used for a commercial purpose, instead of being disposed of as a waste or included in a waste stream. In past CDR reporting periods, CDR submitters have identified whether their reportable chemical substance is recycled, remanufactured, reprocessed, reused, or otherwise used for a commercial purpose instead of being disposed of as a waste or included in a waste stream. EPA is finalizing the modification to this data element by removing the terms ''remanufactured, reprocessed, reused,'' as these terms may be interpreted and applied too broadly to obtain the information of interest for this collection. These terms are also not necessarily synonymous with ''recycle'' in all scenarios. For a more detailed discussion of this changes, see Unit III.B.3. of the proposed rule (Ref. 1).

For the proposed rule, EPA solicited comment on whether submitters should identify the percentage of total production volume of their chemical substance that is recycled, instead of only designating whether recycling occurred. While one commenter stated that modifying the required recycling data element to include the percentage of total production volume would be overly burdensome and impractical, other commenters supported reporting recycling by percentage if it is useful to the Agency in prioritization of chemicals for risk evaluation. EPA has determined that knowing whether any amount of the chemical is recycled or otherwise used for a commercial purpose, instead of being disposed of as a waste, is currently sufficient for TSCA purposes, and that the increased specificity of this data element may not warrant the associated potential increase in reporting burden. As a result of these comments, EPA is retaining a ''yes or no'' style of response and is not finalizing a requirement for reporters to identify the percent recycled when reporting to CDR.

4. Percent byproduct. EPA is finalizing as a voluntary reporting element the reporting of the percent total production volume (by weight) for a chemical substance that is a byproduct within four ranges: 0 percent, greater than 0 but less than 50 percent, greater than or equal to 50 percent but less than 100 percent, or 100 percent. This is a modification from the proposal, which proposed to require that the data element be reported and that the percentages for the percent byproduct be rounded to the nearest 10 percent, unless the percentage is less than 5 percent, rather than as a larger range. EPA received comments that both supported and opposed the addition of reporting the percent byproduct. Those who supported the addition stated that knowing the percent byproduct was useful for the Agency in order to provide future exemptions for those who recycle their byproducts, as it will enable the identification of manufacturers, such as the printed circuit board fabricators, who report to CDR solely due to their byproduct

production. Other commenters stated that it is well-known that byproducts (organic and inorganic) can be important sources of exposure and risk and should be reported under the CDR rule so EPA can have information to aid with assessment of their health and environmental impact and be better able to ''understand a larger spectrum of potential exposure scenarios, by improving understanding of the connection between manufacturing and downstream activities for the purposes of substance life cycle assessments and risk evaluation'' (Ref. 10 and Ref. 19). Commenters who opposed the addition stated that this data element is unnecessary and could add complexity rather than reducing it.

Due to the comments received on this proposed data element and the concern that determining the specific percent byproduct (to the nearest 10 percent or more precisely if less than 5 percent) would be unnecessarily burdensome, EPA is finalizing the addition of this data element as a voluntary data element and to allow for reporting in ranges to reduce submitter burden. Rather than reporters providing the specific percent byproduct as proposed, EPA is finalizing a requirement that reporters provide information about the percent byproduct by selecting one of four ranges.

A byproduct is a chemical substance that is produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s); because it is part of the manufacture of a chemical product for a commercial purpose, it is considered to be produced for the purpose of obtaining a commercial advantage and is therefore itself considered manufactured for a commercial purpose (40 CFR 704.3, definitions for *byproduct* and *manufacture for commercial purposes*). EPA is adding this voluntary data element to become more aware of which industries primarily manufacture byproducts and to be better able to understand a larger spectrum of potential exposure scenarios, for the purposes of chemical substance life cycle assessments and risk evaluation. In addition, EPA will use this information to inform future decisions about potential changes to CDR requirements.

Some commenters who opposed this data element appeared to mistakenly interpret that the percent byproduct meant what percentage of the reported chemical substance, which was not itself a byproduct, had some percentage of a byproduct remaining with the reported chemical substance. EPA is not requesting the reporting of the byproducts within the intended product, which frequently are referred to by industry as contaminants, but rather the byproducts that are manufactured and then separated from the intended product; these byproducts are required to be reported separately unless the production volume is under the reporting threshold or another exemption identified in applies. EPA will clarify how to report the percent byproduct in the Instructions for Reporting (Ref. 9). EPA believes that additional clarification in the guidance will improve understanding reporting this data element and minimize associated reporting burden. For a more detailed discussion of this change, see Unit III.B.4. of the proposed rule (Ref. 1). Public comments related to the voluntary reporting of percent byproduct and EPA's responses can be found in the response to comment document (Ref. 10).

5. Chemical-specific function for imported mixtures. EPA is finalizing as proposed the requirement that the secondary submitter of a joint submission, typically the foreign supplier, report the chemical-specific function along with the already-required information on chemical composition of the imported product or mixture. A joint submission is most typically used when a substance or a mixture is imported and the supplier does not provide to the importer the specific chemical identity of the substance or substances that comprise the mixture. See Unit III.A. of the proposed rule for additional information about joint submissions (Ref. 1).

EPA received a comment that supported requiring the secondary submitter of a joint submission to report the chemical-specific function along with information on chemical composition of the imported product or mixture. Another commenter stated that providing this information on each joint submission may require a significant time to complete. EPA recognizes that providing this information may require some burden. EPA had already accounted for the associated burden, because the rule requires the function be provided on a chemical-specific basis but did not enable the appropriate party to provide such information. For example, for past submissions the primary submitter would report the function of the overall imported mixture, and that function would be applied to each chemical in the mixture. The comments suggested and our analysis supported having the primary or secondary submitter determine the function for each chemical in the mixture. Due to the suggestions received in public comments, EPA has sufficient support to justify support the secondary submitter determining the function for each chemical in the mixture. EPA's burden analysis for the final rule assumes that there is no difference in burden regardless of whether the primary submitter or the secondary submitter determines the function for each chemical in the mixture. Therefore, there is no increase in burden for the secondary reporter to determine the function for each chemical in the mixture. See footnote 14 in section 4.1.3 of the Economic Analysis for additional information (Ref. 7).

A commenter stated that EPA should not require information on the chemical composition of the imported product or mixture. EPA notes that this is not a new requirement. The composition information, which is reported by the secondary submitter of a joint submission, is necessary to identify the chemicals that are included in the imported product and how much of the imported volume to attribute to each component chemical substance. EPA clarified the requirement to report the percentage of formulation for a chemical substance in an imported product in the regulatory text at 40 CFR 711.15(b)(3)(i)(A).

6. Parent Company identity. EPA is finalizing as proposed two changes and finalizing with modifications one change associated with reporting the parent company under CDR: (1) To add the requirement to report a foreign parent company in addition to reporting the highest-level U.S. parent company, when the ultimate parent company is located outside of the United States; (2) to remove the definition of U.S. parent company from 40 CFR 711.3 and replace it with a new definition for highest-level parent company; and (3) to add a requirement for reporters to report legal name(s) and to follow a naming convention for providing the parent company name(s), the details of which will be provided in the CDR Instructions for Reporting (Ref. 9; see 40 CFR 711.35).

EPA received one comment that supported the proposed changes to the parent company identity and another comment that expressed concern over the use of a naming convention and complications that will increase the burden. The naming convention is primarily a tool to streamline the processes of capitalization, punctuation, and so on when identifying a parent company, and does not significantly impact burden. EPA believes that the use of the naming convention will not

significantly impact the burden because the reporter does not have to do anything to collect or generate this information, and is finalizing as proposed. EPA was interested in receiving comments on whether the guidelines and these examples encompass the representative range of scenarios for reporting under CDR, and whether the guidelines included in the proposed definition are sufficient; EPA did not receive any comment on this aspect of the proposal.

EPA estimates that the addition of a foreign parent company will slightly increase the burden, which is explained in detail in Chapter 4.3.2 in the Economic Analysis (Ref. 7). EPA did not estimate the burden reduction associated with the reduced need to contact companies for quality control purposes after data submission.

a. Finalized changes to the definition of U.S. parent company. EPA is finalizing with modification from the proposal the replacement of the definition of U.S. parent company from 40 CFR 711.3 with a new definition for highest-level parent company that includes both U.S. and foreign parent companies and provides guidelines for different company structures. Under the new definition, *highest-level parent company* means the highest-level company(s) of the site's ownership hierarchy as of the date of the submission during which data are being reported according to specified instructions. The highest-level U.S. parent company is located within the United States, while the highest-level foreign parent company is located outside the United States. EPA modified the descriptions of site ownership scenarios contained in the new definition to enhance understanding of the scenarios.

b. Finalized reporting of foreign parent company. In some situations, the highest-level parent company is outside of the United States. EPA is finalizing with modifications from the proposed the requirement that sites also identify the highest-level worldwide parent company, when applicable, and therefore is also finalizing the requirement to report the foreign parent company under 40 CFR 711.15. Under this final rule, reporters will continue to report their highest-level U.S. parent company, but will also report their highest-level foreign parent company if applicable. EPA recognizes that there are a variety of ownership situations for manufacturers reporting under CDR. In Unit III.B.7. of the proposed rule (Ref. 1), EPA listed the scenario-specific guidelines. EPA is finalizing the guidelines as part of the finalized definition of highest-level parent company in 40 CFR 711.3 with modifications to make the ownership situations easier to understand. The guidelines include how to populate the highest-level U.S. and foreign parent company data elements.

c. Finalizing use of naming convention. EPA is also finalizing the requirement for sites to follow the CDR instructions regarding standardized conventions for the naming of a parent company. These naming conventions address common formatting discrepancies, such as punctuation, capitalization, and abbreviations (*e.g.,* ''Corp'' for ''Corporation''). The use of these naming conventions will reduce the number of inconsistencies with the Parent Company Name data field, and thus will increase the reliability and usability of the data and reduce the associated reporting burden due to the Agency's need to request corrections from reporting companies.

C. How has the reporting process for co-manufactured chemicals changed?

EPA is finalizing two new methodologies for manufacturers to report co-manufactured chemicals. Although these finalized methodologies reduce co-manufacturer confusion and address other industry concerns, EPA estimates that it will have a minimal impact on the burden and therefore did not include an estimate in the analysis. See section 4.1.3.2 in the Economic Analysis for additional information (Ref. 7). As discussed in the proposed rule, EPA is avoiding the use of the term toll manufacturer for this final rule, so as to add clarity for the co-manufacturing situation. For a more detailed discussion of this change and additional background on co-manufacturing, see Unit III.C. of the proposed rule (Ref. 1).

In the proposed rule, EPA proposed a primary solution to the co-manufacturing mechanism, and requested comment on two potential alternatives to the reporting scenario. Commenters were supportive of EPA's approach to updating the mechanism that co-manufacturers report, but also requested more flexibility to enable the producing company to submit the CDR report on behalf of both companies. EPA agrees that additional flexibility is necessary and has chosen to finalize two different reporting methodologies for a co-manufacturing situation. The two following methodologies for reporting are based on the desire to reduce reporting burden and maintain flexibility for both the contracting and producing company. Contracting and producing companies must work together to select between the two following reporting methodologies for preparing their CDR submission.

1. First reporting procedure. Under the first reporting methodology, the contracting company (as the primary submitter) has the responsibility to initiate a co-manufacturer report that will prompt the reporting requirements for the producing company (as the secondary submitter). The contracting company will start the chemical report for the co-manufactured chemical, identifying the chemical substance and the producing company. The contracting company will then initiate the co-manufacturer report using e-CDRweb reporting tool to send a notification to the producing company. Additionally, the contracting company is responsible for completing the volume manufactured (40 CFR 711.15(b)(3)) and the processing and use-related section (40 CFR 711.15(b)(4)). Upon receipt of the email, the producing company will have the information needed to begin its portion of the co-manufacturer report, which will include the manufacturing-related data elements from 40 CFR 711.15(b)(3), including the production volume. Each party will complete its part of the co-manufacturer joint report as part of its overall CDR submission and will not have access to the information submitted by the other party. For example, the processing and use information submitted by the contracting company will not be viewable by the producing company.

2. Second reporting procedure. To create more flexibility for reporters, EPA is also finalizing the alternative reporting methodology proposed for the co-manufacturing situation. This reporting methodology requires the contracting and producing company, upon written agreement, to work together to complete the reporting. For this second methodology, the producing company (instead of the contracting company) initiates and completes the reporting in e-CDR Web. The producing company would provide the exposure information from the manufacturing site. The producing company would then coordinate with the contracting company to obtain the additional information needed to complete the submission. For example, in a co-manufacturing situation, the producing company is not likely to know the processing and use information associated with the co-manufactured chemical, and therefore works with the contracting company to complete Part III of the CDR Form U. Therefore, any ''not known or reasonably ascertainable'' (referred to as ''NKRA'' when reporting to CDR) responses in

Part III would refer to the knowledge of the contracting company and not the knowledge of the producing company. This coordination of information between the two parties must be done outside of e-CDRweb. Although the producing company would be submitting the report, both parties are responsible for the report. Therefore, if no report is filed, both the contracting company and the producing company can be held liable. This reporting mechanism would be most appropriate in a scenario in which the producing company has the majority of the information regarding the production of a specific chemical.

3. Definition of site. EPA is finalizing an amendment to the definition of site by replacing the term *toll manufacturer* with the term *producing company.* This change makes terminology consistent between the CDR definitions of site and manufacture.

4. Relationship of co-manufacturing to imports. Consistent with the past CDR rule, only a domestically produced chemical substance can be the subject of a co-manufacturing report; an imported chemical substance cannot be. Rather, a chemical substance manufactured via an arrangement with a foreign supplier will be considered an imported chemical substance, and the U.S. importer alone, as the reporting manufacturer, is responsible for reporting that substance.

D. How has the reporting of byproducts changed?

EPA is finalizing two new exemptions associated with byproducts, the first finalized with a slight modification to add an additional substance and the second finalized as proposed. The finalized exemptions are (1) to exempt specifically-listed byproducts that are recycled in a site-limited, enclosed system and to provide for a petition process for the public to request additions to that list of exempted manufacturing processes and related byproduct substances; and (2) to exempt byproducts manufactured in pollution control and boiler equipment when that equipment is non-integral to the primary manufacturing process.

EPA also proposed, but is not finalizing, an alternative method of reporting by category for inorganic metal byproducts. Several commenters expressed concern that the proposal to allow for categorical inorganic metal byproduct reporting may actually increase as opposed to decrease reporting burden and/or add complexity for the regulated community. EPA has determined that the issues raised in the public comments associated with this optional reporting method outweigh the potential benefits. More information is in Unit III.F.2.

Nine commenters supported to various degrees EPA's proposals specific to byproducts, though some asserted that additional clarification through guidance would be needed for reporters before finalization, and that there would be limited time (*i.e.,* less than a year) for familiarization with the changes before the next reporting cycle. Other commenters specifically opposed the proposed exemptions or changes for byproduct reporting, stating that these changes may constrain EPA's ability to obtain information it needs to carry out its duties under TSCA (*i.e.,* conducting chemical prioritization, risk evaluation, and risk management responsibilities). EPA disagrees with the notion that the new reporting exemptions hinder EPA's ability to carry out its obligations under TSCA and believes that the reasons for exempting these byproducts, laid out in the Response to Public Comments and in the proposed rule, are sufficient (Refs. 1 and 10). The Agency carefully considers its needs for the information collected under CDR and the burden associated with providing such information. Some commenters opposed the exemption by expressing that the byproduct exemptions were not extensive enough, claiming that all byproducts should be exempted or that beneficially used byproducts should be exempted.

1. Specific site-limited recycled byproducts. EPA is finalizing the proposal to exempt specifically identified byproducts that are recycled on-site from two particular industries, and is finalizing the petition process to make changes to this exemption list with some modifications to the proposal.

In the proposed exemption, Portland cement manufacturers that manufacture *Flue dust, portland cement* (CASRN 68475–76–3) (referred to as cement kiln dust), and manufacturers using the Kraft pulping process to manufacture *Sulfite liquors and Cooking liquors, spent* (CASRN 66071–92–9) (often comprised of what is referred to as black liquor) and *Carbonic acid calcium salt (1:1)* (CASRN 471–34–1) (referred to as calcium carbonate) would be exempted from reporting these byproduct substances when (1) these substances are recycled or otherwise used to manufacture another chemical substance within an enclosed system, within the same overall manufacturing process, and on the same site where the byproduct was originally manufactured and (2) the non-exempted portion of the byproduct substance or a different chemical substance that was manufactured from the byproduct or manufactured in the same overall manufacturing process is still reported under CDR. For a more detailed discussion of the rationale for including these specific chemicals in this exemption, see Unit III.D.2. of the proposed rule (Ref. 1).

Four commenters were strongly supportive of this exemption, although some believe the exemption is too narrow. One commenter indicated that instead of listing processes and substances, the exemption should be self-determining, when the site documents in its own records that its self-identified process meets the exemption conditions for its manufactured byproducts. EPA disagrees with this comment, concluding that self-determination, as this commenter describes it, is not appropriate for this exemption, which is based on a thorough understanding of the engineering processes and controls of the operation that EPA would need to review (*i.e.,* via the described petition process) prior to allowing the exemption. However, for manufacturers that have evaluated EPA's detailed criteria for this exemption and have determined that their site meets these conditions, this exemption is in effect self-executing for the substances already listed at 40 CFR 711.10(d)(1)(i). For additional discussion, see the response to comments (Ref. 10).

Another commenter requested that EPA provide a non-isolated intermediate exemption determination for five chemicals that they manufacture related to the two original chemicals listed from the Kraft pulping process. Because EPA did not propose changes to the non-isolated intermediate exemption, this comment is largely out of scope for this rulemaking. However, EPA is taking this opportunity to address this comment because of its connection with the new byproduct exemption in an effort to help the commenter apply the updated CDR reporting requirements in its 2020 reporting. EPA concluded that two of these five chemicals (Green liquor (CASRN 68131–30–6, *Sulfite liquors and Cooking liquors, green*)) and Lime (CASRN 1305–78–8, *Calcium oxide (CaO)* may be an intermediate and, depending on certain site-specific conditions, may qualify for the non-isolated intermediate exemption. EPA also determined that another of these five chemicals (Black liquor, oxidized (CASRN 68514–09–0, *Sulfite liquors and Cooking liquors, spent, oxidized*)) is a byproduct, is eligible for this new byproduct exemption, and has been added to the list of Kraft pulping

process exempted substances. If, in the future, new information is provided to EPA to further inform EPA's understanding of the liquors and the Kraft pulping process, EPA can revisit its understanding. For additional discussion, see the response to comments (Ref. 10).

EPA also proposed a petition process to enable the public to request changes to the new list of specific exempted byproduct substances as produced in certain manufacturing processes. Because there may be other manufacturing processes and related byproduct substances that meet the criteria for this exemption, and because EPA's interest in these byproduct substances may change, EPA may amend the list of byproduct substances and processes that have been included in this exemption. The Agency may do this on its own initiative or in response to a request from the public, based on EPA's determination of whether the manufacturing process and related byproduct substance described meet the criteria explained in this Unit. Most commenters supported the proposed petition process for the exemption while also suggesting modifications and guidance. Some argued that the proposed process is too burdensome; others requested that EPA clarify how this process will operate, including by clarifying the criteria for seeking an amendment, how potentially sensitive information can be claimed confidential, and additional explanation and examples of what constitutes Agency ''interest'' in a byproduct substance. EPA agrees that clarification is needed regarding how the byproduct exemption petition process will operate and therefore will be providing enhanced guidance that will include examples of the types of information that a petition should include to assist EPA in its determination. The guidance will also clarify the confidentiality available for potentially sensitive information provided through the petition process, as well as what constitutes EPA's current interest. This guidance will be published prior to the start of the 2024 submission period.

EPA intended the proposed regulatory text in 40 CFR 711.30(a)(1) to address confidentiality concerns; specifically, as proposed, ''Any person submitting information under this part may assert a confidentiality claim for that information at the time it is submitted.'' To emphasize how confidentiality will be addressed, EPA has included additional references to this petition process in the CBI substantiation procedures described in Unit III.A., as listed in 40 CFR 711.30(a)(3) and 40 CFR 711.30(b), to further provide certainty that information submitted as part of any petition may be claimed as confidential, and to clarify that such confidentiality claims must be substantiated at the time of submission to the Agency, unless the information claimed as confidential is described in TSCA section 14(c)(2). Additionally, EPA is requiring that if confidential information is submitted in a petition, the petitioner must also provide a sanitized version of the petition with the confidential information redacted, so that it may be publicly posted by the Agency.

Another commenter emphasized that decisions to make any changes to the list of exempted manufacturing processes and substances need to be subject to public notice and a public comment opportunity. Because rulemaking is required to change the list of manufacturing processes and chemicals eligible for the exemption in 40 CFR 711.10(d)(1)(i), the public will receive notice of the change and could comment.

This commenter also requested that the regulatory text clearly indicate that two of the listed considerations are requirements for the exemption. To better reflect the requirements of the exemption, EPA has revised the regulatory text at 40 CFR 711.10(d)(1)(ii)(B) to clearly indicate that two of the four listed considerations are requirements.

Other commenters requested that EPA eliminate the second factor and stated a belief that the factors will result in additional analysis, tracking, and reporting. EPA disagrees that the second petition factor would result in more analysis, tracking or reporting than is already required. The second factor is a requirement that the byproduct substance itself (*e.g.,* a portion of the byproduct is used for a different purpose and not recycled in an enclosed system) or another chemical substance from the same overall manufacturing process is being reported. If the site has previously reported under CDR, then the site will have the information needed to address this factor. Regarding the second factor specifically, EPA expects to be able to ascertain typical exposure scenarios for an exempted byproduct's manufacturing process based on information for other substances that are reported at the facility in the same manufacturing process. If no other substances are reported, EPA would not otherwise have any exposure-related information associated with the manufacturing site.

2. Byproducts generated by specified non-integral processes. EPA is finalizing as proposed the exemption for byproducts manufactured in certain equipment via processes that are not integral to the production process. An integral process is the portion of the manufacturing process that is chemically necessary or provides primary operational support for the production of the intended product. For the purposes of this exemption, certain associated processes that are not chemically required to produce the intended product would be considered non-integral. These may be required due to other regulations or the need to generate heat or electricity on-site, but are not specifically necessary for the manufacture of the intended product. In this final rule, byproducts manufactured due to the use of pollution control equipment and boilers that generate heat or electricity on-site, when such equipment is not part of the main production process, are exempted from reporting under CDR. For a more detailed discussion of this exemption, see Unit III.D.3. of the proposed rule (Ref. 1).

Most commenters supported this proposed exemption; some commenters requested that EPA expand the exemption to include beneficially used byproducts (*i.e.,* coal combustion residuals from utilities). However, the production of coal combustion residuals from utilities specifically is integral to the generation of electricity (the utility's product) and therefore is not applicable for this exemption, which is specifically for byproducts from non-integral equipment exemption. EPA disagrees with the suggestion that a designation under another statute (*e.g.,* RCRA) of ''beneficially used'' should be an indication that the substance should be exempted under TSCA.

Other commenters requested that EPA provide additional examples (*i.e.,* wastewater treatment processes) and explanation through enhanced guidance. EPA is finalizing this exemption as proposed and will be providing guidance for this byproduct exemption in the Instructions for Reporting that will include examples of specific scenarios that meet the criteria of this exemption, such as wastewater treatment, flue gas desulfurization, and catalytic reduction systems. This guidance will be finalized prior to the start of the next submission period.

E. What technical modifications have been made to the regulatory text?

1. Removing outdated regulatory text. EPA is finalizing the proposal to remove regulatory text specific to the 2012 CDR submission period. This text is no longer relevant because the submission

period was completed more than five years ago, and all phased-in reporting requirements from the change from the IUR to CDR have been fully in effect since the 2016 reporting cycle. EPA did not receive any public comment on removing outdated regulatory text.

2. Simplifying and clarifying regulatory text. EPA is finalizing the proposal to change or add regulatory text to simplify or clarify regulatory requirements throughout 40 CFR part 711. These changes are in addition to the finalized changes discussed elsewhere in this notice, and include revisions to the following provisions:

- 40 CFR 711.1, to update the title to include ''Enforcement'', to more clearly identify that the section discusses the scope, compliance, and enforcement of the CDR rule.
- 40 CFR 711.1(a), to remove the discussion about compiling and keeping current the TSCA Inventory, including the discussion about adding new chemicals to the Inventory. This discussion is unnecessary for an understanding of the scope of the CDR rule.
- 40 CFR 711.1(c), to include a statement about TSCA section 11 subpoena authority, as a reminder that EPA has this authority for compliance purposes.
- 40 CFR 711.3, to modify definitions for *e-CDRweb, Manufacture,* and *Site* for clarification purposes.
- 40 CFR 711.6(a)(4), to reverse the order of ''certain forms of natural gas'' and ''water'' for clarification purposes.
- 40 CFR 711.10, to remove duplicative wording and add clarity to the requirements.
- 40 CFR 711.15(a), to add clarity to the reporting requirements.
- 40 CFR 711.35(c)(1), to update references.

F. What proposed provisions are not being finalized?

In consideration of the public comments received, EPA is not finalizing at this time the following proposed amendments to the current CDR rule.

1. Public contact. EPA is not finalizing the proposal to enable the reporting of a public contact for each CDR submission as a voluntary data element. The addition of a public contact to handle public inquiries was modeled after TRI's approach to the public contact, albeit on a voluntary basis. For a more detailed discussion of this proposal, see Unit III.B.6. of the proposed rule (Ref. 1). EPA solicited comment on whether it would be helpful to have a public contact available, and whether it should be voluntary or required. One commenter stated that a new field for public contact is ''not necessary and could be misleading.'' The commenter explained that the reporter already provides a technical contact for each submission and that the purpose of CDR is not a ''right-to-know'' for the public which would necessitate a direct line of communication between individual companies and the public. EPA appreciates the feedback that the proposed field of a voluntary public contact may be misleading and, therefore, is not finalizing this proposed data element. See the response to comment document (Ref. 10).

2. Alternative reporting in metal compound categories for inorganic byproducts. EPA is not finalizing the proposal to allow, but not require, CDR reporting within defined metal compound categories for certain elemental metals and inorganic metal compounds that are produced as inorganic byproducts. Manufacturers of these inorganic byproducts would have had the option to combine and report multiple inorganic byproduct metal substances, which otherwise would be reported individually as listed on the TSCA Inventory, into one or more specifically-listed categories (*e.g.,* Chromium & Chromium Compounds). For a more detailed discussion of this proposal, see Unit III.D.1. of the proposed rule. Public comments related to the reporting in metal compound categories for inorganic byproducts and EPA's responses are in the response to comment document (Ref. 10).

Three commenters supported the proposed optional method of reporting inorganic metal byproducts, while six commenters either stated that optional category reporting would add reporting complexity or expressed doubt that it would be used. Other commenters opposed the proposal outright, bringing a number of perspectives to EPA's attention. In consideration of the stakeholder comments, EPA has determined that the potential for additional complexity and burden associated with category reporting for inorganic metal byproducts outweighs the potential benefits. Accordingly, EPA is not finalizing the proposed provision for alternative reporting in metal compound categories for inorganic byproducts. Because this proposed reporting approach is not being finalized, EPA is also not finalizing a specific definition of ''inorganic chemical substance'' under CDR at 40 CFR 711.3.

3. Consolidating byproduct exemption regulatory text. EPA is not finalizing the proposal to consolidate regulations regarding byproduct exemptions that affect reporting under the CDR rule into 40 CFR 711.10, such that all the CDR reporting exemptions regarding manufacturer activities would be in one place. Specifically, EPA proposed that language from 40 CFR 720.30(g) and (h) that is currently incorporated by reference would be replicated in 40 CFR 711.10(c) without change.

Industry and environmental advocacy commenters opposed bringing over the exemptions from 40 CFR 720.30 (the Premanufacture Notice (PMN) program) without changes, suggesting that EPA review the current definitions against the current TSCA and EPA data needs, justify exemptions that will continue, and provide an opportunity for public comment on the justification. If exemptions were retained, commenters suggested both regulatory and guidance changes (Ref. 10).

The Agency has determined that guidance is currently sufficient to address these concerns. While there appears to be confusion surrounding the exemptions, that confusion in itself does not justify altering or removing the exemptions at this time. Obtaining information on percent byproduct in the next reporting cycle will further EPA's understanding of byproducts in commerce and will help to inform any future determination as to whether alteration of the existing exemptions is warranted.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. TSCA Chemical Data Reporting Revisions and Small Manufacturer Definition Updates for Reporting and Recordkeeping Requirements Under TSCA section 8(a); Proposed Rule, **Federal Register**, 84 FR 17692, April 25, 2019 (FRL–9982–16).

2. EPA. Public Webinar to Obtain Feedback on Improving CDR; Outreach meeting. Attended by public, reporters to CDR, and EPA. Washington, DC. May 1, 2017.

3. Amy D Kyle. ''Issues Raised by the Regulatory Negotiation on Inorganic Byproducts in the Toxic Substances Control Act as amended.'' December 13, 2017. (EPA Docket EPA–HQ–OPPT–2016–0597–0087).

4. EPA. Chemical Data Reporting; Requirements for Inorganic Byproduct Chemical Substances; Notice of Public

Meeting; Cancellation and Public Input Opportunity. Proposed Rule, **Federal Register**, 82 FR 47423, October 12, 2017 (FRL–9968–94).

5. EPA (2020). Supporting Statement for an Information Collection Request (ICR) Addendum Under the Paperwork Reduction Act (PRA) (EPA ICR No. 1884.11; OMB Control Number 2070–0162). March 2020.

6. EPA. Request for Approval under the ''Generic Clearance for the Collection of Routine Customer Feedback.'' (OMB Control Number: 2010–0042). February 2020.

7. EPA. *Economic Analysis for the Final Rule on TSCA Chemical Data Reporting (CDR) Revisions—(RIN 2070–AK33).* Office of Pollution, Prevention, and Toxics. Washington, DC. December 2019.

8. EPA. CBI Substantiation Estimator Correction September 17, 2019. Office of Pollution, Prevention, and Toxics. Washington, DC. December 2019.

9. EPA. TSCA CDR Instructions for Reporting. Office of Pollution Prevention and Toxics. Washington, DC. February 2020.

10. EPA. Response to Public Comments on the Final TSCA Chemical Data Reporting (CDR) Revisions Rule. Office of Pollution Prevention and Toxics. Washington, DC. February 2020.

11. EPA. Meeting Memo—Tribal Outreach Sessions. Office of Pollution Prevention and Toxics. Washington, DC. July 30, and August 1, 2019.

12. EPA. Meeting Memo—Meeting with IPC. Office of Pollution Prevention and Toxics. Washington, DC. June 13, 2019.

13. EPA. Meeting Memo—IPC/TTM Site Visit/Plant Tour. Office of Pollution Prevention and Toxics. Sterling, VA. July 10, 2019.

14. EPA. Meeting Memo—Lehigh Hanson Cement Site Visit/Plant Tour. Office of Pollution Prevention and Toxics. Union Bridge, MD. August 9, 2019.

15. Franz, Christina to Hartman, Mark, August 9, 2019. Letter to EPA: ''Request of the American Chemistry Council for EPA to Reopen CDR and CBI Rulemaking Comment Periods in Light of Supreme Court Decision.'' (EPA Docket EPA–HQ–OPPT–2018–0320–0038). American Chemistry Council. Washington, DC.

16. EPA. Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA) (82 FR 6522, January 19, 2017). Office of Pollution Prevention and Toxics. Washington, DC.

17. EPA (2018). OPPT. Technical Support Document: Harmonizing CDR Functional and Product codes with OECD Functional, Product, and Article Codes. August 2018.

18. EPA. 1997 North American Industry Classification System—1987 Standard Industrial Classification Replacement. Notice, **Federal Register**, 62 FR 17288. April 9, 1997.

19. Environment Defense Fund. ''Environmental Defense Fund Comments on TSCA Chemical Data Reporting Revisions and Small Manufacturer Definition Update for Reporting and Recordkeeping Requirements.'' June 24, 2019. (EPA Docket EPA–HQ–OPPT–2018–0321–0107).

20. EPA. *Economic Analysis for the Proposed Rule on TSCA Section 8(a) Small Manufacturer Definition Update (RIN 2070–AK33).* Office of Pollution, Prevention, and Toxics. Washington, DC. August 2018.

V. Statutory and Executive Order Reviews

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

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

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Any changes made in response to OMB recommendations have been documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866.

EPA prepared an economic analysis of the potential costs and benefits associated with this action. A copy of this economic analysis, entitled *Economic Analysis for the TSCA Chemical Data Reporting Revisions Final Rule* (Ref. 7) is in the docket and is briefly summarized in Unit I.E.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is considered a regulatory action under Executive Order 13771 (82 FR 9339, February 3, 2017). Details on the estimated costs of this final rule can be found in the Economic Analysis (Ref. 7) which is briefly summarized in Unit I.E.

C. Paperwork Reduction Act (PRA)

For CDR, the information collection requirements in 40 CFR part 711 related to the submission of Form Us are already approved by OMB under the PRA, 44 U.S.C. 3501 *et seq.* That Information Collection Request (ICR) has been assigned EPA ICR No. 1884 and OMB Control No. 2070–0162. Because this final rule involves new or revised information collection activities that require additional OMB approval, EPA has prepared an addendum to the currently approved ICR (ICR addendum) (Ref. 5). You can find a copy of the ICR addendum in the docket for this rule (EPA–HQ–OPPT–2018–0321), and it is briefly summarized here.

Respondents/affected entities: Entities potentially affected by this ICR include companies manufacturing (including importing) chemical substances listed on the TSCA Inventory and regulated under TSCA section 8.

Respondent's obligation to respond: Mandatory.

Estimated number of respondents: 5,660.

Frequency of response: The collection occurs every four years. The next CDR collection will occur in 2020.

Total estimated burden: 26,469 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $2,053,700 per year, includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR addendum, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 4 CFR part 9 to display the OMB control number for the approved information collection action contained in this final rule.

D. Regulatory Flexibility Act (RFA)

Pursuant to section 605(b) of the RFA, 5 U.S.C. 601 *et seq.,* I certify that this action will not have a significant economic impact on a substantial number of small entities. The Agency's basis is briefly summarized here and is detailed in the Economic Analysis (Ref. 7).

Under RFA, small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rule on small entities, small entity is defined as:

1. A small business, as defined by the SBA's regulations at 13 CFR 121.201.

2. A small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000.

3. A small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

For CDR, the regulated community does not include small not-for-profit organizations. Therefore, the focus of the RFA analysis for this rule is on small businesses and small governments.

The existing CDR requirements, at 40 CFR 711, generally exempt from reporting small businesses, defined at 40 CFR 704.3 as entities with annual sales of less than $40 million and less than 100,000 lb production of any given chemical at a site; or annual sales of less than $4 million. A small business would be required to report under the final rule, however, if it produces any

chemical that is the subject of a regulation proposed or promulgated under TSCA sections 4, 5(b)(4), or 6, or that is the subject of an order under TSCA section 5(e), or that is the subject of relief that has been granted pursuant to a civil action under TSCA section 5 or 7. A small business may also report voluntarily. No exemption for small governments is provided in the existing CDR requirements.

EPA estimates that 733 small industry parent entities and four small governmental entities would potentially be affected by this rule. Based on estimated maximum compliance costs annualized over a ten-year period and revenue data for parent entities, EPA estimates that the cost-to-revenue ratio of the CDR Revisions rule would be less than 1% for 727 (99%) of small industry parent entities subject to the rule. An additional two small industry parent entities are expected to incur cost impacts between 1 and 3%, and four small industry parent entities are expected to incur cost impacts above 3%. None of the small government parent entities are expected to incur cost impacts of greater than 1% of revenues. Therefore, EPA concludes that compliance costs associated with the CDR revisions final rule are not expected to have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and would not significantly or uniquely affect small governments. According to the information derived using the 2016 CDR, there are government entities that report to CDR, including: Seven municipalities, one county-level public utility district, and one tribal entity. Impacts would not exceed $100 million for all governments. The final rule is not expected to result in expenditures by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (when adjusted annually for inflation) in any one year. Accordingly, this final rule is not subject to the requirements of sections 202, 203, or 205 of UMRA.

F. Executive Order 13132: Federalism

This action does not have federalism implications because it is not expected to have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications because it is not expected to have substantial direct effects on tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this final rule. On July 30 and August 1, 2019, EPA conducted two presentations as part of tribal outreach to provide background information on the proposed rule and to obtain feedback. Two identical outreach sessions were conducted, and EPA received no follow-up comments.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern environmental health or safety risks, such that the analysis required under section 5–501 of Executive Order 13045 has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it would not establish an environmental standard intended to mitigate health or safety risks. Nevertheless, the information obtained by the reporting required by this final rule will be used to inform the Agency's decision-making process regarding chemical substances to which children may be disproportionately exposed. This information would also assist the Agency and others in determining whether the chemical substances covered in this final rule present potential risks, allowing the Agency and others to take appropriate action to investigate and mitigate those risks.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

J. National Technology Transfer and Advancement Act (NTTAA)

Because this action does not involve any technical standards, NTTAA section 12(d), 15 U.S.C. 272 note, does not apply to this action.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

This action is not expected to have high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The Agency believes that the rule would improve the information collected under CDR and better assist EPA and others in determining the potential hazards and risks associated with the chemical substances covered by the CDR. Because the CDR is an information collection requirement, the information that would be improved through the final rule would enable the Agency to target educational, regulatory, or enforcement activities towards industries or chemical substances that pose the greatest risks and/or to target programs for geographic areas that are at the highest risk. Thus, the information to be gathered under this rule will help EPA make decisions that would benefit potentially at-risk communities, some of which may be disadvantaged.

The rule is directed at manufacturers (including importers) of chemical substances. All consumers of these chemical products and all workers who come into contact with these chemical substances could benefit if data regarding the chemical substances' health and environmental effects were developed. Therefore, it would not appear that the costs and the benefits of the final rule would be disproportionately distributed across different geographic regions or among different categories of individuals.

VI. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 711

Environmental protection, Toxic substances control act, TSCA chemical data reporting and recordkeeping requirements.

Dated: March 17, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

Therefore, 40 CFR part 711 is amended as follows:

PART 711—[AMENDED]

■ 1. The authority citation for part 711 continues to read as follows:

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

■ 2. Amend § 711.1 by revising the section heading, and paragraphs (a) and (c), to read as follows:

§ 711.1 Scope, compliance, and enforcement.

(a) This subpart specifies reporting and recordkeeping procedures under section 8(a) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2607(a)) for certain manufacturers (including importers) of chemical substances. TSCA section 8(a) authorizes the EPA Administrator to require reporting of information necessary for the administration of TSCA.

* * * * *

(c) TSCA section 15(3) makes it unlawful for any person to fail or refuse to submit information required under this part. In addition, TSCA section 15(3) makes it unlawful for any person to fail to keep, and permit access to, records required by this part. Section 16 of TSCA provides that any person who violates a provision of TSCA section 15 is liable to the United States for a civil penalty and may be criminally prosecuted. Pursuant to TSCA section 17, the Federal Government may seek judicial relief to compel submission of TSCA section 8(a) information and to otherwise restrain any violation of TSCA section 15. (EPA does not intend to concentrate its enforcement efforts on insignificant clerical errors in reporting.) TSCA section 11 allows for inspections to assure compliance, and the Administrator may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions, and other information that the Administrator deems necessary.

* * * * *

■ 3. In § 711.3:

■ a. Revise the definitions of ''*e*-CDRweb'' and ''Manufacture'';

■ b. Add alphabetically the definition for ''Highest-level parent company''.

■ c. Revise paragraph (1) of the definition for ''Site''*;*

■ d. Remove the definition for ''U.S. parent company'';

The additions and revisions read as follows:

§ 711.3 Definitions.

* * * * *

e-CDRweb means the electronic, web-based tool provided by EPA for the completion of Form U and submission of the CDR data.

* * * * *

Manufacture means to manufacture, produce, or import, for commercial purposes. Manufacture includes the extraction, for commercial purposes, of a component chemical substance from a previously existing chemical substance or complex combination of chemical substances. A chemical substance is co-manufactured by the person who physically performs the manufacturing and the person contracting for such production when that chemical substance, manufactured other than by import, is:

(1) Produced exclusively for another person who contracts for such production, and

(2) That other person dictates the specific chemical identity of the chemical substance and controls the total amount produced and the basic technology for the manufacturing process.

* * * * *

Highest-level parent company means the highest-level company of the site's ownership hierarchy as of the start of the submission period during which data are being reported according to the following instructions. The highest-level U.S. parent company is located within the United States while the highest-level foreign parent company is located outside the United States. The following rules govern how to identify the highest-level U.S. parent company and highest-level foreign parent company (if applicable):

(1) If the site is entirely owned by a single U.S. company that is not owned by another company, that single company is the U.S. parent company.

(2) If the site is entirely owned by a single U.S. company that is, itself, owned by another U.S.-based company (*e.g.,* it is a division or subsidiary of a higher-level company), the highest-level domestic company in the ownership hierarchy is the United States parent company. If there is a higher-level parent company that is outside of the United States, the highest-level foreign company in the ownership hierarchy is the foreign parent company.

(3) If the site is owned by more than one company (*e.g.,* company A owns 40 percent, company B owns 35 percent, and company C owns 25 percent), the company with the largest ownership interest in the site is the parent company. If a higher-level company in the ownership hierarchy owns more than one ownership company, then determine the entity with the largest ownership by considering the lower-level ownerships in combination (*e.g.,* corporation x owns companies B and C, for a total ownership of 60 percent for the site).

(i) If the parent company is a U.S. company owned by another U.S. company, then the highest-level domestic company in the ownership hierarchy is the U.S. parent company. If the U.S. parent company has a higher-level foreign company in the ownership hierarchy, then the highest-level foreign company in the ownership hierarchy is the foreign parent company.

(ii) If the parent company is a foreign company, then the site is its own U.S. parent company and the foreign parent company is the highest-level foreign company in the ownership hierarchy.

(4) If the site is owned by a 50:50 joint venture or a cooperative, the joint venture or cooperative is its own parent company. If the site is owned by a U.S. joint venture or cooperative, the highest level of the joint venture or cooperative is the U.S. parent company. If the site is owned by a joint venture or cooperative outside the United States, the highest level of the joint venture or cooperative outside the United States is the foreign parent company.

(5) If the site is entirely owned by a foreign company (*i.e.,* without a U.S.-based subsidiary within the site's ownership hierarchy), the highest-level foreign company in the ownership hierarchy is the site's foreign parent company.

(6) If the site is federally owned, the highest-level federal agency or department is the U.S. parent company.

(7) If the site is owned by a non-federal public entity, that entity (such as a municipality, State, or tribe) is the U.S. parent company.

* * * * *

Sites * * *

(1) For chemical substances manufactured under contract, *i.e.,* by a co-manufacturer, the site is the location where the chemical substance is physically manufactured.

* * * * *

■ 4. Amend § 711.6 by revising the section heading, the introductory text and the paragraph (a)(4) subject heading to read as follows.

§ 711.6 Chemical substances for which information is not required.

The following groups or categories of chemical substances are exempted from some or all of the reporting requirements of this part, with the

following exception: A chemical substance described in paragraph (a)(1), (2), or (4), or (b) of this section is not exempted from any of the reporting requirements of this part if that chemical substance is the subject of a rule proposed or promulgated under TSCA sections 4, 5(a)(2), 5(b)(4), or 6, or is the subject of an enforceable consent agreement (ECA) developed under the procedures of 40 CFR part 790, or is the subject of an order issued under TSCA sections 4, 5(e), or 5(f), or is the subject of relief that has been granted under a civil action under TSCA sections 5 or 7.

* * * * *

(a) * * *

(4). *Water and certain forms of natural gas.* * * *

* * * * *

■ 5. Amend § 711.8 by revising paragraphs (a) and (b) to read as follows:

§ 711.8 Persons who must report.

* * * * *

(a) *Persons subject to recurring reporting.* Any person who manufactured (including imported) for commercial purposes 25,000 lb (11,340 kg) or more of a chemical substance described in § 711.5 at any single site owned or controlled by that person during any calendar year since the last principal reporting year.

(b) *Exceptions.* Any person who manufactured (including imported) for commercial purposes any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 5(a)(2), 5(b)(4), or 6, or is the subject of an order in effect under TSCA section 4, 5(e) or 5(f), or is the subject of relief that has been granted under a civil action under TSCA sections 5 or 7 is subject to reporting as described in § 711.8(a), except that the applicable production volume threshold is 2,500 lb (1,134 kg).

■ 6. Revise § 711.9 to read as follows:

§ 711.9 Persons not subject to this part.

A person described in § 711.8 is not subject to the requirements of this part if that person qualifies as a small manufacturer or small government as those terms are defined in 40 CFR 704.3. Notwithstanding this exclusion, a person who qualifies as a small manufacturer or small government is subject to this part with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or is the subject of an order in effect under TSCA section 4 or 5(e), or is the subject of relief that has been granted under a civil action under TSCA section 5 or 7.

■ 7. Revise § 711.10 to read as follows:

§ 711.10 Activities for which reporting is not required.

A person described in § 711.8 is not subject to the requirements of this part with respect to any chemical substance described in § 711.5, when:

(a) The person manufactured or imported the chemical substance solely in small quantities for research and development.

(b) The person imported the chemical substance as part of an article.

(c) The person manufactured the chemical substance in a manner described in 40 CFR 720.30(g) or (h).

(d) The person manufactured the chemical substance in any of the following manners:

(1) Byproduct substances listed in paragraph (i) of this section for the following manufacturing processes, when recycled or otherwise used within a site-limited, physically enclosed system that is part of the same overall manufacturing process from which the byproduct substance was generated, and when the site is reporting the byproduct or a different chemical substance that was manufactured from the recycled byproduct or manufactured in the same overall manufacturing process:

(i) *List of processes and certain related byproduct substances.* (A) Portland Cement Manufacturing (*i.e.,* CASRN 68475–76–3, Flue dust, portland cement).

(B) Kraft Pulping Process (*i.e.,* CASRN 66071–92–9, Sulfite liquors and Cooking liquors, spent; CASRN 68514–09–0, Sulfite liquors and Cooking liquors, spent, oxidized; and CASRN 471–34–1, Carbonic acid calcium salt (1:1)).

(ii) *Amendments.* EPA may amend the exemptions list in paragraph (d)(1)(i) of this section on its own initiative or in response to a request from the public based on EPA's determination of whether the byproduct substance and process described meet the criteria explained in this paragraph (d)(1), based on the requirements and considerations listed in paragraphs (d)(1)(ii)(B) and (C) of this section.

(A) Any person may request that EPA amend the chemical substance list in paragraph (d)(1)(i) of this section. Your request must be in writing and must be submitted to the address provided in 40 CFR 700.17(a). Please label your request as follows: Attention: TSCA Chemical Data Reporting—Byproduct Exemption Request. Requests must identify the manufacturing process and byproduct chemical substance in question, as well as its CASRN or other chemical identification number as identified in 40 CFR 711.15(b)(3)(i), and must contain a written rationale for the request that provides sufficient specific information, addressing the requirements and considerations listed in paragraphs (d)(1)(ii)(B) and (C) of this section, including citations and relevant documents, to demonstrate to EPA that the byproduct substance and process in question either does or does not meet the criteria explained in this paragraph (d)(1). If a request related to a particular byproduct substance and process is resubmitted, any subsequent request must clearly identify new information contained in the request. EPA may request other information that it believes necessary to evaluate the request. EPA will issue a written response to each request within 120 days of receipt of the request and will maintain copies of these responses in a docket that will be established for each reporting cycle.

(B) In making its determination whether this exemption should apply to a particular manufacturing process and related byproduct substance, the following two requirements must be met:

(*1*) The byproduct substance is recycled or otherwise used to manufacture another chemical substance within an enclosed system, within the same overall manufacturing process, and on the same site as that byproduct was originally manufactured.

(*2*) The site is reporting under CDR other chemical substances, in particular a chemical substance other than the byproduct substance that was manufactured from the byproduct or manufactured in the same overall manufacturing process.

(C) In addition to the requirements in paragraph (d)(1)(ii)(B) of this section, EPA will consider the totality of information available for the process and related byproduct substance in question, including but not limited to, one or both of the following considerations:

(*1*) Whether EPA has a current interest in the byproduct substance.

(*2*) Whether the byproduct substance must have already been reported under CDR, or would be expected to be reported if not exempted by this exemption.

(D) After granting a petition, the Agency will initiate rulemaking to make revisions to the list of substances in paragraph (d)(1)(i) of this section.

(E) To assist EPA in reaching a decision regarding a particular request prior to a given principal reporting year, requests must be submitted to EPA no later than 12 months prior to the start of the next principal reporting year.

(2) A quantity of the byproduct that is manufactured solely in the following

equipment when it is not integral to the chemical manufacturing processes of the site:

(i) Pollution control equipment.

(ii) Boilers used to generate heat or electricity for that site.

■ 8. Revise § 711.15 to read as follows.

§ 711.15 Reporting information to EPA.

Any person who must report under this part, as described in § 711.8, must submit the information described in this section for each chemical substance described in § 711.5 that the person manufactured (including imported) for commercial purposes in an amount of 25,000 lb (11,340 kg) or more (or in an amount of 2,500 lb (1,134 kg) or more for chemical substances subject to the rules, orders, or actions described in § 711.8(b)) at any one site during any calendar year since the last principal reporting year (*e.g.,* for the 2020 submission period, consider calendar years 2016, 2017, 2018, and 2019, because 2015 was the last principal reporting year). The principal reporting year for each submission period is the previous calendar year (*e.g.,* the principal reporting year for the 2020 submission period is calendar year 2019). For all submission periods, a separate report must be submitted for each chemical substance at each site for which the submitter is required to report. A submitter of information under this part must report information as described in this section to the extent that such information is known to or reasonably ascertainable by that person.

(a) *Reporting information to EPA.* Any person who reports information to EPA must complete a Form U using the e-CDRweb reporting tool provided by EPA at the address set forth in § 711.35. The submission must include all information described in paragraph (b) of this section. Persons must submit the chemical reports on a separate single Form U for each site for which the person is required to report. The e-CDRweb reporting tool is described in the instructions available from EPA at the website set forth in § 711.35.

(b) *Information to be reported.* The information described in paragraphs (b)(1) through (4) of this section must be reported for each chemical substance manufactured (including imported) in an amount of 25,000 lb (11,340 kg) or more (or in an amount of 2,500 lb (1,134 kg) or more for chemical substances subject to the rules, orders, or actions described in § 711.8(b)) at any one site during any calendar year since the last principal reporting year. The requirement to report information described in paragraph (b)(4) of this section is subject to exemption as described in § 711.6.

(1) *A certification statement signed and dated by an authorized official of the submitter company.* The authorized official must certify that the submitted information has been completed in compliance with the requirements of this part and that the confidentiality claims made on the Form U are true and correct. The certification must be signed and dated by the authorized official for the submitter company, and provide that person's name, official title, and email address.

(2) *Company and site information.* The following currently correct parent company and site information at the date of CDR submission must be reported for each site at which a reportable chemical substance is manufactured (including imported) above the applicable production volume threshold, as described in this section (see § 711.3 for the ''site'' for importers and special situations).

(i) The legal name, address, and Dun and Bradstreet D–U–N–S® (D&B) number for the highest-level parent company located in the United States and, if one exists, for the highest-level foreign-based parent company. A submitter under this part must obtain a D&B number for the parent company if none exists and must report using the standardized conventions for the naming of a parent company as provided in the CDR Instructions for Reporting identified in § 711.35.

(ii) The name of a person who will serve as technical contact for the submitter company who will be able to answer questions about the information submitted by the company to EPA, and that technical contact person's full mailing address, telephone number, and email address.

(iii) The legal name and full street address of each site. A submitter under this part must include the appropriate D&B number for each site reported, and the county or parish (or other jurisdictional indicator) in which the site is located. A submitter under this part must obtain a D&B number for the site reported if none exists. For a co-manufacturing situation in which the contracting company initiates the report, the contracting company must report both the site controlling the contract and the producing company's site information.

(iv) The six-digit NAICS code for the site. A submitter under this part must include the appropriate six-digit NAICS code for each site reported.

(3) *Chemical-specific information.* The following chemical-specific information must be reported for each reportable chemical substance manufactured (including imported) above the applicable production volume threshold, as described in paragraph (b) of this section:

(i) The specific, currently correct CA Index name as used to list the chemical substance on the TSCA Inventory and the correct corresponding CASRN for each reportable chemical substance at each site. Submitters who wish to report chemical substances listed on the confidential portion of the TSCA Inventory will need to report the chemical substance using the corresponding TSCA Accession Number that is listed on the public portion of the Inventory. In addition to reporting the chemical identifying number itself, submitters must specify the type of number they are reporting by selecting from among the codes in Table 1 to paragraph (b)(3)(i).

TABLE 1 TO PARAGRAPH (b)(3)(i)—CODES TO SPECIFY TYPE OF CHEMICAL IDENTIFYING NUMBER

Code	Number type
A	TSCA Accession Number.
C	Chemical Abstracts Service Registry Number (CASRN).

(A) If an importer submitting a report cannot provide the information specified in this paragraph (b)(3)(i) because it is unknown to the importer and claimed as confidential by the supplier of the chemical substance or mixture, the importer must use e-CDRweb to ask the supplier to provide the correct chemical identity and, in the case of a mixture, the percentage of formulation and chemical function information directly to EPA in a joint submission. Such request must include instructions for submitting chemical identity information electronically, using e-CDRweb and CDX (see § 711.35), and for clearly referencing the importer's submission. Contact information for the supplier, a trade name or other designation for the chemical substance or mixture, and a copy of the request to the supplier must be included with the importer's submission.

(B) If a manufacturer submitting a report cannot provide the information specified in this paragraph (b)(3)(i) because the reportable chemical substance is manufactured using a reactant having a specific chemical identity that is unknown to the manufacturer and claimed as confidential by its supplier, the manufacturer must use e-CDRweb to ask the supplier of the confidential reactant to provide the correct chemical identity

of the confidential reactant directly to EPA in a joint submission. Such request must include instructions for submitting chemical identity information electronically using e-CDRweb and CDX (see § 711.35), and for clearly referencing the manufacturer's submission. Contact information for the supplier, a trade name or other designation for the chemical substance, and a copy of the request to the supplier must be included with the importer's submission.

(C) EPA will accept only joint submissions that are submitted electronically using e-CDRweb and CDX (see § 711.35) and that clearly reference the primary submission to which they refer.

(ii) For the principal reporting year only, a statement indicating, for each reportable chemical substance at each site, whether the chemical substance is manufactured in the United States, imported into the United States, or both manufactured in the United States and imported into the United States.

(iii) For the principal reporting year only, the total annual volume (in pounds) of each reportable chemical substance domestically manufactured or imported at each site. The total annual domestically manufactured volume (not including imported volume) and the total annual imported volume must be separately reported. These amounts must be reported to two significant figures of accuracy. In addition, the total annual volume (domestically manufactured plus imported volumes in pounds) of each reportable chemical substance at each site for each complete calendar year since the last principal reporting year.

(iv) For the principal reporting year only, the volume used on site and the volume directly exported of each reportable chemical substance domestically manufactured or imported at each site. These amounts must be reported to two significant figures of accuracy.

(v) For the principal reporting year only, a designation indicating, for each imported reportable chemical substance at each site, whether the imported chemical substance is physically present at the reporting site.

(vi) For the principal reporting year only, a designation indicating, for each reportable chemical substance at each site, whether the chemical substance is being recycled or otherwise used for a commercial purpose instead of being disposed of as a waste or included in a waste stream.

(vii) For the principal reporting year only, the total number of workers reasonably likely to be exposed to each reportable chemical substance at each site. For each reportable chemical substance at each site, the submitter must select from among the ranges of workers listed in Table 2 to paragraph (b)(3)(vii) and report the corresponding code (*i.e.,* W1 through W8):

TABLE 2 TO PARAGRAPH (b)(3)(vii)—CODES FOR REPORTING NUMBER OF WORKERS REASONABLY LIKELY TO BE EXPOSED

Code	Range
W1	Fewer than 10 workers.
W2	At least 10 but fewer than 25 workers.
W3	At least 25 but fewer than 50 workers.
W4	At least 50 but fewer than 100 workers.
W5	At least 100 but fewer than 500 workers.
W6	At least 500 but fewer than 1,000 workers.
W7	At least 1,000 but fewer than 10,000 workers.
W8	At least 10,000 workers.

(viii) For the principal reporting year only, the maximum concentration, measured by percentage of weight, of each reportable chemical substance at the time it is sent off-site from each site. If the chemical substance is site-limited, you must report the maximum concentration, measured by percentage of weight of the reportable chemical substance at the time it is reacted on-site to produce a different chemical substance. This information must be reported regardless of the physical form(s) in which the chemical substance is sent off-site/reacted on-site. For each chemical substance at each site, select the maximum concentration of the chemical substance from among the ranges listed in Table 3 to paragraph (b)(3)(viii) and report the corresponding code (*i.e.,* M1 through M5):

TABLE 3 TO PARAGRAPH (b)(3)(viii)—CODES FOR REPORTING MAXIMUM CONCENTRATION OF CHEMICAL SUBSTANCE

Code	Concentration range (percent weight)
M1	Less than 1 percent by weight.
M2	At least 1 but less than 30 percent by weight.
M3	At least 30 but less than 60 percent by weight.
M4	At least 60 but less than 90 percent by weight.
M5	At least 90 percent by weight.

(ix) For the principal reporting year only, the physical form(s) of the reportable chemical substance as it is sent off-site from each site. If the chemical substance is site-limited, you must report the physical form(s) of the reportable chemical substance at the time it is reacted on-site to produce a different chemical substance. For each chemical substance at each site, the submitter must report as many physical forms as applicable from among the physical forms listed in this Unit:

(A) Dry powder.

(B) Pellets or large crystals.

(C) Water- or solvent-wet solid.

(D) Other solid.

(E) Gas or vapor.

(F) Liquid.

(x) For the principal reporting year only, submitters must report the percentage, rounded off to the closest 10 percent, of total production volume of the reportable chemical substance, reported in response to paragraph (b)(3)(iii) of this section, that is associated with each physical form reported under paragraph (b)(3)(ix) of this section.

(4) *Chemical-specific information related to processing and use.* The following chemical-specific information must be reported for each reportable chemical substance manufactured (including imported) above the applicable production volume threshold, as described in this section. Persons subject to paragraph (b)(4) of this section must report the information described in paragraphs (b)(4)(i) and (ii) of this section for each reportable chemical substance at sites under their control and at sites that receive a reportable chemical substance from the submitter directly or indirectly (including through a broker/distributor, from a customer of the submitter, *etc.*). Information reported in response to this paragraph must be reported for the principal reporting year only and only to the extent that it is known to or reasonably ascertainable by the submitter. Information required to be reported under this paragraph is limited to domestic (*i.e.,* within the customs territory of the United States) processing and use activities. If information responsive to a given data requirement under this paragraph, including information in the form of an estimate, is not known or reasonably ascertainable, the submitter is not required to respond to the requirement.

(i) *Industrial processing and use information*—(A) A designation indicating the type of industrial processing or use operation(s) at each site that receives a reportable chemical substance from the submitter site directly or indirectly (whether the recipient site(s) are controlled by the submitter site or not). For each chemical substance, report the letters which correspond to the appropriate processing or use operation(s) listed in Table 4 to paragraph (b)(4)(i)(A). A particular designation may need to be reported more than once, to the extent

that a submitter reports more than one sector (under paragraph (b)(4)(i)(B) of this section) that applies to a given designation under this paragraph.

TABLE 4 TO PARAGRAPH (b)(4)(i)(A)—CODES FOR REPORTING TYPE OF INDUSTRIAL PROCESSING OR USE OPERATION

Designation	Operation
PC	Processing as a reactant.
PF	Processing—incorporation into formulation, mixture, or reaction product.
PA	Processing—incorporation into article.
PK	Processing—repackaging.
U	Use—non-incorporative activities.

(B) A code indicating the sector(s) that best describe the industrial activities associated with each industrial processing or use operation reported under paragraph (b)(4)(i)(A) of this section. For each chemical substance, report the code that corresponds to the appropriate sector(s) listed in Table 5 to paragraph (b)(4)(i)(B). A particular sector code may need to be reported more than once, to the extent that a submitter reports more than one function code (under paragraph (b)(4)(i)(C) of this section) that applies to a given sector code under this paragraph.

TABLE 5 TO PARAGRAPH (b)(4)(i)(B)—CODES FOR REPORTING INDUSTRIAL SECTORS

Code	Sector description
IS1	Agriculture, forestry, fishing, and hunting.
IS2	Oil and gas drilling, extraction, and support activities.
IS3	Mining (except oil and gas) and support activities.
IS4	Utilities.
IS5	Construction.
IS6	Food, beverage, and tobacco product manufacturing.
IS7	Textiles, apparel, and leather manufacturing.
IS8	Wood product manufacturing.
IS9	Paper manufacturing.

TABLE 5 TO PARAGRAPH (b)(4)(i)(B)—CODES FOR REPORTING INDUSTRIAL SECTORS—Continued

Code	Sector description
IS10	Printing and related support activities.
IS11	Petroleum refineries.
IS12	Asphalt paving, roofing, and coating materials manufacturing.
IS13	Petroleum lubricating oil and grease manufacturing.
IS14	All other petroleum and coal products manufacturing.
IS15	Petrochemical manufacturing.
IS16	Industrial gas manufacturing.
IS17	Synthetic dye and pigment manufacturing.
IS18	Carbon black manufacturing.
IS19	All other basic inorganic chemical manufacturing.
IS20	Cyclic crude and intermediate manufacturing.
IS21	All other basic organic chemical manufacturing.
IS22	Plastics material and resin manufacturing.
IS23	Synthetic rubber manufacturing.
IS24	Organic fiber manufacturing.
IS25	Pesticide, fertilizer, and other agricultural chemical manufacturing.
IS26	Pharmaceutical and medicine manufacturing.
IS27	Paint and coating manufacturing.
IS28	Adhesive manufacturing.
IS29	Soap, cleaning compound, and toilet preparation manufacturing.
IS30	Printing ink manufacturing.
IS31	Explosives manufacturing.
IS32	Custom compounding of purchased resins.
IS33	Photographic film, paper, plate, and chemical manufacturing.
IS34	All other chemical product and preparation manufacturing.
IS35	Plastics product manufacturing.
IS36	Rubber product manufacturing.
IS37	Non-metallic mineral product manufacturing (includes cement, clay, concrete, glass, gypsum, lime, and other non-metallic mineral product manufacturing).
IS38	Primary metal manufacturing.
IS39	Fabricated metal product manufacturing.
IS40	Machinery manufacturing.
IS41	Computer and electronic product manufacturing.
IS42	Electrical equipment, appliance, and component manufacturing.
IS43	Transportation equipment manufacturing.
IS44	Furniture and related product manufacturing.
IS45	Miscellaneous manufacturing.
IS46	Wholesale and retail trade.
IS47	Services.
IS48	Other (requires additional information).

(C) For each sector reported under paragraph (b)(4)(i)(B) of this section, the applicable code(s) from Table 6 to paragraph (b)(4)(i)(C) must be selected to designate the function category(ies) that best represents the specific manner in which the chemical substance is used. For the 2020 submission period:

(*1*) Use column A in Table 6 to paragraph (b)(4)(i)(C) for chemical substances designated in 2019 as high priority for risk evaluation (those chemicals listed in Table 7 to paragraph (b)(4)(i)(C)); and

(*2*) Use either column A or B in Table 6 to paragraph (b)(4)(i)(C) for chemical substances not listed in Table 7 to paragraph (b)(4)(i)(C). For the 2024 and future submission periods, use only column A in Table 6 to paragraph (b)(4)(i)(C). A particular function category may need to be reported more than once, to the extent that a submitter reports more than one industrial processing or use operation/sector combination (under paragraphs (b)(4)(i)(A) and (B) of this section) that applies to a given function category under this paragraph. If more than 10 unique combinations of industrial processing or use operations/sector/function categories apply to a chemical substance, submitters need only report the 10 unique combinations for the chemical substance that cumulatively represent the largest percentage of the submitter's production volume for that chemical substance, measured by weight. If none of the listed function categories accurately describes a use of a chemical substance, the category ''Other'' may be used, and must include a description of the use.

TABLE 6 TO PARAGRAPH (b)(4)(i)(C)—CODES FOR REPORTING FUNCTION CATEGORIES

Column A		Column B	
Code	Category	Code	Category
F001	Abrasives	U001	Abrasives.
F002	Etching agent.		
F003	Adhesion/cohesion promoter	U002	Adhesives and sealant chemicals.
F004	Binder.		
F005	Flux agent.		
F006	Sealant (barrier).		
F007	Absorbent	U003	Adsorbents and absorbents.
F008	Adsorbent.		
F009	Dehydrating agent (desiccant).		
F010	Drier.		
F011	Humectant.		
F012	Soil amendments (fertilizers)	U004	Agricultural chemicals (non-pesticidal).
F013	Anti-adhesive/cohesive	U005	Anti-adhesive agents.

TABLE 6 TO PARAGRAPH (b)(4)(i)(C)—CODES FOR REPORTING FUNCTION CATEGORIES—Continued

Column A		Column B	
Code	Category	Code	Category
F014	Dusting agent.		
F015	Bleaching agent	U006	Bleaching agents.
F016	Brightener.		
F017	Anti-scaling agent	U007	Corrosion inhibitors and anti-scaling agents.
F018	Corrosion inhibitor.		
F019	Dye	U008	Dyes.
F020	Fixing agent (mordant).		
F021	Hardener	U009	Fillers.
F022	Filler.		
F023	Anti-static agent	U010	Finishing agents.
F024	Softener and conditioner.		
F025	Swelling agent.		
F026	Tanning agents not otherwise specified.		
F027	Waterproofing agent.		
F028	Wrinkle resisting agent.		
F029	Flame retardant	U011	Flame retardants.
F030	Fuel agents	U012	Fuels and fuel additives.
F031	Fuel.		
F032	Heat transferring agent	U013	Functional fluids (closed systems).
F033	Hydraulic fluids.		
F034	Insulators.		
F035	Refrigerants.		
F036	Anti-freeze agent	U014	Functional fluids (open systems).
F037	Intermediate	U015	Intermediates.
F038	Monomers.		
F039	Ion exchange agent	U016	Ion exchange agents.
F040	Anti-slip agent	U017	Lubricants and lubricant additives.
F041	Lubricating agent.		
F042	Deodorizer	U018	Odor agents.
F043	Fragrance.		
F044	Oxidizing agent	U019	Oxidizing/reducing agents.
F045	Reducing agent.		
F046	Photosensitive agent	U020	Photosensitive chemicals.
F047	Photosensitizers.		
F048	Semiconductor and photovoltaic agent.		
F049	UV stabilizer.		
F050	Opacifer	U021	Pigments.
F051	Pigment.		
F052	Plasticizer	U022	Plasticizers.
F053	Plating agent	U023	Plating agents and surface treating agents.
F054	Catalyst	U024	Process regulators.
F055	Chain transfer agent.		
F056	Chemical reaction regulator.		
F057	Crystal growth modifiers (nucleating agents).		
F058	Polymerization promoter.		
F059	Terminator/Blocker.		
F060	Processing aids, specific to petroleum production	U025	Processing aids, specific to petroleum production.
F061	Antioxidant	U026	Processing aids, not otherwise listed.
F062	Chelating agent.		
F063	Defoamer.		
F064	pH regulating agent.		
F065	Processing aids not otherwise specified.		
F066	Energy Releasers (explosives, motive propellant)	U027	Propellants and blowing agents.
F067	Foamant.		
F068	Propellants, non-motive (blowing agents).		
F069	Cloud-point depressant	U028	Solids separation agents.
F070	Flocculating agent.		
F071	Flotation agent.		
F072	Solids separation (precipitating) agent, not otherwise specified.		
F073	Cleaning agent	U029	Solvents (for cleaning or degreasing).
F074	Diluent	U030	Solvents (which become part of product formulation or mixture).
F075	Solvent.		
F076	Surfactant (surface active agent)	U031	Surface active agents.
F077	Emulsifier.		
F078	Thickening agent	U032	Viscosity adjustors.
F079	Viscosity modifiers.		
F080	Laboratory chemicals	U033	Laboratory chemicals.
F081	Dispersing agent	U034	Paint additives and coating additives not described by other categories.

TABLE 6 TO PARAGRAPH (b)(4)(i)(C)—CODES FOR REPORTING FUNCTION CATEGORIES—Continued

Column A		Column B	
Code	Category	Code	Category
F082	Freeze-thaw additive.		
F083	Surface modifier.		
F084	Wetting agent (non-aqueous).		
F085	Aerating and deaerating agents	U999	Other (specify).
F086	Explosion inhibitor.		
F087	Fire extinguishing agent.		
F088	Flavoring and nutrient.		
F089	Anti-redeposition agent.		
F090	Anti-stain agent.		
F091	Anti-streaking agent.		
F092	Conductive agent.		
F093	Incandescent agent.		
F094	Magnetic element.		
F095	Anti-condensation agent.		
F096	Coalescing agent.		
F097	Film former.		
F098	Demulsifier.		
F099	Stabilizing agent.		
F100	Alloys.		
F101	Density modifier.		
F102	Elasticizer.		
F103	Flow promoter.		
F104	Sizing agent.		
F105	Solubility enhancer.		
F106	Vapor pressure modifiers.		
F107	Embalming agent.		
F108	Heat stabilizer.		
F109	Preservative.		
F110	Anti-caking agent.		
F111	Deflocculant.		
F112	Dust suppressant.		
F113	Impregnation agent.		
F114	Leaching agent.		
F115	Tracer.		
F116	X-ray absorber.		
F999	Other.		

For the 2020 submission period: (1) Use column A for chemical substances designated in 2019 as high priority for risk evaluation (those chemicals listed in Table 7 to paragraph(b)(4)(i)(C) and (2) use either column A or B for chemical substances not listed in Table 7 to paragraph (b)(4)(i)(C).

For the 2024 and future submission periods, use only column A.

TABLE 7 TO PARAGRAPH (b)(4)(i)(C)—CASRNS OF CHEMICAL SUBSTANCES DESIGNATED AS HIGH PRIORITY FOR RISK EVALUATION UNDER TSCA SECTION 6(b) ON DECEMBER 30, 2019

CASRN	Chemical substance
106–46–7	p-Dichlorobenzene.
107–06–2	1,2-Dichloroethane.
156–60–5	trans-1,2-Dichloroethylene.
95–50–1	o-Dichlorobenzene.
79–00–5	1,1,2-Trichloroethane.
78–87–5	1,2-Dichloropropane.
75–34–3	1,1-Dichloroethane.
84–74–2	Dibutyl phthalate (DBP) (1,2-Benzene-dicarboxylic acid, 1,2-dibutyl ester).
85–68–7	Butyl benzyl phthalate (BBP)—1,2-Benzene-dicarboxylic acid, 1-butyl 2(phenylmethyl) ester.
117–81–7	Di-ethylhexyl phthalate (DEHP)—(1,2-Benzene-dicarboxylic acid, 1,2-bis(2-ethylhexyl) ester).
84–69–5	Di-isobutyl phthalate (DIBP)—(1,2-Benzene-dicarboxylic acid, 1,2-bis-(2methylpropyl) ester).
84–61–7	Dicyclohexyl phthalate.
79–94–7	4,4′-(1-Methylethylidene)bis[2,6-dibromophenol] (TBBPA).
115–96–8	Tris(2-chloroethyl) phosphate (TCEP).
115–86–6	Phosphoric acid, triphenyl ester (TPP).
106–93–4	Ethylene dibromide.
106–99–0	1,3-Butadiene.
1222–05–5	1,3,4,6,7,8-Hexahydro-4,6,6,7,8,8-hexamethylcyclopental[g]-2-benzopyran (HHCB).
50–00–0	Formaldehyde.
85–44–9	Phthalic anhydride.

(D) The estimated percentage, rounded off to the closest 10 percent, of total production volume of the reportable chemical substance associated with each combination of industrial processing or use operation, sector, and function category. Where a particular combination of industrial processing or use operation, sector, and function category accounts for less than 5 percent of the submitter's site's total production volume of a reportable chemical substance, the percentage must not be rounded off to 0 percent if the production volume attributable to that industrial processing or use operation, sector, and function category combination is 25,000 lb (11,340 kg) or more during the reporting year. Instead, in such a case, submitters must report the percentage, rounded off to the closest 1 percent, of the submitter's site's total production volume of the reportable chemical substance associated with the particular combination of industrial processing or use operation, sector, and function category.

(E) For each combination of industrial processing or use operation, sector, and function category, the submitter must estimate the number of sites at which each reportable chemical substance is processed or used. For each combination associated with each chemical substance, the submitter must select from among the ranges of sites listed in Table 8 to paragraph (b)(4)(i)(E) and report the corresponding code (*i.e.,* S1 through S7):

TABLE 8 TO PARAGRAPH (b)(4)(i)(E)—CODES FOR REPORTING NUMBERS OF SITES

Code	Range
S1	Fewer than 10 sites.
S2	At least 10 but fewer than 25 sites.
S3	At least 25 but fewer than 100 sites.
S4	At least 100 but fewer than 250 sites.
S5	At least 250 but fewer than 1,000 sites.
S6	At least 1,000 but fewer than 10,000 sites.
S7	At least 10,000 sites.

(F) For each combination of industrial processing or use operation, sector, and function category, the submitter must estimate the number of workers reasonably likely to be exposed to each reportable chemical substance. For each combination associated with each chemical substance, the submitter must select from among the worker ranges listed in paragraph (b)(3)(vii) of this section and report the corresponding code (*i.e.,* W1 though W8).

(ii) *Consumer and commercial use information*—(A) Using the applicable codes listed in Table 9 to paragraph (b)(4)(ii)(A), submitters must designate the consumer and commercial product category(ies) that best describe the consumer and commercial products in which each reportable chemical substance is used (whether the recipient site(s) are controlled by the submitter site or not). For the 2020 submission period:

(*1*) Use column A in Table 9 to paragraph (b)(4)(ii)(A) for chemical substances designated in 2019 as high priority for risk evaluation (those chemicals listed in Table 7 to paragraph (b)(4)(i)(C); and

(*2*) Use either column A or B in Table 9 to paragraph (b)(4)(ii)(A) for chemical substances not listed in Table 7 to paragraph (b)(4)(i)(C). For the 2024 and future submission periods, use only column A in Table 9 to paragraph (b)(4)(ii)(A). If more than 10 codes apply to a chemical substance, submitters need only report the 10 codes for the chemical substance that cumulatively represent the largest percentage of the submitter's production volume for that chemical, measured by weight. If none of the listed consumer and commercial product categories accurately describes the consumer and commercial products in which each reportable chemical substance is used, the category ''Other'' may be used, and must include a description of the use.

TABLE 9 TO PARAGRAPH (b)(4)(ii)(A)—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES

Column A		Column B	
Code	Category	Code	Category
Chemical Substances in Furnishing, Cleaning, Treatment Care Products			
CC101	Construction and building materials covering large surface areas including stone, plaster, cement, glass and ceramic articles; fabrics, textiles, and apparel.	C101	Floor coverings.
CC102	Furniture & furnishings including plastic articles (soft); leather articles.	C102	Foam seating and bedding products.
CC103	Furniture & furnishings including stone, plaster, cement, glass and ceramic articles; metal articles; or rubber articles.	C103	Furniture and furnishings not covered elsewhere.
CC104	Leather conditioner	C104	Fabric, textile, and leather products not covered elsewhere.
CC105	Leather tanning, dye, finishing, impregnation and care products.		
CC106	Textile (fabric) dyes.		
CC107	Textile finishing and impregnating/surface treatment products.		
CC108	All-purpose foam spray cleaner	C105	Cleaning and furnishing care products.
CC109	All-purpose liquid cleaner/polish.		
CC110	All-purpose liquid spray cleaner.		
CC111	All-purpose waxes and polishes.		
CC112	Appliance cleaners.		
CC113	Drain and toilet cleaners (liquid).		
CC114	Powder cleaners (floors).		
CC115	Powder cleaners (porcelain).		
CC116	Dishwashing detergent (liquid/gel)	C106	Laundry and dishwashing products.
CC117	Dishwashing detergent (unit dose/granule).		
CC118	Dishwashing detergent liquid (hand-wash).		
CC119	Dry cleaning and associated products.		
CC120	Fabric enhancers.		

TABLE 9 TO PARAGRAPH (b)(4)(ii)(A)—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES—Continued

Column A		Column B	
Code	Category	Code	Category
CC121	Laundry detergent (unit-dose/granule).		
CC122	Laundry detergent (liquid).		
CC123	Stain removers.		
CC124	Ion exchangers	C107	Water treatment products.
CC125	Liquid water treatment products.		
CC126	Solid/Powder water treatment products.		
CC127	Liquid body soap	C108	Personal care products.
CC128	Liquid hand soap.		
CC129	Solid bar soap.		
CC130	Air fresheners for motor vehicles	C109	Air care products.
CC131	Continuous action air fresheners.		
CC132	Instant action air fresheners.		
CC133	Anti-static spray	C110	Apparel and footwear care products.
CC134	Apparel finishing, and impregnating/surface treatment products.		
CC135	Insect repellent treatment.		
CC136	Pre-market waxes, stains, and polishes applied to footwear.		
CC137	Post-market waxes, and polishes applied to footwear (shoe polish).		
CC138	Waterproofing and water-resistant sprays.		
Chemical Substances in Construction, Paint, Electrical, and Metal Products			
CC201	Fillers and putties	C201	Adhesives and sealants.
CC202	Hot-melt adhesives.		
CC203	One-component caulks.		
CC204	Solder.		
CC205	Single-component glues and adhesives.		
CC206	Two-component caulks.		
CC207	Two-component glues and adhesives.		
CC208	Adhesive/Caulk removers	C202	Paints and coatings.
CC209	Aerosol spray paints.		
CC210	Lacquers, stains, varnishes and floor finishes.		
CC211	Paint strippers/removers.		
CC212	Powder coatings.		
CC213	Radiation curable coatings.		
CC214	Solvent-based paint.		
CC215	Thinners.		
CC216	Water-based paint.		
CC217	Construction and building materials covering large surface areas, including wood articles.	C203	Building/construction materials—wood and engineered wood products.
CC218	Construction and building materials covering large surface areas, including paper articles; metal articles; stone, plaster, cement, glass and ceramic articles.	C204	Building/construction materials not covered elsewhere.
CC219	Machinery, mechanical appliances, electrical/electronic articles.	C205	Electrical and electronic products.
CC220	Other machinery, mechanical appliances, electronic/electronic articles.		
CC221	Construction and building materials covering large surface areas, including metal articles.	C206	Metal products not covered elsewhere.
CC222	Electrical batteries and accumulators	C207	Batteries.
Chemical Substances in Packaging, Paper, Plastic, Toys, Hobby Products			
CC990	Non-TSCA use	C301	Food packaging.
CC301	Packaging (excluding food packaging), including paper articles.	C302	Paper products.
CC302	Other articles with routine direct contact during normal use, including paper articles.		
CC303	Packaging (excluding food packaging), including rubber articles; plastic articles (hard); plastic articles (soft).	C303	Plastic and rubber products not covered elsewhere.
CC304	Other articles with routine direct contact during normal use including rubber articles; plastic articles (hard).		
CC305	Toys intended for children's use (and child dedicated articles), including fabrics, textiles, and apparel; or plastic articles (hard).	C304	Toys, playground, and sporting equipment.
CC306	Adhesives applied at elevated temperatures	C305	Arts, crafts, and hobby materials.
CC307	Cement/concrete.		

TABLE 9 TO PARAGRAPH (b)(4)(ii)(A)—CODES FOR REPORTING CONSUMER AND COMMERCIAL PRODUCT CATEGORIES—Continued

Column A		Column B	
Code	Category	Code	Category
CC308	Crafting glue.		
CC309	Crafting paint (applied to body).		
CC310	Crafting paint (applied to craft).		
CC311	Fixatives and finishing spray coatings.		
CC312	Modelling clay.		
CC313	Correction fluid/tape	C306	Ink, toner, and colorant products.
CC314	Inks in writing equipment (liquid).		
CC315	Inks used for stamps.		
CC316	Toner/Printer cartridge.		
CC317	Liquid photographic processing solutions	C307	Photographic supplies, film, and photochemicals.
Chemical Substances in Automotive, Fuel, Agriculture, Outdoor Use Products			
CC401	Exterior car washes and soaps	C401	Automotive care products.
CC402	Exterior car waxes, polishes, and coatings.		
CC403	Interior car care.		
CC404	Touch up auto paint.		
CC405	Degreasers	C402	Lubricants and greases.
CC406	Liquid lubricants and greases.		
CC407	Paste lubricants and greases.		
CC408	Spray lubricants and greases.		
CC409	Anti-freeze liquids	C403	Anti-freeze and de-icing products.
CC410	De-icing liquids.		
CC411	De-icing solids.		
CC412	Lock de-icers/releasers.		
CC413	Cooking and heating fuels	C404	Fuels and related products.
CC414	Fuel additives.		
CC415	Vehicular or appliance fuels.		
CC416	Explosive materials	C405	Explosive materials.
CC417	Agricultural non-pesticidal products	C406	Agricultural products (non-pesticidal).
CC418	Lawn and garden care products	C407	Lawn and garden care products.
Chemical Substances in Products not Described by Other Codes			
CC980	Other (specify)	C909	Other (specify).
CC990	Non-TSCA use	C980	Non-TSCA use.

For the 2020 submission period: (1) Use column A for chemical substances designated in 2019 as high priority for risk evaluation (those chemicals listed in Table 7 to paragraph (b)(4)(i)(C) and (2) use either column A or B for chemical substances not listed in Table 7 to paragraph (b)(4)(i)(C).

For the 2024 and future submission periods, use only column A.

(B) For each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section, the applicable code(s) described in paragraph (b)(4)(i)(C) of this section must be selected to designate the function category(ies) that best represents the specific manner in which the chemical substance is used. For the 2020 submission period:

(*1*) Use column A in Table 6 to paragraph (b)(4)(i)(C) for chemical substances designated in 2019 as high priority for risk evaluation (those chemicals listed in Table 7 to paragraph (b)(4)(i)(C); and

(*2*) Use either column A or B in Table 6 to paragraph (b)(4)(i)(C) for chemical substances not listed in Table 7 to paragraph (b)(4)(i)(C). For the 2024 and future submission periods, use only column A in Table 6 to paragraph (b)(4)(i)(C). A particular function category may need to be reported more than once, to the extent that a submitter reports more than one consumer or commercial product category (under paragraph (b)(4)(ii)(A) of this section) that applies to a given function category under this paragraph. If none of the listed function categories accurately describes a use of a chemical substance, the category ''Other'' may be used, and must include a description of the use.

(C) An indication, within each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section, whether the use is a consumer or a commercial use.

(D) Submitters must determine, within each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section, whether any amount of each reportable chemical substance manufactured (including imported) by the submitter is present in (for example, a plasticizer chemical substance used to make pacifiers) or on (for example, as a component in the paint on a toy) any consumer products intended for use by children age 14 or younger, regardless of the concentration of the chemical substance remaining in or on the product. Submitters must select from the following options: The chemical substance is used in or on any consumer products intended for use by children; the chemical substance is not used in or on any consumer products intended for use by children; or information as to whether the chemical substance is used in or on any consumer products intended for use by children is not known to or reasonably ascertainable by the submitter.

(E) The estimated percentage, rounded off to the closest 10 percent, of the submitter's site's total production volume of the reportable chemical substance associated with each consumer and commercial product

category. Where a particular consumer and commercial product category accounts for less than 5 percent of the total production volume of a reportable chemical substance, the percentage must not be rounded off to 0 percent if the production volume attributable to that commercial and consumer product category is 25,000 lb (11,340 kg) or more during the reporting year. Instead, in such a case, submitters must report the percentage, rounded off to the closest 1 percent, of the submitter's site's total production volume of the reportable chemical substance associated with the particular consumer and commercial product category.

(F) Where the reportable chemical substance is used in consumer or commercial products, the estimated typical maximum concentration, measured by weight, of the chemical substance in each consumer and commercial product category reported under paragraph (b)(4)(ii)(A) of this section. For each chemical substance in each commercial and consumer product category reported under paragraph (b)(4)(ii)(A) of this section, submitters must select from among the ranges of concentrations listed in Table 3 to paragraph (b)(3)(viii) of this section and report the corresponding code (*i.e.,* M1 through M5).

(G) Where the reportable chemical substance is used in a commercial product, the submitter must estimate the number of commercial workers reasonably likely to be exposed to each reportable chemical substance. For each combination associated with each substance, the submitter must select from among the worker ranges listed in Table 2 to paragraph (b)(3)(vii) of this section and report the corresponding code (*i.e.,* W1 though W8).

■ 9. Revise § 711.20 to read as follows:

§ 711.20 When to report.

All information reported to EPA in response to the requirements of this part must be submitted during an applicable submission period, which runs from June 1 to September 30 at 4-year intervals, beginning in 2020. In each submission period, any person described in § 711.8 must report as described in this part.

■ 10. Amend § 711.22 by revising paragraph (c) to read as follows:

§ 711.22 Duplicative reporting.

* * * * *

(c) *Co-manufactured chemicals.* This part requires that only one report per site be submitted on each chemical substance described in § 711.5. However, both the contracting company and producing company are liable if no report is made. When a company contracts with a producing company to manufacture a chemical substance, and each party meets the definition of ''manufacturer'' as set forth in § 711.3, reporting of the co-manufactured chemical can be performed by one of the following methods:

(1) The contracting company initiates the required report for that site as the primary submitter. The contracting company must indicate on the report that this is a co-manufacturing situation, notify the producing company, and record the production volume domestically co-manufactured as set forth in § 711.15(b)(3) and processing and use information set forth in § 711.15(b)(4). Upon notification by the contracting company, the producing company must also record the production volume domestically co-manufactured and complete the rest of the report as prompted by e-CDRweb.

(2) Upon written agreement between the contracting company and the producing company, the producing company completes the full report for the co-manufactured chemical. The contracting company supplies the information not otherwise known to or reasonably ascertainable by the producing company.

* * * * *

■ 11. Revise § 711.30 to read as follows.

§ 711.30 Confidentiality claims.

(a) *Making confidentiality claims*—(1) *Generally.* Any person submitting information under this part may assert a confidentiality claim for that information at the time it is submitted, except for information described in paragraph (a)(2). Any such confidentiality claims must be asserted at the time the information is submitted. These claims will apply only to the information submitted with the claim. Instructions for asserting confidentiality claims are provided in the document identified in § 711.35. Information claimed as confidential in accordance with this section will be treated and disclosed in accordance with the procedures in 40 CFR part 2 and section 14 of TSCA.

(2) *Exceptions.* Confidentiality claims cannot be asserted:

(i) For chemical identities listed on the public portion of the TSCA Inventory;

(ii) For processing and use data elements required by § 711.15(b)(4)(i)(A), (B), and (C) and § 711.15(b)(4)(ii)(A), (B), (C), and (D); or

(iii) When a response is left blank or designated as ''not known or reasonably ascertainable.''

(3) *Substantiations.* All confidentiality claims must be substantiated at time of submission, in accordance with the requirements in paragraphs (b), (c), and (d)(1) of this section, and must be signed and dated by an authorized official. Confidentiality claims for the following data elements are exempt from this substantiation requirement:

(i) Production volume information required pursuant to § 711.15(b)(3)(iii).

(ii) Joint submission information from the primary submitter, consisting of trade name and supplier identification required pursuant to § 711.15(b)(3)(i)(A) and (B).

(iii) Joint submission information from the secondary submitter, consisting of the percentage of formulation required pursuant to § 711.15(b)(3)(i)(A) and (B).

(iv) Information that is supplied in a petition submitted under § 711.6(b)(2)(iii) or § 711.10(d)(1)(ii) and that is described in section 14(c)(2) of TSCA.

(4) *Marking information claimed as confidential in confidentiality substantiation documentation.* If any of the information contained in the answers to the questions listed in paragraphs (b) and (c) of this section is asserted to contain information that itself is considered to be confidential, you must clearly identify the information that is claimed confidential.

(5) *Certification statement for claims.* An authorized official representing a person asserting a claim of confidentiality must certify that the submission complies with the requirements of this part by signing and dating the following certification statement:

> ''I certify that all claims for confidentiality asserted with this submission are true and correct, and all information submitted herein to substantiate such claims is true and correct. Any knowing and willful misrepresentation is subject to criminal penalty pursuant to 18 U.S.C. 1001. I further certify that: (1) I have taken reasonable measures to protect the confidentiality of the information; (2) I have determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law; (3) I have a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of my company; and (4) I have a reasonable basis to believe that the information is not readily discoverable through reverse engineering.''

(6) *Company, site, and technical contact identity information.* A submitter may assert a claim of confidentiality for a site, company, or technical contact identity to protect the link between that information and the

reported chemical substance. Such claim may be asserted only when the linkage of that information to a reportable chemical substance is confidential and not publicly available.

(7) *Processing and use information.* A submitter may assert a claim of confidentiality for each data element required by § 711.15(b)(4)(i)(D), (E) and (F) and § 711.15(b)(4)(ii)(E), (F), and (G) to protect the link between that information and the reported chemical substance. Such claim may be asserted only when the linkage of that information to a reportable chemical substance is confidential and not publicly available.

(b) *All confidentiality claims requiring substantiation at time of submission.* For each data element (or information supplied in a petition submitted under § 711.6(b)(2)(iii)(A) or § 711.10(d)(1)(ii)(A)) that is claimed as confidential, you must submit with your report detailed written answers to the following questions:

(1) Will disclosure of the information claimed as confidential likely cause substantial harm to your business's competitive position? If you answered yes, describe the substantial harmful effects that would likely result to your competitive position if the information is disclosed, including but not limited to how a competitor could use such information, and the causal relationship between the disclosure and the harmful effects.

(2) To the extent your business has disclosed the information to others (both internally and externally), has your business taken precautions to protect the confidentiality of the disclosed information? If yes, please explain and identify the specific measures, including but not limited to internal controls, that your business has taken to protect the information claimed as confidential.

(3)(i) Is any of the information claimed as confidential required to be publicly disclosed under any other Federal law? If yes, please explain.

(ii) Does any of the information claimed as confidential otherwise appear in any public documents, including (but not limited to) safety data sheets; advertising or promotional material; professional or trade publications; state, local, or Federal agency files; or any other media or publications available to the general public? If yes, please explain why the information should be treated as confidential.

(iii) Does any of the information claimed as confidential appear in one or more patents or patent applications? If yes, please provide the associated patent number or patent application number (or numbers) and explain why the information should be treated as confidential.

(4) Does any of the information that you are claiming as confidential constitute a trade secret? If yes, please explain how the information you are claiming as confidential constitutes a trade secret.

(5) Is the claim of confidentiality intended to last less than 10 years (see TSCA section 14(e)(1)(B))? If yes, please indicate the number of years (between 1–10 years) or the specific date after which the claim is withdrawn.

(6) Has EPA, another federal agency, or court made any confidentiality determination regarding information associated with this chemical substance? If yes, please provide the circumstances associated with the prior determination, whether the information was found to be entitled to confidential treatment, the entity that made the decision, and the date of the determination.

(c) *Additional requirements for specific chemical identity.* A person may assert a claim of confidentiality for the specific chemical identity of a chemical substance as described in § 711.15(b)(3) of this part only if the identity of that chemical substance is treated as confidential in the Master Inventory File as of the time the report is submitted for that chemical substance. Generic chemical identities and accession numbers may not be claimed as confidential. To assert a claim of confidentiality for the identity of a reportable chemical substance, you must submit with the report detailed written answers to the questions from paragraph (b) of this section and to the following questions.

(1) Is this chemical substance publicly known (including by your competitors) to be in U.S. commerce? If yes, please explain why the specific chemical identity should still be afforded confidential status (*e.g.,* the chemical substance is publicly known only as being distributed in commerce for research and development purposes, but no other information about the current commercial distribution of the chemical substance in the United States is publicly available). If no, please complete the certification statement:

I certify that on the date referenced, I searched the internet for the chemical substance identity (*i.e.,* by both chemical substance name and CASRN). I did not find a reference to this chemical substance that would indicate that the chemical is being manufactured or imported by anyone for a commercial purpose in the United States. [provide date].

(2) Does this particular chemical substance leave the site of manufacture (including import) in any form, *e.g.,* as a product, effluent, emission? If yes, please explain what measures have been taken to guard against the discovery of its identity.

(3) If the chemical substance leaves the site in a form that is available to the public or your competitors, can the chemical identity be readily discovered by analysis of the substance (*e.g.,* product, effluent, emission), in light of existing technologies and any costs, difficulties, or limitations associated with such technologies? Please explain why or why not.

(4) Would disclosure of the specific chemical name release confidential process information? If yes, please explain.

(d) *Special situations.* (1) *Joint submissions.* If a primary submitter asks a secondary submitter to provide information directly to EPA in a joint submission under § 711.15(b)(3)(i)(A) and (B), only the primary submitter may assert a confidentiality claim for the data elements that it directly submits to EPA. The primary submitter must substantiate those claims that are not exempt under paragraph (a)(3)(ii) of this section. The secondary submitter is responsible for asserting all confidentiality claims for the data elements that it submits directly to EPA and for substantiating those claims that are not exempt under paragraph (a)(3)(iii) of this section.

(2) *Petitions.* If a petition submitted under § 711.6(b)(2)(iii)(A) or § 711.10(d)(1)(ii)(A) includes any information claimed as confidential, the petitioner must provide a version of the petition that redacts the information claimed as confidential.

(e) *No claim of confidentiality.* Information not claimed as confidential in accordance with the requirements of this section may be made public without further notice to the submitter.

■ 12. Amend § 711.35 by revising paragraph (c)(1) to read as follows:

§ 711.35 Electronic filing.

* * * * *

(c) * * *

(1) *By website.* Go to the EPA Chemical Data Reporting internet homepage at *http://www.epa.gov/cdr* and follow the appropriate links.

* * * * *

[FR Doc. 2020–06076 Filed 4–8–20; 8:45 am]

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