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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 37

RIN 1601–AA97

Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes

AGENCY: Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: This rule delays the date for card-based enforcement of the REAL ID regulations from October 1, 2020 until October 1, 2021. Beginning on that date, federal agencies may not accept a state-issued driver's license or identification card for official purposes from any individual unless such license or card is a REAL ID compliant driver's license or identification card issued by a state that DHS has determined is in full compliance as defined under this part. The regulations also permit federal agencies to accept for official purposes until September 30, 2020, certain non-compliant driver's licenses and identification cards. This rule extends that date, authorizing federal agencies to continue to accept non-compliant driver's licenses and identification cards until the new card-based enforcement deadline.

DATES: Effective on April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Steve Yonkers, Director, Biometrics and Credentialing/REAL ID Program; telephone (202) 447–3274; email *steve.yonkers@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. The REAL ID Act, Implementing Regulations, and Phased Enforcement

The REAL ID Act (the Act) sets minimum security requirements for the issuance and production of driver's licenses and identification cards issued by the states, territories, and the District of Columbia in order for federal agencies to accept these documents for official purposes.[1] Official purposes include: (1) Accessing federal facilities, (2) boarding federally regulated commercial aircraft, (3) entering nuclear power plants, and (4) any other purposes that the Secretary of Homeland Security shall determine.[2]

On January 29, 2008, DHS published a final rule implementing the Act's requirements.[3] The regulation includes both a deadline for state compliance with the REAL ID requirements and a deadline by which individuals must obtain a REAL ID compliant license or identification card in order to use that document for official purposes.[4] DHS refers to these deadlines as ''state-based'' and ''card-based'' enforcement, respectively.

For state-based enforcement, the Act and regulation prohibits federal agencies from accepting licenses and cards issued by states that are not compliant with the REAL ID standards as determined by DHS. On March 7, 2011, DHS changed the state-based enforcement deadline from May 11, 2011 to January 15, 2013.[5]

DHS then incrementally enforced this deadline through a phased-enforcement schedule, pursuant to which enforcement began at DHS headquarters, followed by enforcement at federal facilities and nuclear power plants.[6] On January 8, 2016, DHS announced that the final phase of the enforcement schedule, applicable to individuals boarding federally-regulated commercial aircraft, would begin on January 22, 2018.[7] Thus, since January 22, 2018, the Transportation Security Administration (TSA) has accepted driver's licenses and identification cards only if issued by compliant states (or states with an extension from DHS) at screening checkpoints. In practice, TSA currently accepts driver's licenses and identification cards from all states and territories, as all are compliant or have an extension from DHS.

Under existing regulations, card-based enforcement is scheduled to begin on October 1, 2020.[8] Beginning on the card-based enforcement date, federal agencies are prohibited from accepting for official purposes a license or identification card issued by a state unless the license or card itself was issued in accordance with the REAL ID standards by a REAL ID compliant jurisdiction.

In addition to compliant licenses and identification cards, states may issue, to individuals who are unable or unwilling to present the documents and information necessary to obtain a REAL ID compliant license, licenses and cards that are not acceptable by federal agencies for official purposes. These non-compliant licenses and cards must (1) clearly state that the card is not acceptable for official purposes, and (2) have a unique design or color indicator that clearly distinguishes them from compliant licenses and identification cards.[9] The REAL ID regulations authorize, but do not require, federal agencies to accept these non-compliant cards up until the October 1, 2020, card-based enforcement deadline.[10]

B. Progress Towards Full Implementation

Since its enactment in 2005, DHS has worked with the states to implement the requirements of the REAL ID Act. DHS has provided funding, technical assistance, outreach, and engagement. DHS has awarded over $263 million in grant funding to assist in enhancements to driver's license security programs.[11] DHS and the states have collectively built the technical infrastructure to

[1] Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Public Law 109–13, Div. B. title II, sections 201 to 207, May 11, 2005, as amended (codified at 49 U.S.C. 30301 note).

[2] *Id.*

[3] *See* 73 FR 5272 (Jan. 29, 2008) (codified as amended at 6 CFR part 37).

[4] 6 CFR 37.51(a) and 37.5.

[5] 76 FR 12269 (Mar. 7, 2011) (codified as amended at 6 CFR 37.51(a)).

[6] *Cf.* 6 CFR 37.51(a); DHS Releases Phased Enforcement Schedule for REAL ID (Dec. 20, 2013), *available at https://www.dhs.gov/news/2013/12/20/dhs-releases-phased-enforcement-schedule-real-id.*

[7] *See* Statement By Secretary Jeh C. Johnson on the Final Phase of REAL ID Act Implementation (Jan. 8, 2016), *available at https://www.dhs.gov/news/2016/01/08/statement-secretary-jeh-c-johnson-final-phase-real-id-act-implementation.*

[8] 6 CFR 37.5(b).

[9] 6 CFR 37.71; REAL ID Act § 202(d)(11).

[10] *See* 84 FR 55017 (Oct. 15, 2019) (clarifying that the October 1, 2020 deadline by which Federal agencies may no longer accept non-compliant driver's licenses and identification cards for official purposes applies to all non-compliant cards, including state-issued driver's licenses and identification cards marked to indicate that they may not be used for official Federal purposes).

[11] Secure Identification State Progress Report—Fiscal Year 2012 Report to Congress.

support systems to verify identity and lawful status information, which is a key security component of the Act and regulation. DHS, the states, and other stakeholders have conducted broad outreach and engagement to inform the public of REAL ID requirements and upcoming enforcement deadlines. These efforts have yielded significant progress towards full REAL ID implementation. Fifty-two of the 56 jurisdictions subject to REAL ID have achieved compliance with the REAL ID standards and are currently issuing REAL ID-compliant licenses and identification cards.[12] Together, compliant states, territories and the District of Columbia have issued more than 100 million compliant licenses and cards, which represent approximately 36 percent of the population eligible for these documents.[13] Data from the states also indicates that states have issued approximately 72 million non-compliant marked licenses and identification cards. Together, this data suggests approximately two-thirds of the population does not currently possess a REAL ID-compliant license or identification card that such individuals may need for official purposes, including to use as identification at TSA airport security checkpoints to board federally regulated commercial aircraft.[14]

DHS has increased its level of outreach and engagement to the public and other REAL ID stakeholders, including airlines, airports, and others in the travel industry. Through these engagements, DHS has received useful feedback regarding the challenges of fully implementing REAL ID ahead of the October 1, 2020, card-based enforcement deadline.

DHS has been working with the states and other stakeholders to identify ways to modernize the REAL ID application process. To further enlist stakeholder input on ways to streamline the driver's license application process without compromising the security aspects of the REAL ID process, DHS issued a request for information (RFI) on November 7, 2019.[15] The RFI requested input from the public, states, private sector entities and other interested stakeholders on ways to improve, streamline, and reduce burdens associated with the current application process through the use of new capabilities and technologies in addition to other modification to existing application requirements. The RFI, for which the comment period closed on December 9, 2019, yielded more than 100 proposals from the states, the public, the private sector, and stakeholder associations among others. DHS quickly assessed these proposals and immediately determined that a proposal involving electronic submission of identity source documents prior to an in-person Department of Motor Vehicles (DMV) visit could be achieved consistent with existing authorities. DHS issued guidance to states recommending they consider using this process to streamline the application process and reduce customer wait times.[16] DHS continues to review the proposals and is looking for additional ways to streamline the application and issuance process consistent with the security aspects of the REAL ID Act.

C. Coronavirus Disease 2019 (COVID–19)

Coronavirus Disease 2019 (COVID–19), a communicable disease caused by a new (novel) coronavirus named SARS–CoV–2, is a respiratory disease that can cause fever, cough, and difficulty breathing, with reported illnesses ranging from mildly symptomatic to severe illness and death. Although the virus that causes COVID–19 was originally detected in The People's Republic of China, as of mid-March 2020, it had resulted in a pandemic with cases in over 150 countries, including in the United States and Canada. On January 30, 2020, the Director-General of the World Health Organization declared the outbreak a ''public health emergency of international concern'' under the International Health Regulations (2005).[17] On January 31, 2020, the Secretary of the Department of Health and Human Services declared a nationwide ''public health emergency'' under section 319 of the Public Health Service Act, 42 U.S.C. 274d, as a result of confirmed cases of COVID–19.[18] On March 11, 2020, the World Health Organization announced that the COVID–19 outbreak can be characterized as a pandemic. On March 13, 2020, the President determined that the ongoing COVID–19 pandemic is of sufficient severity and magnitude to warrant an emergency determination under section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207. In addition, on March 13, 2020, the President declared a national emergency under sections 201 and 301 of the National Emergencies Act, 50 U.S.C. 1601 *et seq.*[19] State and local jurisdictions throughout the United States are engaged in various social distancing practices, which frequently entail closing non-essential business and government services and avoiding crowds. On March 17, 2020 the National Governors Association (NGA) sent DHS a letter requesting an extension of the REAL ID enforcement deadline by at least a year due in part to many states closing DMVs and other state facilities as a result of the COVID–19 public health crisis.[20]

II. Card-Based Enforcement Deadline

Notwithstanding the significant progress made towards full REAL ID implementation, the Secretary recognizes significant challenges associated with full enforcement in the current environment. The outbreak and continued spread of COVID–19 has significantly disrupted the daily lives and activities of all Americans. It has shifted priorities and severely curtailed daily interactions. To limit exposure and reduce the chance of transmission, state and local government offices have restricted all but the most essential services. This includes activities at state DMVs where offices are either operating at limited capacity, providing remote services, or, in some cases, are temporarily closed to the public.[21]

[12] New Jersey and the Commonwealth of the Northern Mariana Islands are pending DHS compliance determinations. American Samoa, Oklahoma, and Oregon have not submitted requests for compliance determination.

[13] Based on February 2020 REAL ID issuance data voluntarily submitted monthly to DHS by the compliant states.

[14] Although a significant segment of the population may not currently possess a REAL ID, they may have other forms of identification acceptable for official purposes (*e.g.,* a U.S. passport, U.S. passport card, or military identification).

[15] 84 FR 60104 (Nov. 7, 2019).

[16] *See* DHS, REAL ID Act of 2005 Implementation: Acceptance of Electronically Submitted Copies of Source Documents with Certain Restrictions in Advance of an In-Person DMV Visit (Feb. 19, 2020), *available at https://www.dhs.gov/publication/acceptance-electronically-submitted-copies-source-documents?collection=headquarters-guidance-documents.*

[17] Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of novel coronavirus (2019–nCoV) (Jan. 30, 2020), available at *https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov).*

[18] HHS, ''Determination that a Public Health Emergency Exists,'' *https://www.phe.gov//emergency//news//healthactions//phe//Pages//2019-nCoV.aspx.*

[19] Proclamation 9994 of Mar. 13, 2020 on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak, 85 FR 15337 (Mar. 18, 2020).

[20] National Governors Association letter to Acting Secretary Wolf (Mar. 17, 2020).

[21] Individuals should check with their state DMV for policies and guidance on license issuance and

Additionally, some states have authorized grace periods and extensions to those with expiring licenses as a further way to avoid in-person contact and mitigate risks to the health and safety of the public and state government employees.

DHS recognizes the impact these disruptions will have on the ability of an individual to obtain a REAL ID compliant license or identification card before October 1, 2020. Moreover, the Secretary recognizes the importance of social distancing, and is taking this action to assure the public that there is no need to visit a DMV to obtain a REAL ID document at this time.

Accordingly, the Secretary is extending the date by which individuals must obtain a REAL ID license or identification card to use that document for official purposes until October 1, 2021.

Additionally, to avoid any confusion about the ability of federal agencies to continue to accept certain non-compliant licenses and identification cards issued under § 37.71, DHS also is extending the date by which federal agencies may continue to accept these licenses and identification cards for official purposes until September 30, 2021. Although some agencies, including TSA, accept these licenses and identification cards for official purposes, others may decide not to accept, or currently do not accept, non-compliant marked cards for official purposes. Individuals who need to visit a federal facility, building, or office should check in advance whether the agency requires identification for access purposes and, if they do, the forms of identification they accept.

III. Regulatory Analysis

A. Administrative Procedure Act

DHS takes this action without prior notice and public comment.

Sections 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. 553) authorize agencies to dispense with certain rulemaking procedures when they find good cause to do so. Under section 553(b), the requirements of notice and opportunity to comment do not apply when the agency for good cause finds that these procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

This final rule recognizes the need to extend the card-based enforcement deadline in light of the significant disruption and uncertainty in government operations caused by the COVID–19 virus, as well as the need to encourage appropriate social distancing behavior. Delaying the change to the regulation's enforcement date by first undergoing notice and comment would be contrary to the public interest, as an expeditious regulatory announcement of the new deadline is necessary for state and individual planning purposes. These factors suggest that delays associated with notice and comment rulemaking would potentially undermine critical public health efforts at the federal, state, territorial, or local level. DHS therefore has good cause to bypass such procedures.

B. Paperwork Reduction Act

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

C. Executive Orders 12866 and 13563 Assessment

This rule constitutes a ''significant regulatory action'' under Executive Order 12866, as supplemented by Executive Order 13563, and therefore has been reviewed by the Office of Management and Budget (OMB). Executive Order 12866 defines ''significant regulatory action'' as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. DHS is proceeding under the emergency provision at Executive Order 12866 Section 6(a)(3)(D) based on the urgent needs described above.

D. Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires Federal agencies to consider the potential impact of regulations on small businesses, small government jurisdictions, and small organizations during the development of their rules. This final rule, however, makes changes for which notice and comment are not necessary. Accordingly, DHS is not required to prepare a regulatory flexibility analysis. See 5 U.S.C. 603, 604.

E. Executive Order 13132 (Federalism)

A rule has federalism implications under Executive Order 13132, ''Federalism,'' if it has a substantial direct effect on state governments, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. DHS has analyzed this rule under that Order and has determined that although this rule affects the states, it does not impose substantial direct compliance costs or preempt state law. In fact, the rule is responsive to concerns expressed by state agencies regarding the upcoming deadlines. DHS has determined that the rule is consistent with Executive Order 13132.

F. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Unfunded Mandates Reform Act addresses actions that may result in the expenditure by a state, local, or Tribal government, in the aggregate, or by the private section of $100 million (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

G. Executive Order 13175 (Tribal Consultation)

This rule does not have Tribal Implications under Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

H. Environment

DHS reviews proposed actions to determine whether the National Environmental Policy Act (NEPA) applies to them and, if so, what degree of analysis is required. DHS Directive 023–01 Rev. 01 (Directive) and Instruction Manual 023–01–001–01 Rev. 01 (Instruction Manual) establish the procedures that DHS and its

renewals and other services during the disruption caused by COVID–19.

components use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations allow federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') which experience has shown do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment (EA) or Environmental Impact Statement (EIS). 40 CFR 1507.3(b)(2)(ii), 1508.4. For an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect. Instruction Manual section V.B(2)(a)–(c).

The delay effectuated by this rule fits within categorical exclusion A3(a) ''Promulgation of rules . . . of a strictly administrative or procedural nature.'' Instruction Manual, Appendix A, Table 1. Furthermore, the rule is not part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental impacts. Therefore, the rule is categorically excluded from further NEPA review.

I. Signature

The Acting Secretary of Homeland Security, Chad F. Wolf, having reviewed and approved this document, is delegating the authority to electronically sign this document to Chad R. Mizelle, who is the Senior Official Performing the Duties of the General Counsel, for purposes of publication in the **Federal Register**.

List of Subjects in 6 CFR Part 37

Document security, Driver's licenses, Identification cards, Motor vehicle administrations, Physical security.

For the reasons set forth above, the Department of Homeland Security amends 6 CFR part 37 as follows:

PART 37—REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS

■ 1. The authority citation for part 37 continues to read as follows:

Authority: 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

Subpart A—General

■ 2. In § 37.5, revise paragraphs (b) and (c) to read as follows:

§ 37.5 Validity periods and deadlines for REAL ID driver's licenses and identification cards.

* * * * *

(b) On or after October 1, 2021, Federal agencies shall not accept a driver's license or identification card for official purposes from any individual unless such license or card is a REAL ID–compliant driver's license or identification card issued by a State that has been determined by DHS to be in full compliance as defined under this subpart.

(c) Until September 30, 2021, Federal agencies may accept for official purposes a driver's license or identification card issued under § 37.71. On or after October 1, 2021, Federal agencies shall not accept for official purposes a driver's license or identification card issued under § 37.71.

Chad R. Mizelle,

Senior Official Performing the Duties of the General Counsel, U.S. Department of Homeland Security.

[FR Doc. 2020–08481 Filed 4–24–20; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1775, 1776, 1778, and 1784

[Docket No. RUS–20–WATER–0018]

RIN 0572–AC47

Implementation of Water and Environmental Provisions of the Agricultural Improvement Act of 2018

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) is issuing a final rule to implement statutory provisions of the Agriculture Improvement Act of 2018 (2018 Farm Bill). The intent of this rule is to modify existing regulations to include the statutory revisions authorized by the 2018 Farm Bill.

DATES: This final rule is effective April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Jim Wehrer, Rural Development, U.S. Department of Agriculture, STOP, 1400 Independence Ave. SW, Washington, DC 20250–1550, Telephone number: (605) 660–0981.

SUPPLEMENTARY INFORMATION:

Executive Order 12866—Classification

This final rule has been determined to be not significant for the purposes of Executive Order 12866, Regulatory Planning and Review, and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988—Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted. No retroactive effect will be given to this rule and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(e)), administrative appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Catalog of Federal Domestic Assistance and Executive Order 12372—Intergovernmental Consultation

The programs affected by this rule are listed in the Catalog of Federal Domestic Assistance under numbers 10.761, Technical Assistance and Training Grants, 10.763, Emergency Community Water Assistance Grants, and 10.862, Household Water Well System Grant Program, and 10.760, Rural Alaskan Village Grants, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

The Catalog is available on the internet at *https://beta.sam.gov.* The SAM.gov website also contains a PDF file version of the Catalog that, when printed, has the same layout as the printed document that the Government Printing Office (GPO) provides. GPO prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at 202–512–1800 or toll free at 866–512–1800, or access GPO's online bookstore at *http://bookstore.gpo.gov.*

Executive Order 13771

The programs affected by this rulemaking are not subject to Executive Order 13771 as they are considered transfer programs and are exempt from the Executive Order.

Regulatory Flexibility Act Certification

RUS has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Environmental Impact Statement

This final rule has been examined under Agency environmental regulations at 7 CFR part 1970. The Administrator has determined that this is not a major Federal action significantly affecting the environment. Therefore, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an Environmental Impact Statement is not required.

Unfunded Mandates

This final rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for state, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

E-Government Act Compliance

RUS is committed to the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Executive Order 13132, Federalism

The policies contained in this final rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this final rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Rural Development has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a tribe would like to engage in consultation with Rural Development on this rule, please contact Rural Development's Native American Coordinator at (720) 544–2911 or *AIAN@usda.gov.*

Civil Rights Impact Analysis

Rural Development has reviewed this rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex or disability. After review and analysis of the rule and available data, it has been determined that implementation of the rule is not likely to adversely or disproportionately impact very low, low and moderate income populations, minority populations, women, Indian tribes or persons with disability by virtue of their race, color, national origin, sex, age, disability, or marital or familial status. No major civil rights impact is likely to result from this rule.

Information Collection and Recordkeeping Requirements

This final rule contains no new reporting or recordkeeping burdens under OMB control numbers 0572–0110, 0572–0112, 0572–0139, and 0572–0150 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Non-Discrimination Statement

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

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992, submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410;

(2) *Fax:* (202) 690–7442; or

(3) *E-Mail: program.intake@usda.gov.*

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

Background

Rural Development is a mission area within the USDA comprising the Rural Utilities Service, Rural Housing Service, and Rural Business/Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through more than 40 programs aimed at creating and improving housing, businesses, and infrastructure throughout rural America.

The Agriculture Improvement Act of 2018 (2018 Farm Bill) made mandatory changes to several programs administered by the Water and Environmental Programs of the Rural Utilities Service, including: The Technical Assistance and Training (TAT) Grant Program; the Emergency and Imminent Community Water Assistance Grant (ECWAG) Program; the Household Water Well Systems (HWWS) Grant Program; and the Rural Alaskan Village Grant (RAVG) Program.

The modifications to these regulations will allow RUS to fully implement changes to the programs required by the 2018 Farm Bill. These changes will also allow for expanded assistance to rural

communities to improve safe, reliable drinking water, and sanitary sewage treatment for households in rural areas.

The Technical Assistance and Training (TAT) Grant Program (7 CFR part 1775) provides grants to enable qualified, private nonprofits to provide technical assistance and training to identify and evaluate solutions to water and waste problems; prepare applications for water and waste disposal loans and grants; and improve the operation and maintenance of existing water and waste facilities in eligible rural areas. The modifications include adding two additional program purposes focused on enhancing the long-term sustainability of rural water and waste systems; addressing the contamination of drinking water and surface water supplies by emerging contaminants; and revising the priority factors to include providing technical assistance and training to address water supply systems or waste facilities that are unhealthful.

The Emergency and Imminent Community Water Assistance Grants (ECWAG) Program (7 CFR part 1778) assists the residents of rural areas and small communities that have experienced a significant decline in quantity or quality of water, or in which such a decline is considered imminent, to obtain or maintain adequate quantities of water that meets the standards set by the Safe Drinking Water Act (42 U.S.C. 300f et seq.). The modifications include: Revising the project priority factors to include contamination of water supplies; extending the use of grant funds to include inadequate water supplies due to an event, including drought, severe weather, or contamination; and increasing the maximum grant amount to $1,000,000.

The Household Water Well System (HWWS) Grant Program (7 CFR part 1776) assists qualified nonprofits and tribes to create a revolving loan fund to increase access to clean, reliable water for households in eligible rural areas. Grant funds may be used to help a nonprofit create a revolving loan fund for eligible individuals who own and occupy a home in an eligible rural area, to construct, refurbish, or service individually-owned household water well systems. The modifications include: Changing the program name from Household Water Well Systems to Rural Decentralized Water Systems; adding a definition for Decentralized Water System; revising the income eligibility language in the definition of Eligible individual from 100 percent of the median nonmetropolitan household income for the State to 60% of the median nonmetropolitan household income for the State; modifying the loan amount terms for recipients; and including new eligibility requirements for receipt of a Decentralized Water System subgrant.

The Rural Alaska Village Grant (RAVG) Program (7 CFR part 1784) provides assistance to rural or native Alaskan villages to provide for the development and construction of water and wastewater systems to improve the health and sanitation conditions in these villages through removal of dire sanitation conditions. A modification to the definition of ''Rural or Native Villages in Alaska'' will be made to bring it in line with section 306D of the CONACT.

List of Subjects

7 CFR Part 1775

Business and industry, Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, and Watersheds.

7 CFR Part 1776

Agriculture, Community development, Community facilities, Credit, Grant programs-housing and community development, Nonprofit organizations, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

7 CFR Part 1778

Community development, Community facilities, Grant programs-housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, and Watersheds.

7 CFR Part 1784

Agriculture, Community development, Community facilities, Grant programs—housing and community development, Reporting and recordkeeping requirements, Rural areas, Sewage disposal, Waste treatment and disposal, Water pollution control, Water supply, Watersheds.

Accordingly, for reasons set forth in the preamble, 7 CFR parts 1775, 1776, 1778, and 1784 are amended as follows:

PART 1775—TECHNICAL ASSISTANCE GRANTS

■ 1. The authority citation for part 1775 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart B—Grant Application Processing

■ 2. Amend § 1775.11 by revising paragraph (i) to read as follows:

§ 1775.11 Priority.

* * * * *

(i) Projects primarily providing ''hands on'' technical assistance and training, *i.e.,* on-site assistance as opposed to preparation and distribution of printed material, to communities with existing water and waste systems which are experiencing operation and maintenance or management problems; and/or provide technical assistance and training to water supply systems or waste facilities that are unhealthful (*i.e.,* emerging contaminants detected in drinking water and surface water supplies.)

* * * * *

Subpart C—Technical Assistance and Training Grants

■ 3. Amend § 1775.36 by revising paragraph (e) and adding paragraphs (f) and (g) to read as follows:

§ 1775.36 Purpose.

* * * * *

(e) Identify options to enhance the long-term sustainability of rural water and waste systems, including operational practices, revenue enhancements, partnerships, consolidation, regionalization, or contract services.

(f) Address the contamination of drinking water and surface water supplies by emerging contaminants, including per- and polyfluoroalkyl substances.

(g) Pay the expenses associated with providing the technical assistance and/or training authorized in paragraphs (a) through (f) of this section.

PART 1776—RURAL DECENTRALIZED WATER SYSTEMS

■ 4. The authority citation for part 1776 continues to read as follows:

Authority: 7 U.S.C. 1926e.

■ 5. Revise the heading to part 1776 to read as set forth above:

PART 1776—RURAL DECENTRALIZED WATER SYSTEMS

* * * * *

PART 1776—[AMENDED]

■ 6. In part 1776, revise all references to ''Household Water Well System'' to read

''Decentralized Water System'' and the acronym ''HWWS'' to read ''DWS''.

Subpart A—General

■ 7. Revise § 1776.1 to read as follows:

§ 1776.1 Purpose.

This part sets forth the policies and procedures for Rural Utilities Service making grants to private nonprofit organizations for the purpose of providing loans and subgrants to eligible individuals for the construction, refurbishing, and servicing of individually owned household water well systems and individually owned decentralized wastewater systems in rural areas that are or will be owned by the eligible individuals.

■ 8. In § 1776.3:

■ a. Amend the definition of *Eligible individual* by removing the term ''100 percent'' in the first sentence and adding in its place ''60 percent'';

■ b. Add the definitions of ''Contamination'', ''Decentralized Water System'', ''Septic System'', and ''Subgrants''; and

■ c. Remove the definitions of ''HWWS'', ''HWWS grant'', and ''HWWS loan.''

The additions read as follows:

§ 1776.3 Definitions

* * * * *

Contamination means any physical, chemical, biological, or radiological substance of matter in water, either exceeding or having potential to exceed State or Federal standards.

* * * * *

Decentralized Water System (DWS) means either a household water well or a septic system. This definition also includes decentralized wastewater systems which are onsite or clustered systems used to collect, treat, and disperse or reclaim wastewater from a small community or service area.

* * * * *

Septic System means systems designed to treat wastewater from household plumbing fixtures through both natural and technological processes.

* * * * *

Subgrants means a grant awarded to a decentralized water system owner in order to refurbish or replace a well or septic system.

* * * * *

Subpart B—DWS Grants

■ 9. Amend § 1776.10 by revising paragraph (b) to read as follows:

§ 1776.10 Grant agreement.

* * * * *

(b) The grantee or RUS may initiate an amendment or modification to the grant agreement to provide for a loan limit up to $15,000. No change in the grant agreement requested by the grant recipient will be effective unless approved in writing by RUS.

■ 10. Amend § 1776.12 by revising the section heading and paragraph (a) and adding paragraphs (d) and (e) to read as follows:

§ 1776.12 Use of DWS Grant proceeds.

(a) Except as otherwise provided in the next paragraph. The DWS grant process shall be used solely for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual decentralized water systems in rural areas that are or will be owned by the eligible individuals.

* * * * *

(d) In the event of ground well water contamination, the Secretary shall allow a loan or subgrant to be made with grant funds under this section for the installation of water treatment where needed beyond the point of entry, with or without the installation of a new water well system.

(e) Any entities responsible for fouling a drinking water supply are not eligible to be the recipients of an award for this program.

Subpart C—DWS Loans

■ 11. Amend § 1776.15 by revising paragraph (a)(3) and by adding paragraphs (d) and (e) to read as follows:

§ 1776.15 Terms of loans.

* * * * *

(a) * * *

(3) Shall not exceed $15,000 for each water well system or decentralized wastewater system described in § 1776.1.

* * * * *

(d) The Agency will determine the maximum subgrant limit for each DWS applicant.

(e) The applicant will determine subgrant funding levels to individual subgrantees based on established criteria described in the workplan.

PART 1778—EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANTS

■ 12. The authority citation for part 1778 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

■ 13. Amend § 1778.3, by revising the section heading to read as follows:

§ 1778.3 Purpose.

* * * * *

■ 14. Amend § 1778.4 by adding a definition of *Contamination* to read as follows:

§ 1778.4 Definitions.

* * * * *

Contamination, Any physical, chemical, biological, or radiological substance of matter in water, either exceeding or having potential to exceed State or Federal standards.

* * * * *

■ 15. Amend § 1778.6 by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 1778.6 Eligibility.

* * * * *

(b) Any entities responsible for willfully or purposely fouling a drinking water supply are not eligible to be the recipients of an award under this program.

* * * * *

■ 16. Amend § 1778.7 by redesignating paragraph (d)(6) as paragraph (d)(7) and adding a new paragraph (d)(6) to read as follows:

§ 1778.7 Project priority.

* * * * *

(d) * * *

(6) *Contamination.* The project will address the contamination that poses a threat to human health or the environment and was caused by circumstances beyond the control of the applicant—10 points.

* * * * *

■ 17. Amend § 1778.9 by revising paragraph (k) to read as follows:

§ 1778.9 Uses.

* * * * *

(k) Provide potable water to communities through means other than those covered above for no more than 120 days when a more permanent solution is not feasible in a shorter time frame. Where drinking water supplies are inadequate due to an event, including drought, severe weather, or contamination, potable water may be provided for a period of time, not to exceed an additional 120 days to protect public health.

■ 18. Amend § 1778.10 by revising the section heading to read as follows:

§ 1778.10 Restrictions on use of grant funds.

* * * * *

■ 19. Amend § 1778.11 by revising paragraph (a) to read as follows:

§ 1778.11 Maximum grants.

(a) Grants up to $1,000,000 may be made to alleviate a significant decline in quantity or quality of water available to a rural area that occurred within two years of filing an application with the Agency, or to attempt to avoid a significant decline that is expected to occur during the twelve month period following the filing of an application.

* * * * *

PART 1784—RURAL ALASKAN VILLAGE GRANTS

■ 20. The authority citation for part 1784 continues to read as follows:

Authority: 7 U.S.C. 1926d.

Subpart A—General Provisions.

■ 21. Revise § 1784.1 to read as follows:

§ 1784.1 Purpose.

This part sets forth the policies and procedures that will apply when the Rural Utilities Service (RUS) makes grants under the Rural Alaska Village Grant (RAVG) program (7 U.S.C. 1926d) to native villages in Alaska. The grants will be provided directly to a native village or jointly with either The State of Alaska, Department of Environmental Conservation (DEC) or The Alaska Native Tribal Health Consortium (ANTHC) for the benefit of native villages in Alaska.

■ 22. Amend § 1784.2 by removing the definition of ''Rural or Native Villages in Alaska'' and adding, in alphabetical order, the definition of ''Native Villages in Alaska'' to read as follows:

§ 1784.2 Definitions.

* * * * *

Native Villages in Alaska means a Native village in Alaska which meets the definition of a village as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

* * * * *

Subpart B—Grant Requirements

■ 23. Amend § 1784.8 by revising paragraphs (a)(1) through (3), (b), and (d) to read as follows:

§ 1784.8 Eligibility.

(a) * * *

(1) Native village in Alaska; or

(2) DEC on behalf of one or more recipient communities in Alaska; or

(3) ANTHC on behalf of one or more recipient communities in Alaska.

(b) Grants made to DEC or ANTHC may be obligated through a master letter of conditions for more than one recipient community; however, DEC or ANTHC together with each individual recipient community beneficiary shall execute a grant agreement on a project by project basis. Expenditures for projects will be based on specific scope and be requested on a project by project basis.

* * * * *

(d) The median household income of the recipient community cannot exceed 110 percent of the statewide nonmetropolitan household income (SNMHI), according to US Census American Community Survey. Alaska census communities considered to be high cost isolated areas or ''off the road systems'' (*i.e.,* communities that cannot be accessed by roads) may utilize up to 150 percent of SNMHI.

■ 24. Amend § 1784.10 by revising paragraph (a) introductory text to read as follows:

§ 1784.10 Eligible grant purposes.

* * * * *

(a) To pay reasonable costs associated with providing potable water or waste disposal services to residents of recipient communities. Reasonable costs include construction, planning, pre-development costs (including engineering, design, and rights-of-way establishment), and technical assistance as further defined in paragraphs (a)(1) through (3) of this section:

* * * * *

Subpart C—Application Processing

■ 25. Amend § 1784.16 by revising paragraph (a) to read as follows:

§ 1784.16 General.

(a) DEC and ANTHC utilize the National Indian Health Service, Sanitation Deficiency System (SDS) database as a comprehensive source of rural sanitation needs in Alaska. The database provides an inventory of the sanitation deficiencies including water, sewer, and solid waste facilities for existing homes. The sanitation deficiencies data are updated annually by DEC and ANTHC in consultation with the respective recipient communities. The SDS system is utilized in the RAVG program to help prioritize applications under the Village Safe Water Program.

* * * * *

■ 26. Amend § 1784.17 by revising paragraph (a) to read as follows:

§ 1784.17 Application for Planning grants.

(a) Entities identified in § 1784.8 may submit a completed Standard Form 424 to apply for funding to establish a Planning report for a recipient community.

* * * * *

■ 27. Amend § 1784.20 by revising paragraph (a) to read as follows:

§ 1784.20 Applications Accepted from DEC or ANTHC.

(a) In cases where applications are accepted from DEC or ANTHC, one master application may be submitted covering recipient communities to be funded, however, each individual project will be broken out and (for construction grants) each will require its own PER, or PER-like document and Environmental Report.

* * * * *

Chad Rupe,

Administrator, Rural Utilities Service.

[FR Doc. 2020–08034 Filed 4–24–20; 8:45 am]

BILLING CODE 3410–15–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 702 and 723

RIN 3133–AF16

Regulatory Capital Rule: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loans

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule.

SUMMARY: The NCUA Board (Board) is issuing this interim final rule to make a conforming amendment to its capital adequacy regulation following the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The CARES Act authorizes the Small Business Administration to create a loan guarantee program, the Paycheck Protection Program (PPP), to help certain businesses affected by the COVID–19 pandemic. The CARES Act requires that PPP loans receive a zero percent risk weighting under the NCUA's risk-based capital requirements. To reflect the statutory requirement, the interim final rule amends the NCUA's capital adequacy regulation to provide that covered PPP loans receive a zero percent risk weight. The interim final rule also provides that if the covered loan is pledged as collateral for a non-recourse loan that is provided as part of the Board of Governors of the Federal Reserve System's (FRB) PPP Lending Facility, the covered loan can be excluded from a credit union's calculation of total assets for the

purposes of calculating its net worth ratio. The interim final rule also makes a conforming amendment to the definition of commercial loan in the NCUA's member business loans and commercial lending rule. The Board has found good cause to issue the interim final rule without advance notice-and-comment procedures and with an effective date upon publication.

DATES: This rule is effective on April 27, 2020. Comments, as discussed below, must be received on or before May 27, 2020.

ADDRESSES: You may submit written comments, identified by RIN 3133–AF16, 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 Interim Final Rule: Regulatory Capital Rule: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loans'' 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. Due to social distancing measures in effect through at least April 30, 2020, the usual opportunity to inspect paper copies of comments in the NCUA's law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Amanda Parkhill, Supervisory CUE (Policy); or Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314–3428. Amanda Parkhill can also be reached at (703) 518–6385, and Rachel Ackmann can be reached at (703) 548–2601.

SUPPLEMENTARY INFORMATION:

I. Background and Legal Authority

a. The NCUA's Risk-Based Capital Requirements

The Credit Union Membership Access Act (CUMAA) requires the NCUA to formulate a risk-based net worth (RBNW) requirement to apply to complex credit unions.[1] Part 702 of the NCUA's regulations implement the risk-based net worth requirement.[2] Under current § 702.103 of the NCUA's regulations, a credit union is defined as ''complex'' if ''[i]ts quarter-end total assets exceed fifty million dollars ($50,000,000); and . . . [i]ts [RBNW] requirement . . . exceeds six percent (6%).'' [3] Current § 702.104 of the NCUA's regulations defines eight risk portfolios of complex credit union assets, liabilities, or contingent liabilities.[4] The eight risk portfolios are long-term real estate loans, member business loans (MBL) outstanding, investments, low-risk assets, average-risk assets, loans sold with recourse, unused MBL commitments, and allowance. Current § 702.106 sets forth the specific risk-weightings that are applied to the assets, liabilities, or contingent liabilities of each risk portfolio.[5] A credit union's RBNW requirement is the sum of the eight risk portfolios times the applicable risk-weighting.[6] The RBNW requirement for credit unions meeting the definition of ''complex'' was first applied on the basis of data in the Call Report reflecting activity in the first quarter of 2001.[7]

b. The NCUA's MBL and Commercial Lending Rule

Among other things, CUMAA limited the aggregate amount of MBLs that a credit union may make to the lesser of 1.75 times the net worth of the credit union or 1.75 times the minimum net worth required under the Federal Credit Union Act (FCU Act) for a credit union to be well capitalized.[8] The statutory MBL limit is incorporated in part 723 of NCUA's regulations.[9] Part 723 also defines MBLs and commercial loans, establishes minimum safety and soundness standards, and implements various other requirements regarding MBLs and commercial loans. The Board has not significantly amended part 723 since 2016.[10]

c. The Coronavirus Aid, Relief, and Economic Security (CARES Act)

On March 27, 2020, President Trump signed the CARES Act into law.[11] The law is designed to provide aid to the U.S. economy in the midst of the COVID–19 pandemic. The CARES Act authorizes the Small Business Administration (SBA) to create a loan guarantee program, the Paycheck Protection Program (PPP), to help certain affected businesses meet payroll needs and utilities (including employee salaries, sick leave, other paid leave, and health insurance expenses) as a result of the COVID–19 pandemic. Provided credit union lenders comply with the applicable lender obligations set forth in the SBA's interim final rule, the SBA will fully guarantee loans issued under the PPP. Most federally insured credit unions are eligible to make PPP loans to members.[12] Under the CARES Act, PPP loans must receive a zero percent risk weighting under the

[1] 12 U.S.C. 1790d(d). Only complex credit unions are subject to the NCUA's risk-based net worth requirement. *See* 12 U.S.C. 1790d(d)(1) and 12 CFR 702.103. The FCU Act grants the Board a broad mandate to issue regulations governing both FCUs and, more generally, all FICUs. For example, section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the Act. 12 U.S.C. 1766(a).

[2] 12 CFR pt. 702. On January 1, 2022, the NCUA's capital requirements will be substantially amended when the NCUA's risk-based capital rules become effective. *See,* 84 FR 68781 (Dec. 17, 2019). This interim final rule only amends the NCUA's current risk-based net worth rules and does not amend the NCUA's risk-based capital rules (''2015 Final Rule''), which will be addressed when they become effective. Generally, the NCUA uses the term ''risk-based net worth requirement'' to reference the statutory requirement for the Board to design a capital standard that accounts for variations in the risk profile of complex credit unions and the current risk-based framework in part 702. In contrast, the NCUA generally uses the term ''risk-based capital'' to refer to the specific standards established in the 2015 Final Rule. The term ''risk-based capital requirement,'' however, is used in the CARES Act and refers to both the risk-based net worth and the risk-based capital requirements. The Board notes that the term ''risk-based capital'' is also used by the other banking agencies and the international banking community when referring to the types of risk-based requirements that are addressed in the 2015 Final Rule.

[3] 12 CFR 702.103. For the definition of total assets, *see* 12 CFR 702.2(k).

[4] 12 CFR 702.104.

[5] 12 CFR 702.106.

[6] *Id.*

[7] 65 FR 44950 (July 20, 2000).

[8] 12 U.S.C. 1757a; Public Law 105–219, 112 Stat. 913 (1998).

[9] 12 CFR part 723.

[10] 81 FR 13530 (Mar. 14, 2016).

[11] Public Law 116–136 (Mar. 27, 2020).

[12] Credit unions that are currently permitted to make loans under the SBA's 7(a) program are automatically approved to make PPP loans. Federally insured credit unions that are not current SBA 7(a) lenders, can receive approval by submitting an application to the SBA, unless they are currently designated as being in troubled condition or are subject to a formal enforcement action that addresses unsafe and unsound lending practices. Non-depository financing providers, such as credit union service organizations, may qualify as a PPP lender subject to the requirements listed in the interim final rule.

NCUA's risk-based capital requirements.[13]

II. The Interim Final Rule

a. Risk Weighting of PPP Loans

To reflect the statutory requirement that PPP loans receive a zero percent risk weight, the interim final rule amends the NCUA's risk-based net worth rules. Specifically, the interim final rule explicitly provides that PPP loans are low-risk assets. Low-risk assets are currently defined as cash on hand (*e.g.,* coin and currency, including vault, ATM and teller cash), the National Credit Union Share Insurance Fund (NCUSIF) deposit, and debt instruments unconditionally guaranteed by the NCUA.[14] Under § 702.106(d), low-risk assets receive a zero percent risk weight.[15] Under the interim final rule, low-risk assets are defined as cash on hand (*e.g.,* coin and currency, including vault, ATM and teller cash), the NCUSIF deposit, debt instruments unconditionally guaranteed by the NCUA; and loans issued under the SBA's Paycheck Protection Program (15 U.S.C. 636(a)(36)). Therefore, the interim final rule provides that PPP loans receive a zero percent risk weight under the NCUA's risk-based capital rules as required by the CARES Act.

b. Definition of Total Assets for the Purposes of Calculating the Net Worth Ratio

To provide liquidity to small business lenders and the broader credit markets, to help stabilize the financial system, and to provide economic relief to small businesses nationwide, the FRB authorized each of the Federal Reserve Banks to participate in the Paycheck Protection Program Lending Facility (PPPL Facility), pursuant to section 13(3) of the Federal Reserve Act.[16] Under the PPPL Facility, each of the Federal Reserve Banks will extend non-recourse loans to eligible financial institutions to fund PPP loans. Under the PPPL Facility, only PPP loans that are guaranteed by the SBA with respect to both principal and interest and that are originated by an eligible institution may be pledged as collateral to the Federal Reserve Banks. Participation in the PPPL Facility will affect a credit union's balance sheet because, as a function of participating in the PPPL Facility, the credit union must originate and hold PPP covered loans (that is, assets that are eligible collateral pledged to the Federal Reserve Banks) on its balance sheet.

As a result, credit unions that participate in the PPPL Facility could potentially be subject to increased regulatory capital requirements (due to the increase in total assets from originating and holding PPP loans). To facilitate use of the PPPL Facility, the interim final rule allows credit unions to neutralize the regulatory capital effects of PPP loans pledged to the Facility.[17] Additionally, the Board believes that the regulatory capital requirements for certain PPP loans, those PPP loans pledged to a Federal Reserve Bank as part of the PPPL Facility, do not reflect the substantial protections from risk provided to credit unions by the PPPL Facility. Because of the non-recourse nature of the FRB's extension of credit to the credit union, the credit union is not exposed to credit or market risk from the pledged PPP covered loans. Therefore, the Board believes that it is appropriate to exclude pledged PPP loans from regulatory capital. Specifically, the interim final rule excludes PPP loans pledged as collateral to the PPPL Facility from the definition of total assets in § 702.2 for purposes of calculating a credit union's net worth ratio.[18]

c. Definition of Commercial Loan

The interim final rule also clarifies that PPP loans would not constitute commercial loans under part 723 of the NCUA's regulations. Generally commercial loans are defined as any loan, line of credit, or letter of credit (including any unfunded commitments), and any interest a credit union obtains in such loans made by another lender, to individuals, sole proprietorships, partnerships, corporations, or other business enterprises for commercial, industrial, agricultural, or professional purposes, but not for personal expenditure purposes.[19] The current definition also provides various exclusions. The interim final rule amends the commercial loan definition to add PPP loans issued under the CARES Act as an exclusion from the definition of commercial loan in § 723.2. While other federally guaranteed loans may still be considered commercial loans under the regulation, the unique nature of PPP loans mitigates the need for enhanced commercial underwriting of these loans. The SBA's interim final rule specifically limits each lender's underwriting obligation under the PPP to the items noted in the rule.[20] Additionally, lenders will be held harmless for any borrower's failure to comply with PPP criteria and, in addition to the 100 percent guarantee, PPP loans may qualify for loan forgiveness.

III. Clarification Regarding Eligible Recipients of PPP Loans

In general, the SBA has restrictions on who can receive SBA business loans.[21] The SBA, however, recognizes that, unlike other SBA loan programs, PPP Loans are uniform for all borrowers, and the standard underwriting process does not apply because no creditworthiness assessment is required for PPP Loans. The SBA also recognizes that many directors and equity holders of lenders making PPP Loans are owners of unrelated businesses. Therefore, the SBA has determined that certain of its prohibitions regarding eligible borrowers for SBA loans are not applicable.[22] In general, it appears that a credit union director may obtain a PPP Loan from the credit union on whose board the director serves, provided that the related business follows the same process as any similarly situated member or account holder of the credit union and the director is not an officer or key employee of the credit union.[23] This change to the SBA's regulations, however, does not affect the FCU Act, the NCUA's rules on insider lending, or any relevant provision of a credit union's bylaws.

Under the FCU Act, a loan, or aggregate of loans, to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $20,000 (plus

[13] *Supra* note 11, at § 1102(a)(2).

[14] 12 CFR 702.104(d).

[15] 12 CFR 702.106(d).

[16] 12 U.S.C. 343(3).

[17] The Office of the Comptroller of the Currency, the FRB, and the Federal Deposit Insurance Corporation (together, the other banking agencies) adopted a similar interim final rule to allow banking organizations to neutralize the regulatory capital effects of participating in the PPPL Facility. *See,* 85 FR 20387 (Apr. 13, 2020).

[18] The Board has broad authority to define the term ''total assets.'' While 12 U.S.C. 1790d defines ''net worth''—the numerator for determining the net worth ratio—it does not define the term ''total assets,'' which comprises the denominator of the equation. However, the Board has elected to define the term in part 702. In addition to the Board's broad authority to define the term ''total assets,'' the Board finds that given the unique and unprecedented nature of the COVID–19 pandemic, encouraging use of the PPP Facility by excluding pledged PPP loans from total assets would further the purpose of section 1790d. Pledged covered PPP loans present less risk and would potentially facilitate resolving the problems of credit unions at the least possible long-term cost to the NCUSIF compared to non-pledged covered PPP loans.

[19] 12 CFR 723.2.

[20] *See, https://www.sba.gov/document/policy-guidance--ppp-interim-final-rule.*

[21] *See e.g.,* 13 CFR 120.110 and 120.140.

[22] 85 FR 21747 (Apr. 20, 2020).

[23] Officers and key employees of the credit union may obtain a PPP Loan from a different lender, but not from the credit union with which they are associated.

any applicable pledged shares) must be approved by the board of directors.[24] Similarly, loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser must be approved by the board of directors when such loans, standing alone or when added to any outstanding loan or loans of the guarantor or endorser, exceeds $20,000.[25] The NCUA's regulations implement these restrictions under part 701, which explains how balances are calculated for purposes of these provisions and sets forth loan approval requirements.[26] The SBA's interim final rules and the CARES Act do not provide any authority to set these statutory restrictions aside, and the FCU Act contains no authority for the Board to provide an exception.[27] Therefore, as discussed above, current NCUA provisions governing loans to insiders are applicable to PPP Loans.

IV. Regulatory Procedures

A. Administrative Procedure Act

The Board is issuing this interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA). Pursuant to the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [28] The Board believes that the public interest is best served by implementing the interim final rule immediately upon publication in the **Federal Register**. The Board notes that the COVID–19 crisis is unprecedented. It is rapidly changing and difficult to anticipate how the disruptions caused by the crisis will manifest themselves within the financial system and how individual credit unions may be impacted. Because of the widespread impact of a pandemic and the speed with which business and economic disruptions have transmitted throughout the United States, the Board believes it has good cause to determine that ordinary notice and public procedure are impracticable and that moving expeditiously in the form of an interim final rule is in the best interests of the public and the credit unions that serve that public.

The Board also believes that notice-and-comment procedures are unnecessary for this interim final rule as it principally implements a statutory requirement and the Board has no discretion in providing the zero risk weight for PPP loans. Furthermore, the Board believes notice-and-comment procedures are impractical because credit unions have already begun to offer PPP loans to members affected by COVID–19.[29] Credit unions need clarity and certainty on the applicable treatment of PPP loans both in regards to the risk weighting and whether the loans qualify as commercial loans under the NCUA's MBL and commercial lending rule. For these reasons, the Board finds that there is good cause consistent with the public interest to issue the interim final rule without advance notice and the opportunity to comment.[30]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[31] For the reasons stated above, the Board finds good cause to issue the rule with an immediate effective date. This rule would also be excepted from the delayed effective date requirement because it relieves a restriction that would otherwise apply.

While the Board believes that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the Board is interested in the views of the public and requests comment.

B. Congressional Review Act

For purposes of the Congressional Review Act, the OMB makes a determination as to whether a final rule constitutes a ''major'' rule. If a rule is deemed a ''major rule'' by the Office of Management and Budget (OMB), the Congressional Review Act generally provides that the rule may not take effect until at least 60 days following its publication.

The Congressional Review Act defines a ''major rule'' as any rule that the Administrator of the Office of Information and Regulatory Affairs of the OMB finds has resulted in or is likely to result in (A) an annual effect on the economy of $100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions, or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.[32]

For the same reasons set forth above, the Board is adopting the interim final rule without the delayed effective date generally prescribed under the Congressional Review Act. The delayed effective date required by the Congressional Review Act does not apply to any rule for which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[33] As discussed above, the Board has concluded there is good cause to issue the interim final rule without notice-and-comment procedures.

As required by the Congressional Review Act, the Board will submit the interim final rule and other appropriate reports to Congress and the Government Accountability Office for review.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden (44 U.S.C. 3507(d)). For purposes of the PRA, a paperwork burden may take the form of a reporting, recordkeeping, or a third-party disclosure requirement, referred to as an information collection. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

To capture activity related to the PPP, beginning with the June reporting cycle by credit unions, the NCUA will add four accounts to the quarterly Call Report (NCUA 5300) to identify the

[24] 12 U.S.C. 1757(5)(A)(iv).

[25] 12 U.S.C. 1757(5)(A)(v).

[26] 12 CFR 701.21(d).

[27] Cf. 12 U.S.C. 375b(9)(D)(ii) (authority for FRB to grant an exception to a similar restriction for member banks for extensions of credit that pose ''minimal risk'').

[28] 5 U.S.C. 553(b)(3)(B).

[29] Financial institutions could begin offering PPP loans April 3, 2020. *See, https://www.sba.com/funding-a-business/government-small-business-loans/ppp/.*

[30] . 5 U.S.C. 553(b)(B); 553(d)(3). For the same reasons, the Board is not providing the usual 60-day comment period before finalizing this rule. See NCUA Interpretive Ruling and Policy Statement (IRPS) 87–2, as amended by IRPS 03–2 and IRPS 15–1. 80 FR 57512 (Sept. 24, 2015), available at *https://www.ncua.gov/files/publications/irps/IRPS1987-2.pdf.*

[31] 5 U.S.C. 553(d).

[32] 5 U.S.C. 804(2).

[33] 5 U.S.C. 808.

number and amount of PPP loans, the amount of PPP loans pledged as collateral to secure Federal Reserve System's PPP Lending Facility, and the amount of FRB PPP Lending Facility loans. The changes to the Call Report will assist NCUA in off-site monitoring and supervision of credit unions while minimizing the burden during on-site examinations.

These changes will not alter the current estimate of four hours per response necessary to review the instructions and complete the form. The amount of data elements added are minimal and will not impact the total burden. The Office of Management Budget (OMB) has approved this change under a ''non-substantive change'' request to the information collection requirements approved under OMB control number 3133–0004.

D. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles.

This interim final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

E. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

F. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule or a final rule pursuant to the APA [34] or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**.[35] Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. For purposes of the RFA, the Board considers credit unions with assets less than $100 million to be small entities.[36]

As discussed previously, consistent with the APA,[37] the Board has determined for good cause that general notice and opportunity for public comment is unnecessary, and therefore the Board is not issuing a notice of proposed rulemaking. Rules that are exempt from notice and comment procedures are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Accordingly, the Board has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the Board seeks comment on whether, and the extent to which, the interim final rule would affect a significant number of small entities.

List of Subjects

12 CFR Part 702

Capital, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 723

Credit, Credit unions, Member business loans, Commercial lending, Reporting and recordkeeping requirements.

By the NCUA Board on April 22, 2020.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board amends parts 702 and 723 of chapter VII of title 12 of the Code of Federal Regulations as follows:

PART 702—CAPITAL ADEQUACY

■ 1. The authority for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

■ 2. In § 702.2, add paragraph (k)(3) to read as follows:

§ 702.2 Definitions.

* * * * *

(k) * * *

(3) Notwithstanding paragraph (k)(1) of this section, a credit union may exclude loans pledged as collateral for a non-recourse loan that is provided as part of the Paycheck Protection Program Lending Facility, announced by the Federal Reserve Board on April 7, 2020, from the calculation of total assets for the purpose of calculating its net worth ratio. For the purpose of this provision, a credit union's liability under the Facility must be reduced by the principal amount of the loans pledged as collateral for funds advanced under the Facility.

* * * * *

■ 3. In § 702.104, revise paragraph (d) to read as follows:

§ 702.104 Risk portfolios defined.

* * * * *

(d) *Low-risk assets.* Cash on hand (*e.g.,* coin and currency, including vault, ATM and teller cash), the NCUSIF deposit, debt instruments unconditionally guaranteed by the National Credit Union Administration; and covered loans issued under the Small Business Administration's Paycheck Protection Program, 15 U.S.C. 636(a)(36).

* * * * *

PART 723—MEMBER BUSINESS LOANS; COMMERCIAL LENDING

■ 4. The authority for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757a, 1766, 1785, 1789.

■ 5. In § 723.2, revise the definition of ''commercial loan'' to read as follows:

§ 723.2 Definitions.

* * * * *

Commercial loan means any loan, line of credit, or letter of credit (including any unfunded commitments), and any interest a credit union obtains in such loans made by another lender, to individuals, sole proprietorships, partnerships, corporations, or other business enterprises for commercial, industrial, agricultural, or professional purposes, but not for personal expenditure purposes. Excluded from this definition are loans made by a corporate credit union; loans made by a federally insured credit union to another federally insured credit union; loans made by a federally insured credit union to a credit union service organization; loans secured by a 1- to 4-family residential property (whether or not it is the borrower's primary residence); loans fully secured by shares in the credit union making the extension of credit or deposits in other financial institutions; loans secured by a vehicle manufactured for household use; and loans that would otherwise meet the definition of commercial loan and which, when the aggregate outstanding balances plus unfunded

[34] 5 U.S.C. 553(b).

[35] 5 U.S.C. 603, 604.

[36] NCUA Interpretive Ruling and Policy Statement 15–1. 80 FR 57512 (Sept. 24, 2015).

[37] 5 U.S.C. 553(b)(3)(B).

commitments less any portion secured by shares in the credit union to a borrower or an associated borrower, are equal to less than $50,000. The definition of commercial loan also excludes covered loans issued under the Small Business Administration's Paycheck Protection Program, 15 U.S.C. 636(a)(36).

* * * * *

[FR Doc. 2020–08920 Filed 4–24–20; 8:45 am]

BILLING CODE 7535–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1005

Treatment of Pandemic Relief Payments Under Regulation E and Application of the Compulsory Use Prohibition

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interpretive rule.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is issuing this interpretive rule to provide guidance to government agencies distributing aid to consumers in response to the COVID–19 pandemic. The Bureau concludes in this interpretive rule that certain pandemic-relief payments are not ''government benefits'' for purposes of Regulation E and the Electronic Fund Transfer Act (EFTA) and are therefore not subject to the compulsory use prohibition in EFTA, if certain conditions are met. Specifically, government benefits do not include payments from Federal, State, or local governments if those payments: Are made to provide assistance to consumers in response to the COVID–19 pandemic or its economic impacts; are not part of an already-established government benefit program; are made on a one-time or otherwise limited basis; and are distributed without a general requirement that consumers apply to the agency to receive funds.

DATES: This interpretive rule is effective on April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Kristine M. Andreassen, Senior Counsel, Office of Regulations, at 202–435–7700 or *https://reginquiries.consumerfinance.gov/.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

A. Background

Section 913 of the Electronic Fund Transfer Act (EFTA) provides, among other things, that no person may require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit.[1] This provision, often referred to as the compulsory use prohibition, is implemented in § 1005.10(e)(2) of Regulation E.

In the mid-1990s, the Board of Governors of the Federal Reserve System (Board) extended consumer protections under Regulation E to accounts established by government agencies for distributing benefits to consumers electronically (government benefit accounts).[2] Government benefits covered under the rule include Federally-administered government benefit programs and non-needs tested State and local government benefit programs (they do not include accounts for distributing needs-tested benefits in programs established under State or local law or administered by a State or local agency).[3] Provisions specific to government benefit accounts were codified in § 1005.15 of Regulation E.

On October 5, 2016, the Bureau issued a final rule titled ''Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth In Lending Act (Regulation Z)'' (2016 Final Rule).[4] The Bureau subsequently amended the 2016 Final Rule twice, in 2017 and 2018.[5] The 2016 Final Rule, as subsequently amended, is referred to herein as the Prepaid Accounts Rule. The Prepaid Accounts Rule, among other things, extended Regulation E coverage to prepaid accounts and adopted provisions specific to such accounts. The definition of ''prepaid account'' in the Prepaid Accounts Rule includes government benefit accounts (as defined in § 1005.15(a)(2)), which were already covered by Regulation E as described above. The Prepaid Accounts Rule generally maintained the existing provisions specific to government benefit accounts, while adding certain new requirements such as pre-acquisition disclosures. The Prepaid Accounts Rule did not change the compulsory use prohibition in § 1005.10(e) of Regulation E, but did add commentary to clarify the compulsory use prohibition's application to government benefits (comment 10(e)(2)–2), which is in line with pre-existing commentary regarding payroll (comment 10(e)(2)–1).

Federal, State, and local governments are considering a variety of approaches to providing consumers relief from the economic impacts of the COVID–19 pandemic. These approaches may include government distribution of funds directly to consumers, in some cases outside of existing government benefit programs. In some cases, the relevant governmental agencies may not have access to consumers' account information, such as account and routing numbers, and therefore may have difficulty disbursing funds via direct deposit in a timely manner; in other cases, consumers may not have a pre-existing account that is capable of receiving funds via direct deposit.

B. Use of Electronic Fund Transfers in Government Benefit Disbursement

The Bureau notes that Regulation E provides significant flexibility to government agencies that wish to disburse government benefits via electronic fund transfers. As stated above, EFTA and Regulation E prohibit requiring consumers to establish accounts for receipt of electronic fund transfers with a particular financial institution as a condition of receipt of a government benefit.[6] The compulsory use prohibition does not require the agency to also offer payment through *any* other method the consumer may prefer; it simply requires that government agencies provide the consumer *a* choice. Specifically, comment 10(e)(2)–2 to Regulation E states that a government agency may require direct deposit of benefits by electronic means if recipients are allowed to choose the institution that will receive the direct deposit.[7]

In the preamble to the 2016 Final Rule, the Bureau recognized that in some cases, circumstances may require that financial institutions or other persons disburse funds to consumers within a certain period. Consumers may be presented with options of how to receive payment but fail to exercise a choice. In such cases, the Bureau noted

[1] 15 U.S.C. 1693k(2).

[2] 59 FR 10678 (Mar. 7, 1994) and 62 FR 43467 (Aug. 14, 1997).

[3] *See* § 1005.15(a)(2).

[4] 81 FR 83934 (Nov. 22, 2016).

[5] *See* 82 FR 18975 (Apr. 25, 2017) and 83 FR 6364 (Feb. 13, 2018). These amendments, among other things, extended the effective date of the Prepaid Accounts Rule to April 1, 2019.

[6] *See* EFTA section 913(a)(2) (15 U.S.C. 1693k(2)) and § 1005.10(e)(2).

[7] Government agencies are permitted to provide paper checks as an option for payment, but are not *required* to do so by EFTA or Regulation E. Similarly, government agencies may, but are not required to, offer direct deposit into an account of the consumer's choosing as an alternative method of payment.

that, depending on the facts and circumstances, it may be reasonable for a financial institution or other person in this scenario to employ a reasonable default enrollment method.[8]

C. Application of the Compulsory Use Prohibition to COVID–19 Pandemic Relief Payments

The Bureau is aware of the extraordinary circumstances created by the COVID–19 pandemic and the impact the pandemic has had, and will continue to have, on consumers. Government agencies are responding to these impacts by disbursing funds directly to consumers, among other measures.

In response to the pandemic and its effects, it is important for consumers to be able to receive economic stimulus payments in a fast, secure, and efficient manner. The Bureau believes that consumers, for many reasons, will typically prefer to receive these payments via direct deposit into an existing account of their choosing, if they have such an account. However, the Bureau appreciates that government agencies making these disbursements will not be able to make all of these payments via direct deposit to an account of the consumer's choice. Government agencies may be unable to do so either because they do not have access to the account information, such as account and routing numbers, for some consumers, or because some consumers receiving payments do not have a pre-existing account that can accept direct deposits. In such cases, the disbursement of funds via alternative means, such as a newly-issued prepaid account, may be faster, more secure, more convenient, and less expensive—for both the government agency and the consumer—than making disbursements through other methods such as paper check.[9]

Given the unique nature of this type of pandemic relief payment, the Bureau believes it is reasonable to interpret the term ''government benefit,'' as used in EFTA section 913 and Regulation E § 1005.10(e)(2), to exclude certain of these payments. Specifically, the Bureau interprets the term ''government benefit'' to exclude payments from Federal, State, or local governments if those payments are made:

1. *To provide assistance to consumers in response to the COVID–19 pandemic or its economic impacts;*

2. *Outside of an already-established government benefit program:* For example, payments made pursuant to an existing government benefit program would not qualify for this exclusion, even if the volume or dollar value of the program's payments is increased due to the COVID–19 pandemic;

3. *On a one-time or otherwise limited basis:* Thus, a limited series of related payments made to the same consumer could qualify for this exclusion; and

4. *Without a general requirement that consumers apply to the agency to receive funds:* Filing a tax return, or consumer provision of information necessary to complete a consumer identification and verification process prior to activating an access device, does not by itself constitute an application to receive funds.

The term ''government benefit'' is not defined in EFTA or Regulation E. However, the Bureau's interpretation herein is aligned with a common understanding of the scope of the term ''government benefit.'' In the preamble to its 2016 Final Rule, the Bureau identified examples of government benefit programs that were covered by the Board's 1994 and 1997 rulemakings.[10] In contrast, the payments that would not be considered a government benefit under this interpretive rule are one-time or otherwise limited payments specifically in response to the COVID–19 pandemic, not part of any existing government benefit program. Further, for payments under this interpretation, consumers likely would not generally be required to apply to the government for these types of pandemic relief payments, which may make it difficult for government agencies to determine consumers' payment preferences while making payments in a timely manner.

Direct deposit is generally the fastest, most efficient, and most secure way to disburse funds to consumers, but to make payments in that manner a government agency needs to have access to consumers' account information. However, given the unique circumstances due to the COVID–19 pandemic, the Bureau recognizes that payments covered by this interpretive rule are different than government benefits referred to in § 1005.10(e)(2). Thus, a government agency (as well as persons acting on behalf of a government agency) may require consumers to establish an account with a particular financial institution as a condition of receiving pandemic relief payments that meet the above conditions under this interpretive rule.

This interpretive rule is limited to the definition of ''government benefit'' under Regulation E and EFTA. Therefore, while accounts established to receive pandemic relief payments, as described above, do not constitute government benefit accounts as defined in § 1005.15(a)(2), the Bureau emphasizes that they may still be ''prepaid accounts'' under one of the other prongs of that definition in § 1005.2(b)(3).[11] However, the Bureau notes Regulation E excludes from the definition of ''prepaid account'' (and therefore coverage under Regulation E) an account that is directly or indirectly established through a third party and loaded only with qualified disaster relief payments (*i.e.,* funds made available through a qualified disaster relief program as defined in 26 U.S.C. 139(b)).[12]

The Bureau is issuing this interpretive rule based on its authority to interpret EFTA and Regulation E, including under section 1022(b)(1) of the Dodd-Frank Act, which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws.[13]

By operation of EFTA section 916(d), no provision of EFTA sections 916 or 917 imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.[14]

II. Effective Date

Because this rule is solely interpretive, it is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the Administrative Procedure Act.[15] Therefore, this rule is effective on April 27, 2020, the same date that it is published in the **Federal Register**.

III. Regulatory Requirements

This rule articulates the Bureau's interpretation of Regulation E and EFTA. As an interpretive rule, it is

[8] 81 FR 83934, 83985 (Nov. 22, 2016).

[9] In addition, consumers without a pre-existing account will typically need to visit an in-person location, such as a check cashing outlet, to obtain cash from a paper check.

[10] *See* 81 FR 83934, 83995 (Nov. 22, 2016). This interpretive rule does not change the status of any existing government benefit program under Regulation E.

[11] To the extent that they are prepaid accounts, the requirements of the Prepaid Accounts Rule (including the rule's pre-acquisition disclosure requirements) apply.

[12] *See* § 1005.2(b)(3)(ii)(B) and comment 2(b)(3)(ii)–2.

[13] 12 U.S.C. 5512(b)(1). The relevant provisions of EFTA and Regulation E form part of Federal consumer financial law. 12 U.S.C. 5481(12)(C), (14).

[14] 15 U.S.C. 1693m(d).

[15] 5 U.S.C. 553(d).

exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act.[16] Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.[17]

The Bureau has determined that this interpretive rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[18]

IV. Congressional Review Act

Pursuant to the Congressional Review Act,[19] the Bureau will submit a report containing this interpretive rule 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 the rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Signing Authority

The Director of the Bureau, having reviewed and approved this document is delegating the authority to electronically sign this document to Laura Galban, a Bureau Federal Register Liaison, for purposes of publication in the Federal Register.

Dated: April 13, 2020.

Laura Galban,

Federal Register Liaison, Bureau of Consumer Financial Protection.

[FR Doc. 2020–08084 Filed 4–23–20; 11:15 am]

BILLING CODE 4810–AM–P

[16] 5 U.S.C. 553(b).

[17] 5 U.S.C. 603(a), 604(a).

[18] 44 U.S.C. 3501–3521.

[19] 5 U.S.C. 801 *et seq.*

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

[No. 2020–N–9]

Orders: Reporting by Regulated Entities of Stress Testing Results as of December 31, 2019; Summary Instructions and Guidance

AGENCY: Federal Housing Finance Agency.

ACTION: Orders.

SUMMARY: In this document, the Federal Housing Finance Agency (FHFA) provides notice that it issued Orders, dated March 10, 2020, with respect to stress test reporting as of December 31, 2019, under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), as amended by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Summary Instructions and Guidance accompanied the Orders to provide testing scenarios.

DATES: Each Order is applicable March 10, 2020.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling & Simulations, Division of Housing Mission & Goals, (202) 649–3140, *NaaAwaa.Tagoe@fhfa.gov;* Karen Heidel, Assistant General Counsel, Office of General Counsel, (202) 649–3073, *Karen.Heidel@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054, *Mark.Laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is responsible for ensuring that the regulated entities operate in a safe and sound manner, including the maintenance of adequate capital and internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* 12 U.S.C. 4513. These Orders are being issued under 12 U.S.C. 4516(a), which authorizes the Director of FHFA to require by Order that the regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by Order. The Orders, through the accompanying Summary Instructions and Guidance, prescribe for the regulated entities the scenarios to be used for stress testing. The Summary Instructions and Guidance also provides to the regulated entities advice concerning the content and format of reports required by the Orders and the rule.

II. Orders, Summary Instructions and Guidance

For the convenience of the affected parties and the public, the text of the Orders follows below in its entirety. The Orders and Summary Instructions and Guidance are also available for public inspection and copying at the Federal Housing Finance Agency's Freedom of Information Act (FOIA) Reading Room at *https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/Reading-Room.aspx* by clicking on ''Click here to view Orders'' under the Final Opinions and Orders heading. You may also access these documents at *http://www.fhfa.gov/SupervisionRegulation/DoddFrankActStressTests.*

The text of the Orders is as follows:

Federal Housing Finance Agency

Order Nos. 2020–OR–FNMA–1 and 2020–OR–FHLMC–1

Reporting by Regulated Entities of Stress Testing Results as of December 31, 2019

Whereas, section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), as amended by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (''EGRRCPA'') requires certain financial companies with total consolidated assets of more than $250 billion, and which are regulated by a primary Federal financial regulatory agency, to conduct periodic stress tests to determine whether the companies have the capital necessary to absorb losses as a result of severely adverse economic conditions;

Whereas, FHFA's rule implementing section 165(i)(2) of the Dodd-Frank Act, as amended by section 401 of EGRRCPA is codified as 12 CFR 1238 and requires that ''[e]ach Enterprise must file a report in the manner and form established by FHFA.'' 12 CFR 1238.5(b);

Whereas, The Board of Governors of the Federal Reserve System issued stress testing scenarios on February 7, 2020, and supplemented on February 10, 2020; and

Whereas, section 1314 of the Safety and Soundness Act, 12 U.S.C. 4514(a) authorizes the Director of FHFA to require regulated entities, by general or specific order, to submit such reports on their management, activities, and operation as the Director considers appropriate.

Now therefore, it is hereby Ordered as follows:

Each Enterprise shall report to FHFA and to the Board of Governors of the Federal Reserve System the results of the stress testing as required by 12 CFR 1238, in the form and with the content described therein and in the Summary Instructions and Guidance, with Appendices 1 through 8 thereto, accompanying this Order and dated March 10, 2020.

It is so ordered, this the 10th day of March, 2020.

This Order is effective immediately.

Signed at Washington, DC, this 10th day of March, 2020.

Mark A. Calabria,

Director, Federal Housing Finance Agency.

[FR Doc. 2020–08146 Filed 4–24–20; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0949]

RIN 1625–AA08

Special Local Regulations; Recurring Marine Events, Sector St. Petersburg

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising existing regulations and consolidate into one table special local regulations for recurring marine events at various locations within the geographic boundaries of the Seventh Coast Guard District Captain of the Port (COTP) St. Petersburg Zone. Consolidating marine events into one table simplifies Coast Guard oversight and public notification of special local regulations within COTP St. Petersburg Zone.

DATES: This rule is effective May 27, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2018–0949 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Michael D. Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *Michael.d.shackleford@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

Recurring marine events within the Seventh Coast Guard District are currently listed in 33 CFR 100.701, Table to 1 to § 100.701. The process for amending the table (*e.g.* adding or removing marine events) is lengthy and inefficient since it includes recurring marine events for seven different COTP zones within the Seventh District. To expedite and simplify the rule-making process for new marine events/special local regulations, COTP's resorted to creating individual rules rather than amending the Table 1 to § 100.701.

This rule serves two purposes: (1) Create a table of recurring marine events/special local regulations occurring solely within the COTP St. Petersburg Zone, and (2) consolidate into that table marine events/special local regulations previously established outside of Table 1 to § 100.701. The proposed new table would facilitate management of and public access to information about marine events within the COTP St. Petersburg Zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP St. Petersburg has determined that potential hazards associated with the events listed in this rule will be a safety concern for anyone in the area the events are being held. The purpose of this rule is to ensure safety of vessels and the navigable waters in the event areas before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published January 14, 2020. Other than inserting a ''1'' in the table headings in § 100.701 and § 100.703, and renumbering event-date designators in Table 1 to § 100.702, there are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule makes the following changes:

1. Establish 33 CFR 100.703 Special Local Regulations; Marine Events Within the Captain of the Port St. Petersburg Zone;
2. Remove the existing marine events/special local regulations listed in Table 1 to § 100.701(c) under COTP Zone St. Petersburg; Special Local Regulations to proposed new § 100.703, Table 1 to § 100.703;
3. Delete the existing special local regulation in § 100.717 for the ''Annual Fort Myers Beach Offshore Grand Prix; Fort Myers, FL'' because it is no longer held;
4. Delete the existing special local regulation in in § 100.718 for the ''Annual Suncoast Kilo Run; Sarasota Bay, Sarasota, FL'' because it is no longer held;
5. Move the existing special local regulation in § 100.720 for the event, ''Suncoast Super Boat Grand Prix, Gulf of Mexico; Sarasota, FL'' to proposed new § 100.703, Table 1 to § 100.703, and delete existing § 100.720;
6. Move the existing special local regulation in § 100.721 for the event, ''Clearwater Super Boat National Championship, Gulf of Mexico; Clearwater Beach, FL'' to proposed new § 100.703, Table 1 to § 100.703, and delete existing § 100.721;
7. Move the existing special local regulation in § 100.722 for the event, ''Bradenton Area Riverwalk Regatta, Manatee River; Bradenton, FL'' to proposed new § 100.703, Table 1 to § 100.703, and delete existing § 100.722;
8. Delete the existing special local regulation in § 100.728 for the event, ''Hurricane Offshore Classic, St. Petersburg, FL'' because it is no longer held;
9. Move the existing special local regulation in § 100.734 for the event, ''Annual Gasparilla Marine Parade; Hillsborough bay, Tampa, FL'' to proposed new § 100.703, Table 1 to § 100.703, and delete existing § 100.734;
10. Move the existing special local regulation in § 100.735 for the event, ''Annual OPA World Championships, Gulf of Mexico; Englewood Beach, FL'' to proposed new § 100.703, Table 1 to § 100.703, and delete existing § 100.735;
11. Delete the existing special local regulation in § 100.736 for the event, ''Annual Fort Myers Beach air show'' because it is no longer held;
12. Delete the existing special local regulation in § 100.740 for the event, ''Annual Offshore Super Series Boat Race'' because it is no longer held;
13. Add new event, ''Gulfport Grand Prix, Gulfport, FL'' to proposed new § 100.703, Table 1 to § 100.703, Line 3;
14. Add new event, ''St. Pete Beach Grand Prix of the Gulf, St. Pete Beach, FL'' to proposed new § 100.703, Table 1 to § 100.703, Line 4;
15. Add new event, ''Battle of the Bridges, Venice, FL'' to proposed new § 100.703, Table 1 to § 100.703, Line 6; and
16. Add new event, ''Roar Offshore, Fort Myers Beach, FL'' to proposed new § 100.703, Table 1 to § 100.703, Line 8.

The marine events as listed in the new Table to the new § 100.703, Table 1 to § 100.703 are scheduled to occur over a particular time during each month each year. Exact dates are intentionally omitted since calendar dates for a specific events change from year to year. Once dates for a marine event are known, the Coast Guard will notify the public of its intent to enforce the special local regulation through various means including a Notice of Enforcement published in the **Federal Register**, Local Notice to Mariners, and Broadcast Notice to Mariners.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the special local regulations. These areas are limited in size and duration, and usually do not affect high vessel traffic areas. Moreover, the Coast Guard would provide advance notice of the regulated areas to the local maritime community via Notice of Enforcement published in the **Federal Register**, by Local Notice to Mariners, Broadcast to Mariners via VHF–FM marine channel 16, and the rule would allow vessels to seek permission to enter the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations for recurring marine events within the COTP St. Petersburg Zone. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.701 revise table 1 to read as follows:

§ 100.701 Special Local Regulations; Marine Events in the Seventh Coast Guard District.

* * * * *

TABLE 1 TO § 100.701

Number/date	Event	Sponsor	Location
(a) COTP Zone San Juan; Special Local Regulations			
1. 1st Friday, Saturday, and Sunday of February.	CNSJ International Regatta	Club Nautico de San Juan ..	San Juan, Puerto Rico; (i) Outer Harbor Race Area. All waters of Bahia de San Juan within a line connecting the following points: Starting at Point 1 in position 18°28.4′ N, 66°07.6′ W; then south to Point 2 in position 18°28.1′ N, 66°07.8′ W; then southeast to Point 3 in position 18°27.8′ N, 66°07.4′ W; then southeast to point 4 in position 18°27.6′ N, 66°07.3′ W; then west to point 5 in position 18°27.6′ N, 66°07.8′ W; then north to point 6 in position 18°28.4′ N, 66°07.8′ W; then east to the origin. (ii) Inner Harbor Race Area; All waters of Bahia de San Juan within a line connecting the following points: Starting at Point 1 in position 18°27.6′ N, 66°07.8′ W; then east to Point 2 in position 18°27.6′ N, 66°07.1′ W; then southeast to Point 3 in position 18°27.4′ N, 66°06.9′ W; then west to point 4 in position 18°27.4′ N, 66°07.7′ W; then northwest to the origin.
2. Last Full Weekend of March.	St. Thomas International Regatta.	St. Thomas Yacht Club	St. Thomas, U.S. Virgin Islands; All waters of St. Thomas Harbor encompassed within the following points: Starting at Point 1 in position 18°19.9′ N, 64°55.9′ W; thence east to Point 2 in position 18°19.97′ N, 64°55.8′ W; thence southeast to Point 3 in position 18°19.6′ N, 64°55.6′ W; thence south to point 4 in position 18°19.1′ N, 64°55.5′ W; thence west to point 5 in position 18°19.1′ N, 64°55.6′ W; thence north to point 6 in position 18°19.6′ N, 64°55.8′ W; thence northwest back to origin at Harbor, St. Thomas, San Juan.
3. Last week of April	St. Thomas Carnival	Virgin Islands Carnival Committee.	St. Thomas, U.S. Virgin Islands; (i) Race Area. All waters of the St. Thomas Harbor located around Hassel Island, St. Thomas, U.S. Virgin Island encompassed within the following points: Starting at Point 1 in position 18°20.2′ N, 64°56.1′ W; thence southeast to Point 2 in position 18°19.7′ N, 64°55.7′ W; thence south to Point 3 in position 18°19.4′ N, 64°55.7′ W; thence southwest to point 4 in position 18°19.3′ N, 64°56.0′ W; thence northwest to point 5 in position 18°19.9′ N, 64°56.5′ W; thence northeast to point 6 in position 18°20.2′ N, 064°56.3′ W; thence east back to origin. (ii) Jet Ski Race Area. All waters encompassed the following points: Starting at Point 1 in position 18°20.1′ N, 64°55.9′ W; thence west to Point 2 in position 18°20.1′ N, 64°56.1′ W; thence north to Point 3 in position 18°20.3′ N, 64°56.1′ W; thence east to Point 4 in position 18°20.3′ N, 64°55.9′ W; thence south back to origin. (iii) Buffer Zone. All waters of the St. Thomas Harbor located around Hassel Island, encompassed within the following points: Starting at Point 1 in position 18°20.3′ N, 64°55.9′ W; thence southeast to Point 2 in position 18°19.7′ N, 64°55.7′ W; thence south to Point 3 in position 18°19.3′ N, 64°55.72′ W; thence southwest to Point 4 in position 18°19.2′ N, 64°56′ W; thence northwest to Point 5 in position 18°19.9′ N, 64°56.5′ W; thence northeast to Point 6 in position 18°20.3′ N, 64°56.3′ W; thence east back to origin. (iv) Spectator Area. All waters of the St. Thomas Harbor located east of Hassel Island, encompassed within the following points: Starting at Point 1 in position 18°20.3′ N, 64°55.8′ W; thence southeast to Point 2 in position 18°19.9′ N, 64°55.7′ W; thence northeast to Point 3 in position 18°20.2′ N, 64°55.5′ W; thence northwest back to origin.
4. 1st Sunday of May	Ironman 70.3 St. Croix	Project St. Croix, Inc	St. Croix (Christiansted Harbor), U.S. Virgin Islands; All waters encompassed within the following points: Point 1 on the shoreline at Kings Wharf at position 17°44′51″ N, 064°42′16″ W, thence north to point 2 at the southwest corner of Protestant Cay in position 17°44′56″ N, 064°42′12″ W, then east along the shoreline to point 3 at the southeast corner of Protestant Cay in position 17°44′56″ N, 064°42′08″ W, thence northeast to point 4 at Christiansted Harbor Channel Round Reef Northeast Junction Lighted Buoy RR in position 17°45′24″ N, 064°41′45″ W, thence southeast to point 5 at Christiansted Schooner Channel Lighted Buoy 5 in position 17°45′18″ N, 064°41′43″ W, thence southwest to point 6 at Christiansted Harbor Channel Buoy 15 in position 17°44′56″ N, 064°41′56″ W, thence southwest to point 7 on the shoreline north of Fort Christiansted in position 17°44′51″ N, 064°42′05″ W, thence west along the shoreline to origin.
5. July 4th	Fireworks Display	St. John Festival & Cul., Org	St. John (West of Cruz Bay/Northeast of Steven Cay), U.S. Virgin Islands; All waters from the surface to the bottom for a radius of 200 yards centered around position 18°19′55″ N, 064°48′06″ W.

TABLE 1 TO § 100.701—Continued

Number/date	Event	Sponsor	Location
6. 3rd Week of July, Sunday	San Juan Harbor Swim	Municipality of Cataño	San Juan Harbor, San Juan, Puerto Rico; All waters encompassed within the following points: Point 1: La Puntilla Final, Coast Guard Base at position 18°27′33″ N, 066°07′00″ W, then south to point 2: Cataño Ferry Pier at position 18°26′36″ N, 066°07′00″ W, then northeast along the Cataño shoreline to point 3: Punta Cataño at position 18°26′40″ N, 066°06′48″ W, then northwest to point 4: Pier 1 San Juan at position 18°27′40″ N, 066°06′49″ W, then back along the shoreline to origin.
7. 1st Sunday of September	Cruce A Nado International	Cruce a Nado Inc	Ponce Harbor, Bahia de Ponce, San Juan; All waters of Bahia de Ponce encompassed within the following points: Starting at Point 1 in position 17°58.9′ N, 66°37.5′ W; thence southwest to Point 2 in position 17°57.5′ N, 66°38.2′ W; thence southeast to Point 3 in position 17°57.4′ N, 66°37.9′ W; thence northeast to point 4 in position 17°58.7′ N, 66°37.3′ W; thence northwest along the northeastern shoreline of Bahia de Ponce to the origin.
8. 2nd Sunday of October	St. Croix Coral Reef Swim	The Buccaneer Resort	St. Croix, U.S. Virgin Islands; All waters of Christiansted Harbor within the following points: Starting at Point 1 in position 18°45.7′N, 64°40.6′ W; then northeast to Point 2 in position 18°47.3′ N, 64°37.5 W; then southeast to Point 3 in position 17°46.9′ N, 64°37.2′ W; then southwest to point 4 in position 17°45.51′ N, 64°39.7′ W; then northwest to the origin.
9. December 31st	Fireworks St. Thomas, Great Bay.	Mr. Victor Laurenza, Pyrotecnico, New Castle, PA.	St. Thomas (Great Bay area), U.S. Virgin Islands; All waters within a radius of 600 feet centered around position 18°19′14″ N, 064°50′18″ W.
10. December—1st week	Christmas Boat Parade	St. Croix Christmas Boat Committee.	St. Croix (Christiansted Harbor), U.S. Virgin Islands; 200 yards offshore around Protestant Cay beginning in position 17°45′56″ N, 064°42′16″ W, around the cay and back to the beginning position.
11. December—2nd week	Christmas Boat Parade	Club Nautico de San Juan	San Juan, Puerto Rico; Parade route. All waters of San Juan Harbor within a moving zone that will begin at Club Nautico de San Juan, move towards El Morro and then return, to Club Nautico de San Juan; this zone will at all times extend 50 yards in front of the lead vessel, 50 yards behind the last vessel, and 50 yards out from all participating vessels.
(b) COTP Zone Key West; Special Local Regulations			
1. 3rd Week of January, Monday–Friday.	Yachting Key West Race Week.	Premiere Racing, Inc	Inside the reef on either side of main ship channel, Key West Harbor Entrance, Key West, Florida.
2. Last Friday of April	Conch Republic Navy Parade and Battle.	Conch Republic	All waters approximately 150 yards offshore from Ocean Key Sunset Pier, Mallory Square and the Hilton Pier within the Key West Harbor in Key West, Florida.
3. 1st Weekend of June	Swim around Key West	Florida Keys Community College.	Beginning at Smather's Beach in Key West, Florida. The regulated area will move, west to the area offshore of Fort Zach State Park, north through Key West Harbor, east through Flemming Cut, south on Cow Key Channel and west back to origin. The center of the regulated area will at all times remain approximately 50 yards offshore of the island of Key West Florida; extend 50 yards in front of the lead safety vessel preceding the first race participants; extend 50 yards behind the safety vessel trailing the last race participants; and at all times extend 100 yards on either side of the race participants and safety vessels.
4. 2nd Week of November, Wednesday–Sunday.	Key West World Championship.	Super Boat International Productions, Inc.	In the Atlantic Ocean, off the tip of Key West, Florida, on the waters of the Key West Main Ship Channel, Key West Turning Basin, and Key West Harbor Entrance.
(c) COTP Zone Jacksonville; Special Local Regulations			
1. Last Saturday of February	El Cheapo Sheepshead Tournament.	Jacksonville Offshore Fishing Club.	Mayport Boat Ramp, Jacksonville, Florida; 500 foot radius from the boat ramp.
2. 1st Saturday of March	Jacksonville Invitational	Stanton Rowing Foundation (May vary).	Ortega River Race Course, Jacksonville, Florida; South of Timuquana Bridge.
3. 1st Saturday of March	Stanton Invitational (Rowing Race).	Stanton Rowing Foundation	Ortega River Race Course, Jacksonville, Florida; South of Timuquana Bridge.
4. 1st weekend of March	Hydro X Tour	H2X Racing Promotions	Lake Dora, Tavares, Florida; All waters encompassed within the following points: Starting at Point 1 in position 28°47′59″ N, 81°43′41″ W; thence south to Point 2 in position 28°47′53″ N, 81°43′41″ W; thence east to Point 3 in position 28°47′53″ N, 81°43′19″ W; thence north to Point 4 in position 28°47′59″ N, 81°43′19″ W; thence west back to origin.
5. 2nd Full Weekend of March.	TICO Warbird Air Show	Valiant Air Command	Titusville; Indian River, FL: All waters encompassed within the following points: Starting at the shoreline then due east to Point 1 at position 28°31′25.15″ N, 080°46′32.73″ W, then south to Point 2 located at position 28°30′55.42″ N, 080°46′32.75″ W, then due west to the shoreline.
6. 3rd Weekend of March	Tavares Spring Thunder Regatta.	Classic Race Boat Association.	Lake Dora, Florida, waters 500 yards seaward of Wooten Park.
7. Palm Sunday in March or April.	Blessing of the Fleet—Jacksonville.	City of Jacksonville Office of Special Events.	St. Johns River, Jacksonville, Florida in the vicinity of Jacksonville Landing between the Main Street Bridge and Acosta Bride.
8. Palm Sunday in March or April.	Blessing of the Fleet—St. Augustine.	City of St. Augustine	St. Augustine Municipal Marina (entire marina), St. Augustine Florida.

TABLE 1 TO § 100.701—Continued

Number/date	Event	Sponsor	Location
9. 1st Full Weekend of April (Saturday and Sunday).	Mount Dora Yacht Club Sailing Regatta.	Mount Dora Yacht Club	Lake Dora, Mount Dora, Florida—500 feet off Grantham Point.
10. 3rd Saturday of April	Jacksonville City Championships.	Stanton Rowing Foundation	Ortega River Race Course, Jacksonville, Florida; South of Timuquana Bridge.
11. 3rd Weekend of April	Florida Times Union Redfish Roundup.	The Florida Times-Union	Sister's Creek, Jacksonville, Florida; All waters within a 100 yard radius of Jim King Park and Boat Ramp at Sister's Creek Marina, Sister's Creek.
12. 2nd Weekend in May	Saltwater Classic—Port Canaveral.	Cox Events Group	All waters of the Port Canaveral Harbor located in the vicinity of Port Canaveral, Florida encompassed within the following points: Starting at Point 1 in position 28°24′32″ N, 080°37′22″ W, then north to Point 2 at 28°24′35″ N, 080°37′22″ W, then due east to Point 3 at 28°24′35″ N, 080°36′45″ W, then south to Point 4 at 28°24′32″ N, 080°36′45″, then west back to the original point.
13. 1st Friday of May	Isle of Eight Flags Shrimp Festival Pirate Landing and Fireworks.	City of Fernandina Beach	All waters within a 500 yard radius around approximate position 30°40′15″ N, 81°28′10″ W.
14. 1st Saturday of May	Mug Race	The Rudder Club of Jacksonville, Inc.	St. Johns River; Palatka to Buckman Bridge.
15. 3rd Friday–Sunday of May.	Space Coast Super Boat Grand Prix.	Super Boat International Productions, Inc.	Atlantic Ocean in the vicinity of Cocoa Beach, Florida includes all waters encompassed within the following points: Starting at Point 1 in position 28°22′16″ N, 80°36′04″ W; thence east to Point 2 in position 28°22′15″ N, 80°35′39″ W; thence south to Point 3 in position 28°19′47″ N, 80°35′55″ W; thence west to Point 4 in position 28°19′47″ N, 80°36′22″ W; thence north back to origin.
16. 4th Weekend of May	Memorial Day RiverFest	City of Green Cove Springs	St. Johns River, Green Cove Springs, Florida; All waters within a 500-yard radius around approximate position 29°59′39″ N, 081°40′33″ W.
17. Last full week of May (Monday–Friday).	Bluewater Invitational Tournament.	Northeast Florida Marlin Association.	There is a no-wake zone in affect from the St. Augustine City Marina out to the end of the St. Augustine Jetty's 6 a.m.–8 a.m. and 3 p.m.–5 p.m. during the above days.
18. 2nd Weekend of June	Hydro X Tour	H2X Racing Promotions	Lake Dora, Tavares, Florida; All waters encompassed within the following points: Starting at Point 1 in position 28°47′59″ N, 81°43′41″ W; thence south to Point 2 in position 28°47′53″ N, 81°43′41″ W; thence east to Point 3 in position 28°47′53″ N, 81°43′19″ W; thence north to Point 4 in position 28°47′59″ N, 81°43′19″ W; thence west back to origin.
19. 1st Saturday of June	Florida Sport Fishing Association Offshore Fishing Tournament.	Florida Sport Fishing Association.	Port Canaveral, Florida from Sunrise Marina to the end of Port Canaveral Inlet.
20. 2nd weekend of June (Saturday and Sunday).	Kingfish Challenge	Ancient City Game Fish Association.	There is a no-wake zone in affect from the St. Augustine City Marina in St. Augustine, Florida out to the end of the St. Augustine Jetty's 6 a.m.–8 a.m. and 3 p.m.–5 p.m.
21. 3rd Friday–Sunday of June.	Daytona Beach Grand Prix of the Sea.	Powerboat P1–USA	All waters of the Atlantic Ocean East of Cocoa Beach, Florida encompassed within the following points: Starting at Point 1 in position 29°14′60″ N, 81°00′77″ W; thence east to Point 2 in position 29°14′78″ N, 80°59′802″ W; thence south to Point 3 in position 28°13′860″ N, 80°59′76″ W; thence west to Point 4 in position 29°13′68″ N, 81°00′28″ W; thence north back to origin.
22. 3rd Saturday of July	Halifax Rowing Association Summer Regatta.	Halifax Rowing Association	Halifax River, Daytona, Florida, south of Memorial Bridge—East Side.
23. 3rd week of July	Greater Jacksonville Kingfish Tournament.	Jacksonville Marine Charities, Inc.	Jacksonville, Florida; All waters of the St. Johns River, from lighted buoy 10 (LLNR 2190) in approximate position 30°24′22″ N, 081°24′59″ W to Lighted Buoy 25 (LLNR 7305).
24. Last weekend of September.	Jacksonville Dragon Boat Festival.	In the Pink Boutique, Inc	St. John's River, Jacksonville, Florida. In front of the Landing, between the Acosta & Main Street bridges from approximate position 30°19′26″ N, 081°39′47″ W to approximate position 30°19′26″ N, 81°39′32″ W.
25. 2nd week of October	First Coast Head Race	Stanton Rowing Foundation	St. Johns River and Arlington River, Jacksonville, Florida, starting near the Arlington Marina and ending on the Arlington River near the Atlantic Blvd. Bridge.
26. 1st weekend of November.	Hydro X Tour	H2X Racing Promotions	Lake Dora, Tavares, Florida; All waters encompassed within the following points: Starting at Point 1 in position 28°47′59″ N, 81°43′41″ W; thence south to Point 2 in position 28°47′53″ N, 81°43′41″ W; thence east to Point 3 in position 28°47′53″ N, 81°43′19″ W; thence north to Point 4 in position 28°47′59″ N, 81°43′19″ W; thence west back to origin.
27. 3rd Weekend of November.	Tavares Fall Thunder Regatta.	Classic Race Boat Association.	Lake Dora, Florida, waters 500 yards seaward of Wooten Park.
28. 2nd Saturday of December.	St. Johns River Christmas Boat Parade.	St. Johns River Christmas Boat Parade, Inc.	St. Johns River, Deland, Florida; Whitehair Bridge, Deland to Lake Beresford.
29. 2nd Saturday of December.	Christmas Boat Parade (Daytona Beach/Halifax River).	Halifax River Yacht Club	Daytona Beach, Florida; Halifax River from Seabreeze Bridge to Halifax Harbor Marina.
(d) COTP Zone Savannah; Special Local Regulations			
1. May, 2nd weekend, Sunday.	Blessing of the Fleet—Brunswick.	Knights of Columbus—Brunswick.	Brunswick River from the start of the East branch of the Brunswick River (East Brunswick River) to the Golden Isles Parkway Bridge.
2. 3rd full weekend of July	Augusta Southern Nationals Drag Boat Races.	Augusta Southern Nationals	Savannah River, Augusta, Georgia, from the US Highway 1 (Fifth Street) Bridge at mile 199.5 to Eliot's Fish Camp at mile 197.

TABLE 1 TO § 100.701—Continued

Number/date	Event	Sponsor	Location
3. Last weekend of September.	Ironman 70.3	Ironman	All waters of the Savannah River encompassed within the following points: Starting at Point 1 in position 33°28′44″ N, 81°57′53″ W; thence northeast to Point 2 in position 33°28′50″ N, 81°57′50″ W; thence southeast to Point 3 in position 33°27′51″ N, 81°55′36″ W; thence southwest to Point 4 in position 33°27′47″ N, 81°55′43″ W; thence northwest back to origin.
4. 1st Saturday after Thanksgiving Day in November.	Savannah Harbor Boat Parade of Lights and Fireworks.	Westin Resort, Savannah	Savannah River, Savannah Riverfront, Georgia, Talmadge bridge to a line drawn at 146 degrees true from Dayboard 62.
5. 2nd Saturday of November	Head of the South Regatta	Augusta Rowing Club	Savannah River, Augusta, Georgia; All waters within a moving zone, beginning at Daniel Island Pier in approximate position 32°51′20″ N, 079°54′06″ W, South along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49′20″ N, 079°53′49″ W, South along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in approximate position 32°47′20″ N, 079°54′39″ W. There will be a temporary Channel Closer from 0730 to 0815 on June 01, 2013 between Wando River Terminal Buoy 3 (LLNR 3305), and Wando River Terminal Buoy 5 (LLNR 3315). The zone will at all times extend 75 yards in front of the lead safety vessel preceding the first race participants; 75 yards behind the safety vessel trailing the last race participants; and at all times extending 100 yards on either side of the race participants and safety vessels.
(e) COTP Zone Charleston; Special Local Regulations			
1. 2nd and 3rd weekend of April.	Charleston Race Week	Sperry Top-Sider	Charleston Harbor and Atlantic Ocean, South Carolina, All waters encompassed within an 800 yard radius of position 32°46′39″ N, 79°55′10″ W, All waters encompassed within a 900 yard radius of position 32°45′48″ N, 79°54′46″ W, All waters encompassed within a 900 yard radius of position 32°45′44″ N, 79°53′32″ W.
2. 1st week of May	Low Country Splash	Logan Rutledge	Wando River, Cooper River, Charleston Harbor, South Carolina, including the waters of the Wando River, Cooper River, and Charleston Harbor from Daniel Island Pier, in approximate position 32°51′20″ N, 079°54′06″ W, south along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49′20″ N, 079°53′49″ W, south along the coast of Mt. Pleasant, South Carolina, to Charleston Harbor Resort Marina, in approximate position 32°47′20″ N, 079°54′39″ W, and extending out 150 yards from shore.
3. 2nd week of June	Beaufort Water Festival	City of Beaufort	Atlantic Intracoastal Waterway, Bucksport, South Carolina; All waters of the Atlantic Intracoastal Waterway encompassed within the following points; starting at point 1 in position 33°39′11.5″ N, 079°05′36.8″ W; thence west to point 2 in position 33°39′12.2″ N, 079°05′47.8″ W; thence south to point 3 in position 33°38′39.5″ N, 079°05′37.4″ W; thence east to point 4 in position 33°38′42.3″ N, 79°05′30.6″ W; thence north back to origin.
4. 3rd week of September	Swim Around Charleston	Kathleen Wilson	Wando River, main shipping channel of Charleston Harbor, Ashley River, Charleston, South Carolina; A moving zone around all waters within a 75-yard radius around Swim Around Charleston participant vessels that are officially associated with the swim. The Swim Around Charleston swimming race consists of a 10-mile course that starts at Remley's Point on the Wando River in approximate position 32°48′49″ N, 79°54′27″ W, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River in approximate position 32°50′14″ N, 80°01′23″ W.
5. 2nd week of November	Head of the South	Augusta Rowing Club	Upper Savannah River mile marker 199 to mile marker 196, Georgia.
6. 2nd week December	Charleston Harbor Christmas Parade of Boats.	City of Charleston	Charleston Harbor, South Carolina, from Anchorage A through Bennis Reach, Horse Reach, Hog Island Reach, Town Creek Lower Reach, Ashley River, and finishing at City Marina.

■ 3. Add § 100.703 to read as follows:

§ 100.703 Special Local Regulations; Recurring Marine Events, Sector St. Petersburg.

This section applies to the marine events listed in table 1 of this section. These regulations will be effective annually, for the duration of each event listed in table 1. Annual notice of the exact dates and times of the effective period of the regulation with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will be provided to the local maritime community through the Local Notice to Mariners, Broadcast Notice to Mariners, or both, well in advance of the events. If the event does not have a date listed, then the exact dates and times of the enforcement will be announced through a Notice of Enforcement in the **Federal Register**.

(a) *Definitions.* The following definitions apply to this section:

(1) *Designated representative.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, others operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) St. Petersburg in the enforcement of the regulated areas.

(2) *Spectators.* All persons and vessels not registered with the event sponsor as participants.

(b) *Event patrol.* The Coast Guard may assign an event patrol, as described in § 100.40 of this part, to each regulated event listed in the table. Additionally, a Patrol Commander may be assigned to oversee the patrol. The event patrol and Patrol Commander may be contacted on VHF Channel 16.

(c) *Special local regulations.* (1) The COTP St. Petersburg or designated representative may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel in these areas shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The COTP St. Petersburg or designated representative may terminate the event, or the operation of any vessel participating in the event, at any time it is deemed necessary for the protection of life or property. Such action may be justified as a result of weather, traffic density, spectator operation, or participant behavior.

(3) Only event sponsor designated participants and official patrol vessels are allowed to enter the regulated area, unless otherwise authorized by the COTP St. Petersburg or designated representative.

(4) Spectators are only allowed inside the regulated area if they remain within a designated spectator area. Spectators may contact the COTP St. Petersburg or designated representative to request permission to enter, transit through, remain within, or anchor in the regulated area. If permission is granted, spectators must abide by the directions of the COTP St. Petersburg or a designated representative.

TABLE 1 TO § 100.703—SPECIAL LOCAL REGULATIONS; RECURRING MARINE EVENTS, SECTOR ST. PETERSBURG

[Datum NAD 1983]

Date/time	Event/sponsor	Location	Regulated area
1. One Saturday in January. Time (Approximate): 11:30 a.m. to 2 p.m.	Gasparilla Invasion and Parade/Ye Mystic Krewe of Gasparilla.	Tampa, Florida	*Location:* A regulated area is established consisting of the following waters of Hillsborough Bay and its tributaries north of 27°51′18″ N and south of the John F. Kennedy Bridge: Hillsborough Cut ''D'' Channel, Seddon Channel, Sparkman Channel and the Hillsborough River south of the John F. Kennedy Bridge. *Additional Regulation:* (1) Entrance into the regulated area is prohibited to all commercial marine traffic from 9 a.m. to 6 p.m. EST on the day of the event. (2) The regulated area will include a 100 yard Safety Zone around the vessel JOSE GASPAR while docked at the Tampa Yacht Club until 6 p.m. EST on the day of the event. (3) The regulated area is a ''no wake'' zone. (4) All vessels within the regulated area shall stay 50 feet away from and give way to all officially entered vessels in parade formation in the Gasparilla Marine Parade. (5) When within the marked channels of the parade route, vessels participating in the Gasparilla Marine Parade may not exceed the minimum speed necessary to maintain steerage. (6) Jet skis and vessels without mechanical propulsion are prohibited from the parade route. (7) Vessels less than 10 feet in length are prohibited from the parade route unless capable of safely participating. (8) Vessels found to be unsafe to participate at the discretion of a present Law Enforcement Officer are prohibited from the parade route. (9) Northbound vessels in excess of 65 feet in length without mooring arrangement made prior to the date of the event are prohibited from entering Seddon Channel unless the vessel is officially entered in the Gasparilla Marine Parade. (10) Vessels not officially entered in the Gasparilla Marine Parade may not enter the parade staging area box within the following coordinates: 27°53′53″ N, 082°27′47″ W; 27°53′22″ N, 082°27′10″ W; 27°52′36″ N, 082°27′55″ W; 27°53′02″ N, 082°28′31″ W.
2. One Saturday in February. Time (Approximate): 9:00 a.m. to 9:00 p.m.	Bradenton Area River Regatta/City of Bradenton.	Bradenton, FL	*Location(s) Enforcement Area #1.* All waters of the Manatee River between the Green Bridge and the CSX Train Trestle contained within the following points: 27°30′43″ N, 082°34′20″ W, thence to position 27°30′44″ N, 082°34′09″ W, thence to position 27°30′ 00″ N, 082°34′04″ W, thence to position 27°29′58″ N, 082°34′15″ W, thence back to the original position, 27°30′43″ N, 082°34′20″ W. *Enforcement Area #2.* All waters of the Manatee River contained within the following points: 27°30′35″ N, 082°34′37″ W, thence to position 27°30′35″ N, 082°34′26″ W, thence to position 27°30′26″ N, 082°34′26″ W, thence to position 27°30′26″ N, 082°34′37″ W, thence back to the original position, 27°30′35″ N, 082°34′37″ W.
3. One weekend (Friday, Saturday, and Sunday) in March. Time (Approximate): 8:00 a.m. to 5:00 p.m.	Gulfport Grand Prix/Gulfport Grand Prix LLC.	Gulfport, FL	*Location(s):* (1) *Race Area.* All waters of Boca de Ciego contained within the following points: 27°44′10″ N, 082°42′29″ W, thence to position 27°44′07″ N, 082°42′40″ W, thence to position 27°44′06″ N, 082°42′40″ W, thence to position 27°44′04″ N, 082°42′29″ W, thence to position 27°44′07″ N, 082°42′19″ W, thence to position 27°44′08″ N, 082°42′19″ W, thence back to the original position, 27°44′10″ N, 082°42′29″ W. (2) *Buffer Zone.* All waters of Boca de Ciego encompassed within the following points: 27°44′10″ N, 082°42′47″ W, thence to position 27°44′01″ N, 082°42′44″ W, thence to position 27°44′01″ N, 082°42′14″ W, thence to position 27°44′15″ N, 082°42′14″ W.
4. One weekend (Saturday and Sunday) in June. Time (Approximate): 8:00 a.m. to 4:00 p.m.	St. Pete Beach Grand Prix of the Gulf/Powerboat P–1 USA, LLC.	St. Pete Beach, FL	*Location:* All waters of the Gulf of Mexico encompassed within the following points: 27°43′41″ N, 082°46′15″ W, thence to position 27°44′14″ N, 082°45′16″ W, thence to position 27°43′41″ N, 082°44′43″ W, thence to position 27°42′57″ N, 082°45′59″ W, thence back to the original position 27°43′41″ N, 082°46′15″ W.
5. One weekend (Saturday and Sunday) in July. Time (Approximate): 8:00 a.m. to 5:00 p.m.	Sarasota Powerboat Grand Prix/Powerboat P–1 USA, LLC.	Sarasota, FL	*Location:* All waters of the Gulf of Mexico contained within the following points: 27°18′44″ N, 082°36′14″ W, thence to position 27°19′09″ N, 082°35′13″ W, thence to position 27°17′42″ N, 082°34′00″ W, thence to position 27°16′43″ N, 082°34′49″ W, thence back to the original position, 27°18′44″ N, 082°36′14″ W.

TABLE 1 TO § 100.703—SPECIAL LOCAL REGULATIONS; RECURRING MARINE EVENTS, SECTOR ST. PETERSBURG—Continued

[Datum NAD 1983]

Date/time	Event/sponsor	Location	Regulated area
6. One Saturday in September. Time (Approximate): 6:00 a.m. to 6 p.m.	Battle of the Bridges/Sarasota Scullers Youth Rowing Program.	Venice, FL	*Location:* All waters of the Intracoastal Waterway south of a line made connecting the following points: 27°06′15″ N, 082°26′43″ W, to position 27°06′12″ N, 082°26′43″ W, and all waters of the Intracoastal Waterway north of a line made connecting the following points: 27°03′21″ N, 082°26′17″ W, to position 27°03′19″ N, 082°26′15″ W.
7. One Sunday in September. Time (Approximate): 11:30 a.m. to 4:00 p.m.	Clearwater Offshore Nationals/Race World Offshore.	Clearwater, FL	*Locations:* (1) *Race Area.* All waters of the Gulf of Mexico contained within the following points: 27°58′34″ N, 82°50′09″ W, thence to position 27°58′32″ N, 82°50′02″ W, thence to position 28°00′12″ N, 82°50′10″ W, thence to position 28°00′13″ N, 82°50′10″ W, thence back to the original position, 27°58′34″ N, 82°50′09″ W. (2) *Spectator Area.* All waters of Gulf of Mexico seaward no less than 150 yards from the race area and as agreed upon by the Coast Guard and race officials. (3) *Enforcement Area.* All waters of the Gulf of Mexico encompassed within the following points: 28°58′40″ N, 82°50′37″ W, thence to position 28°00′57″ N, 82°49′45″ W, thence to position 27°58′32″ N, 82°50′32″ W, thence to position 27°58′23″ N, 82°49′53″ W, thence back to position 28°58′40″ N, 82°50′37″ W.
8. One Thursday, Friday, and Saturday in October. Time (Approximate): 10:00 a.m. to 5:00 p.m.	Roar Offshore/OPA Racing LLC.	Fort Myers Beach, FL	*Locations:* All waters of the Gulf of Mexico west of Fort Myers Beach contained within the following points: 26°26′27″ N, 081°55′55″ W, thence to position 26°25′33″ N, longitude 081°56′34″ W, thence to position 26°26′38″ N, 081°58′40″ W, thence to position 26°27′25″ N, 081°58′8″ W, thence back to the original position 26°26′27″ N, 081°55′55″ W.
9. One weekend (Friday, Saturday, and Sunday) in November. Time (Approximate): 8:00 a.m. to 6:00 p.m.	OPA World Championships/Englewood Beach Waterfest.	Englewood Beach, FL	*Locations:* (1) *Race Area.* All waters of the Gulf of Mexico contained within the following points: 26°56′00″ N, 082°22′11″ W, thence to position 26°55′59″ N, 082°22′16″ W, thence to position 26°54′22″ N, 082°21′20″ W, thence to position 26°54′24″ N, 082°21′16″ W, thence to position 26°54′25″ N, 082°21′17″ W, thence back to the original position, 26°56′00″ N, 082°21′11″ W. (2) *Spectator Area.* All waters of the Gulf of Mexico contained with the following points: 26°55′33″ N, 082°22′21″ W, thence to position 26°54′14″ N, 082°21′35″ W, thence to position 26°54′11″ N, 082°21′40″ W, thence to position 26°55′31″ N, 082°22′26″ W , thence back to position 26°55′33″ N, 082°22′21″ W. (3) *Enforcement Area.* All waters of the Gulf of Mexico encompassed within the following points: 26°56′09″ N, 082°22′12″ W, thence to position 26°54′13″ N, 082°21′03″ W, thence to position 26°53′58″ N, 082°21′43″ W, thence to position 26°55′56″ N, 082°22′48″ W, thence back to position 26°56′09″ N, 082°22′12″ W.

§§ 100.717, 100.718, 100.720, 100.722, 100.728, 100.734, 100.735, 100.736 and 100.740 [Removed]

■ 4. Remove §§ 100.717, 100.718, 100.720, 100.722, 100.728, 100.734, 100.735, 100.736 and 100.740.

Dated: April 6, 2020.

Matthew A. Thompson

Captain, U.S. Coast Guard, Captain of the Port Sector St. Petersburg.

[FR Doc. 2020–07929 Filed 4–24–20; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL MARITIME COMMISSION

46 CFR Part 530

[Docket No. 20–05]

RIN 3072–AC81

Procedures for Exemption From Service Contract Regulatory Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is revising its procedures for exemptions from the regulatory requirements for service contracts to allow such exemptions to be granted without providing an opportunity for a hearing.

DATES: This final rule is effective April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Rachel E. Dickon, Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission's service contract regulations in 46 CFR part 530 provide that exemptions from the requirements of that part are governed by 46 U.S.C. 40103 and the exemption procedures in 46 CFR part 502. *See* 46 CFR 530.13(b).[1] Section 40103 provides that the Commission may grant an exemption from statutory requirements if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce, and the Commission may attach conditions to an exemption. Section 40103(a). Section 40103 also requires that a statutory exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government. The Commission's exemption procedures in 46 CFR part 502 include a similar hearing requirement and provide that the Commission will publish notice of the proposed statutory exemption in the **Federal Register** and will solicit comments. 46 CFR 502.92. Thus, although the Shipping Act only requires notice and opportunity for a hearing for exemptions from the statutory requirements in the Act, the Commission requires notice and opportunity for a hearing for exemptions from regulatory requirements by incorporating section 40103 and the part 502 exemption procedures in 46 CFR 530.13(b).

The current COVID–19 pandemic and its effect on the international supply chain and commercial operations has demonstrated a need for Commission flexibility to provide immediate regulatory relief in appropriate circumstances. This is particularly true in the case of service contracts given the challenges that the current situation presents to contract negotiation, formation, and filing by the carriers and their customers. To that end, the

[1] Section 530.13(b) includes an out-of-date cross-reference to 46 CFR 502.67, which formerly contained the Commission's exemption procedures. Those procedures are currently located at 46 CFR 502.92.

Commission is revising its exemption procedures for part 530 to allow for exemptions from the regulatory requirements in that part to be granted without notice and opportunity for a hearing. Specifically, the Commission is revising § 530.13(b) to state that exemptions from the requirements in part 530 are governed by 46 U.S.C. 40103(a), which provides the substantive criteria for granting exemptions, 46 CFR 502.92, which lays out the procedure for requesting exemptions and how exemptions are processed, and 46 CFR 502.10, which permits the Commission to waive the rules in part 502 in particular cases to prevent undue hardship, manifest injustice, or if the expeditious conduct of business so requires.

The Commission emphasizes that these changes only affect the procedures for granting exemptions from the regulatory requirements in part 530. The final rule does *not* affect the procedures for exemptions from the statutory requirements of the Shipping Act, which will continue to be subject to notice and an opportunity for a hearing before issuance. *See* 46 U.S.C. 40103(b). In addition, these changes will not affect the substantive criteria for granting exemptions from the regulatory requirements in part 530. Such exemptions will continue to be granted when the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. And the Commission will, as a general matter, continue to provide notice and an opportunity for comment on proposed exemptions before issuing an exemption from requirements in part 530. Under the final rule, however, the Commission will have the ability to waive these procedural requirements under § 502.10 in appropriate circumstances.

Rulemaking Analyses and Notices

Final Rule Justification and Effective Date

Under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(A), rules of agency organization, procedure, or practice do not require notice and comment. This final rule relates to the Commission's organization, procedures, and practices; it revises the Commission's procedures for exempting regulated entities from the regulatory requirements in 46 CFR part 530. The Commission has also determined given the current challenges faced by the shipping industry due to the COVID–19 pandemic, the ability for regulated entities to seek prompt regulatory relief from the Commission is needed in the immediate future, notice and comment is impracticable and contrary to the public interest. *See* 5 U.S.C. 553(b)(B).

The Administrative Procedure Act also generally requires a minimum of 30 days before a final rule can go into effect, but excepts from this requirement: (1) Substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretive rules and statements of policy; and (3) when an agency finds good cause for a shorter period of time and includes those findings with the rule. 5 U.S.C. 553(d). For the same reasons as discussed above, good cause exists for making this final rule effective upon publication in the **Federal Register**, given the immediate need for regulated entities to have the ability to seek prompt regulatory relief from the Commission.

Congressional Review Act

The final rule is not a ''rule'' as defined by the Congressional Review Act (CRA), codified at 5 U.S.C. 801 *et seq.,* and is not subject to the provisions of the CRA. The CRA adopts the Administrative Procedure Act's definition of a ''rule'' in 5 U.S.C. 551, subject to certain exclusions. *See* 5 U.S.C. 804(3). In particular, the CRA does not apply to rules relating to agency management and personnel and rules of agency organization, procedure, and practice that do not substantially affect the rights or obligations of non-agency parties. *Id.* This final rule relates to agency organization, procedures, and practices. Specifically, the final rule revises the Commission's exemption procedures under part 530 to give the Commission flexibility to forgo notice and opportunity for hearing in certain circumstances before granting an exemption from the service contract regulatory requirements. Although the final rule will affect interested parties' ability to comment on certain proposed regulatory exemptions before they are granted, the Commission does not believe the rule substantially affects their rights. Notice and comment will continue to be generally required before an exemption is granted. Only when necessary to prevent undue hardship, manifest injustice, or if the expeditious conduct of business so requires, will the Commission waive these requirements. Based on the foregoing, the final rule is not a ''rule'' under the CRA and is not subject to the CRA's requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the APA (5 U.S.C. 553), the agency must prepare and make available a final regulatory flexibility analysis (FRFA) describing the impact of the rule on small entities. 5 U.S.C. 604. An agency is not required to publish an FRFA, however, for the following types of rules, which are excluded from the APA's notice-and-comment requirement: interpretative rules; general statements of policy; rules of agency organization, procedure, or practice; and rules for which the agency for good cause finds that notice and comment is impracticable, unnecessary, or contrary to public interest. See 5 U.S.C. 553(b).

As discussed above, this final rule is a rule of agency organization, procedure, or practice. Therefore, the APA does not require publication of a notice of proposed rulemaking in this instance, and the Commission is not required to prepare an FRFA.

National Environmental Policy Act

The Commission's regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4. The final rule revises Commission regulations governing the exemption procedures for the service contract regulatory requirements in part 530. This rulemaking thus falls within the categorical exclusions for procedural rules pursuant to 46 CFR part 502 (§ 504.4(a)(4)), and related to the receipt service contracts (§ 504.4(a)(5)). Therefore, no environmental assessment or environmental impact statement is required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. This final rule does not contain any collections of information as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c).

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation,

eliminate ambiguity, and reduce burden.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects in 46 CFR Part 530

Freight, Maritime carriers, Report and recordkeeping requirements.

For the reasons set forth above, the Federal Maritime Commission is amending 46 CFR part 530 as follows:

PART 530—SERVICE CONTRACTS

■ 1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40301–40306, 40501–40503, 41307.

■ 2. Amend § 530.13 by revising paragraph (b) introductory text to read as follows:

§ 530.13 Exceptions and exemptions.

* * * * *

(b) *Commission exemptions.* Exemptions from the requirements of this part are governed by 46 U.S.C. 40103(a) and §§ 502.10 and 502.92 of this chapter. The following commodities and/or services are exempt from the requirements of this part:

* * * * *

By the Commission.

Rachel Dickon,

Secretary.

[FR Doc. 2020–09003 Filed 4–24–20; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200415–0112; RTID 0648–XX041]

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2020 Allocation of Northeast Multispecies Annual Catch Entitlements and Modifications to a Regulatory Exemption for Sectors

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

ACTION: Interim final rule; request for comments.

SUMMARY: This rule makes allocations of annual catch entitlements to groundfish sectors for the 2020 fishing year and also makes changes to a previously approved regulatory exemption for sectors. The action is necessary because sectors must receive allocations in order to operate. This action is intended to ensure sector allocations are based on the best scientific information available and to help achieve optimum yield for the fishery.

DATES: This rule is effective May 1, 2020. Comments must be received on or before May 27, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0028, by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0028,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Michael Pentony, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the 2020 Sector Rule.''

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of each sector's operations plan and contract, as well as the programmatic environmental assessment for sectors operations in fishing years 2015 to 2020, are available from the NMFS Greater Atlantic Regional Fisheries Office (GARFO): Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. These documents are also accessible via the GARFO website: *https://www.fisheries.noaa.gov/species/northeast-multispecies.*

FOR FURTHER INFORMATION CONTACT: Kyle Molton, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Multispecies Fishery Management Plan (FMP) defines a groundfish sector as a group of persons holding limited access Northeast multispecies permits who have voluntarily entered into a contract and agreed to certain fishing restrictions for a specified period of time. Under the FMP, these sectors are allocated a portion of the allowable catch of each Northeast multispecies stock. Sectors are self-selecting, meaning each sector can choose its members.

The Northeast multispecies (groundfish) sector management system allocates a portion of available groundfish catch by stock to each sector. Each sector's annual allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector's members. The ACEs are a portion of a stock's annual catch limit (ACL) available to commercial groundfish vessels in sectors. A sector determines how to harvest its ACEs and may decide to limit operations to fewer vessels. Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout are not managed under the sector system, and sectors do not receive allocations of these groundfish species. With the exception of halibut that has a one-fish per vessel trip limit, possession of these stocks is prohibited.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several universal exemptions from the FMP's effort controls. These universal exemptions apply to: Trip limits on allocated stocks; Northeast multispecies

days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear on Georges Bank (GB); portions of the Gulf of Maine (GOM) Cod Protection Closures; and the at-sea monitoring (ASM) coverage requirement for sector vessels fishing exclusively in the Southern New England (SNE) and Inshore GB Broad Stock Areas (BSA) with extra-large mesh gillnets (10-inch [25.4-cm] or greater). The FMP allows sectors to request additional exemptions to increase flexibility and fishing opportunities but prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the sectors, there are several state-operated permit banks, which receive allocation based on the fishing history of permits that the state holds. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with sector administrative and procedural requirements (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of permits to us, as specified in the permit bank's Memorandum of Agreement between NMFS and the state. These permits are not active vessels; instead, the allocations associated with the permits may be leased to vessels enrolled in sectors. State-operated permit banks contribute to the total allocation under the sector system.

We approved 16 sectors to operate in fishing years 2019 and 2020 and also approved 19 requested exemptions for sectors (84 FR 17916; April 26, 2019). Because all approved operations plans cover 2 fishing years, approved sectors may continue operations in fishing year 2020. Copies of the operations plans and contracts, and the environmental assessment (EA), are available at: *https://www.fisheries.noaa.gov/species/northeast-multispecies* and from NMFS (see **ADDRESSES**). This action makes 2020 allocations to sectors based on the specifications set in Framework Adjustment 57 (83 FR 18985; May 1, 2018) and 58 (84 FR 34799; July 19, 2019) to the FMP. This action also makes several changes to a previously approved regulatory exemption to increase fishing opportunities for Acadian redfish.

Catch Limits for Fishing Year 2020

Previously Established Catch Limits

Framework 57 (83 FR 18985; May 1, 2018) and Framework 58 (84 FR 34799; July 19, 2019) previously set fishing year 2020 catch limits for all groundfish stocks. The 2020 catch limits for most stocks remain the same as, or similar, to 2019 limits. Framework 58 did not, however, specify a 2020 catch limit for Eastern GB cod or Eastern GB haddock. Eastern GB cod and haddock are management units of the GB cod and GB haddock stocks that are jointly managed with Canada, and the shared quota is set annually.

This year, in Framework 59, the Council adopted new or adjusted fishing year 2020 catch limits for 19 of the 20 groundfish stocks based on the 2019 stock assessments, as well as catch limits for Eastern GB cod and Eastern GB haddock. We are working to publish a proposed rule to request comments on the Framework 59 measures. Due to a remand of four stocks back to the Council's Scientific and Statistical Committee, the development and submission of Framework 59 was delayed, and it will not be possible to implement final measures in time for May 1, 2020.

As a result, this rule announces the 2020 catch limits set in Frameworks 57 and 58 that are effective on May 1, 2020, including preliminary sector and common pool allocations based on 2020 rosters submitted by sectors (Table 1). If Framework 59 is approved, the 2020 catch limits announced in this rule for all groundfish stocks, except Atlantic wolffish, will change.

We are highlighting one example to frame the importance of these changes for sectors. In Framework 59, the Council recommended a total ACL of 116 mt for GB yellowtail flounder in fishing year 2020. This is a 13-percent increase from the fishing year 2019 ACL set in Framework 58. However, it is 26-percent decrease from the fishing year 2020 ACL previously set by Framework 58, because the quota set by Framework 58 did not take into account the portion that would be allocated to Canada through shared management process

We are highlighting the differences for this stock because the GB yellowtail flounder allocation in this rule is based on 2020 catch limit previously approved in Framework 58 that is higher than the catch limit that would be implemented under Framework 59. If Framework 59 is approved, the final 2020 ACE for several stocks would be reduced from the initial 2020 ACE that sectors receive. Thus, sectors must be sure not to exceed the catch limits recommended in Framework 59 although at the start of fishing year 2020 they may have sufficient quota to allow fishing above this level. Any catch above Framework 59 quotas would subject sectors to accountability measures applicable to each stock.

Default Catch Limits for Eastern GB Cod and Haddock

This rule also sets default catch limits for Eastern GB cod and Eastern GB haddock, the only stocks that do not already have a catch limit in place for fishing year 2020. The catch limits for these stocks are based on recommendations of the Transboundary Management Guidance Committee (along with GB yellowtail flounder), which is the joint U.S./Canada management body that meets annually to recommend shared quotas for the three transboundary stocks. The catch limits for Eastern GB cod and haddock are set annually and are a portion of the total acceptable biological catch for GB cod and haddock. The 2020 total allowable catch (TAC) for Eastern GB cod and haddock and GB yellowtail will be included in Framework 59. While Framework 58 set a 2020 ACL for GB yellowtail flounder, it did not set 2020 catch limits for Eastern GB cod or Eastern GB haddock, so these TAC's are not in place for the start of the fishing year until Framework 59 is finalized. The groundfish regulations require default catch limits for any stock for which final specifications are not in place by the beginning of the fishing year on May 1. The FMP's default specifications provision sets catch at 35 percent of the previous year's (2019) catch, and the default catch limits are in place from May 1 through July 31, or until the final rule for Framework 59 is implemented if prior to July 31. To comply with these regulations and minimize impacts on the fishery, we are setting these default specifications (Table 2), which will prevent a prohibition on fishing in the Eastern U.S./Canada Area due to a delay in allocations by Framework 59. If Framework 59 is not in place on or before July 31 under the regulations, these default allocations will expire and all goundfishing in the eastern area will be prohibited.

TABLE 1—INITIAL 2020 NORTHEAST MULTISPECIES CATCH LIMITS

Stock	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod**	1,741	1,568	1,514	54					18	155
GOM Cod	666	610	378	11	220				47	9
GB Haddock**	55,249	53,276	52,432	844		811			581	581
GOM Haddock	9,626	9,384	6,700	78	2,605	95			74	74
GB Yellowtail Flounder	157	129	125	4			25	3	0	0
SNE/MA Yellowtail Flounder	66	31	25	6			16		2	17
CC/GOM Yellowtail Flounder	490	398	377	21					51	41
American Plaice	1,420	1,361	1,332	29					30	30
Witch Flounder	948	854	831	23					40	55
GB Winter Flounder	786	774	742	32					0	12
GOM Winter Flounder	428	355	337	18					67	7
SNE/MA Winter Flounder	700	518	444	74					73	109
Redfish	11,357	11,118	11,060	58					119	119
White Hake	2,794	2,735	2,714	21					29	29
Pollock	38,204	37,400	37,152	248					402	402
N Windowpane Flounder	86	63	na	63			18		2	3
S Windowpane Flounder	457	53	na	53			158		28	218
Ocean Pout	120	94	na	94					3	23
Atlantic Halibut	100	75	na	75					21	4
Atlantic Wolffish*	84	82	na	82					1	1

*Catch limits for all stocks except Atlantic wolffish will be replaced when the final rule for Framework 59 becomes effective.
**Eastern GB cod and haddock are management units of the GB cod and GB haddock stocks and make up a portion of the total ACL for each.

TABLE 2—2020 DEFAULT CATCH LIMITS FOR EASTERN GB COD AND HADDOCK

Stock	2019 Commercial sub-ACL (mt)	2020 Default commercial sub-ACL (mt)
Eastern GB Cod	189	66
Eastern GB Haddock	15,000	5,250

Operations Plan Submissions

Annually, we solicit operations plan submissions for consideration for approval; however, sectors already approved to operate in fishing years 2019 and 2020 were not required to submit operations plans for 2020. We received an operations plan from one sector not previously approved to operate in 2020, on behalf of the Georges Bank Cod Hook Sector. However, prior to the development of this rule, the applicant voluntarily withdrew the operations plan from further consideration. As a result, we are not approving any additional sectors to operate in fishing year 2020 beyond those previously approved.

Sector Allocations for Fishing Year 2020

This rule makes 2020 preliminary ACE allocations to all sectors based on their 2020 roster submissions. The preliminary allocations will be based on the ACL for each stock set in Frameworks 57 and 58. Because sectors are operating under 2-year operations plans for fishing years 2019 and 2020, these allocations would allow vessels enrolled in sectors to operate under their existing operations plan, as approved.

Any changes in sector rosters prior to May 1 will be corrected in a subsequent action, if needed; roster changes may result in significant changes in sector allocations. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2020, to withdraw from a sector and fish in the common pool for fishing year 2020.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 3 shows the total PSC for each sector by stock for fishing year 2020. Tables 4 and 5 show the initial allocations that each sector are being allocated, in pounds and metric tons, respectively, for fishing year 2020. We provide the final allocations, to the nearest pound, to each sector based on their final May 1 rosters. We will use these final allocations, along with later adjustments for updated ACL's resulting from Framework 59, ACE transfers, reductions for overages, or increases for carryover, to monitor sector catch. The common pool sub-ACLs are also included in each of these tables. The fishing year 2020 common pool sub-ACLs initial sub-ACLs are being announced in this action, and are calculated using the PSC of permits not enrolled in sectors. The common pool sub-ACL is managed separately from sectors and does not contribute to available ACE for leasing or harvest by sector vessels.

We do not assign a permit separate PSCs for the Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector is allocated 4 percent of the GB cod ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) as its Eastern GB cod. The Eastern GB haddock allocations are determined in the same way. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock

ACEs in the Eastern U.S./Canada Area. A sector may also ''convert,'' or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2020, we may withhold 20 percent of each sector's fishing year 2020 allocation for up to 60 days until we finalize fishing year 2019 catch information. We expect to finalize 2019 catch information for sectors in summer 2020. We will allow sectors to transfer fishing year 2019 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2019 overages. If necessary, we will reduce any sector's fishing year 2020 allocation to account for a remaining overage in fishing year 2019. Each year we notify the Council and sector managers of this deadline and announce this decision on our website at: *https://www.fisheries.noaa.gov/species/northeast-multispecies.*

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Table 3 -- Cumulative PSC (Percentage) Each Sector Will Receive by Stock for Fishing Year 2020*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	71	12.52998071	0.73401354	1.91835326	0.20788439	0.84655142	0.72002673	2.14380856	0.51837750	1.16323846	0.07169861	12.69711109	1.19821088	0.56862766	1.05536784	3.38554643
Maine Coast Community Sector	88	2.32998583	11.98464139	3.13852375	9.04456871	1.77877572	1.49862885	3.67854324	12.36392502	9.71515020	1.01112798	3.72977245	1.83985825	8.64625895	13.23534516	12.63762150
Maine Permit Bank	11	0.13361103	1.15503867	0.04432773	1.12455699	0.01377701	0.03180705	0.31794656	1.16407583	0.72688452	0.00021715	0.42662327	0.01789120	0.82190532	1.65422882	1.69505501
Mooncusser Sector	40	11.87404994	3.36592802	3.72602983	3.03406286	0.38302570	0.32527727	2.58549375	0.76474219	1.71821481	0.89399263	2.48392191	2.26957436	2.65202110	5.80626985	5.44388052
NEFS 2	134	6.53179574	27.09953171	10.71516023	23.26870148	1.90753367	1.88524153	25.19408962	11.18850137	14.73088559	3.21758711	24.84305818	4.27040466	15.53821695	9.44684547	14.91566519
NEFS 4	58	7.40275568	11.14488493	5.81741902	8.87479953	2.16178984	2.26424835	6.38868785	9.51518694	8.85677985	0.69256854	7.43011764	0.99121910	6.67292639	8.26903303	6.86546011
NEFS 5	24	0.47997081	0.00066296	0.81554785	0.00357898	1.27619665	20.04779653	0.20523908	0.43227120	0.56080437	0.43636655	0.01160596	12.03962035	0.01449126	0.09437284	0.04251818
NEFS 6	26	3.15560673	3.15154289	3.58637352	4.40638800	3.30346794	5.11479613	4.55077429	4.58294817	6.04426428	1.72190050	5.09998622	1.90633661	6.81202484	4.52299523	3.66855030
NEFS 7	17	2.89058595	0.84079975	2.34693176	1.81427506	6.88397295	2.02256417	1.26281381	3.01032328	2.10346784	7.91584447	0.28463030	2.91360294	2.57070048	2.12307674	1.70828132
NEFS 8	40	8.34044028	1.21575070	7.74350356	0.72774894	17.07029411	7.05653219	6.55708012	3.26180750	3.67577507	23.88261584	4.91594306	9.67002429	0.91411640	1.06857986	1.20397607
NEFS 10	29	0.52585127	2.47089688	0.17673209	1.28209390	0.00114846	0.54787117	4.28071114	1.08110101	2.04602297	0.01083157	9.10588148	0.60104122	0.33492862	0.65504438	0.76337027
NEFS 11	48	0.39910666	12.35489458	0.03485940	2.86948621	0.00149117	0.01948622	2.52296479	1.69908958	1.65447336	0.00312600	2.13298790	0.02150471	1.94330395	4.50105141	8.90553361
NEFS 12	18	0.62875353	2.87032463	0.09374416	1.01358987	0.00042969	0.01049524	7.83711822	0.50289768	0.56773096	0.00043899	7.53967496	0.21702876	0.22673972	0.28137128	0.77537672
NEFS 13	68	11.82302597	0.78011183	20.47977361	0.96907999	34.78618838	23.37086366	6.51655862	8.51808436	9.23122094	17.35427814	2.14366875	15.64328752	4.38538903	2.22785146	2.64551911
New Hampshire Permit Bank	4	0.00082216	1.14528578	0.00003406	0.03234858	0.00002026	0.00001788	0.02180780	0.02847784	0.00615970	0.00000324	0.06070430	0.00003630	0.01940243	0.08135658	0.11135191
Sustainable Harvest Sector 1	22	2.27065603	2.97394879	2.26814141	3.82333744	0.75985178	0.11191776	2.17301939	5.36146512	3.86767505	5.63770961	3.29020132	0.74983812	2.99124424	4.43171281	2.68939055
Sustainable Harvest Sector 2	38	2.44932546	4.83857136	1.24018013	3.09928041	3.54799768	3.07190342	4.16162984	3.38856383	2.96435822	3.62980206	4.32153323	3.45263749	3.10638146	5.94749853	6.25026810
Sustainable Harvest Sector 3	86	23.33212075	9.00613498	33.86808278	32.73554226	21.72815141	13.23469673	15.09948417	30.10337722	27.81948208	29.53444092	4.67473756	30.47574019	40.62768063	33.48494809	25.40530189
Common Pool	493	2.90155546	2.86703661	1.98628188	1.66867643	3.54933615	18.66582911	4.50222916	2.51478437	2.54741172	3.98545011	4.80784043	11.72214306	1.15364058	1.11305062	0.88733322

* This table is based on 2020 rosters submitted by sectors.

Table 4 -- ACE (in 1,000 lb), by Stock, for Each Sector for Fishing Year 2020*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	18	415	6	222	2,031	31	2	0	19	16	22	1	99	14	139	64	2,791
MCCS	3	77	103	363	3,323	1,352	5	1	32	371	183	17	29	21	2,119	803	10,420
MOON	17	393	29	431	3,945	453	1	0	23	23	32	15	19	26	650	352	4,489
MPB	0	4	10	5	47	168	0	0	3	35	14	0	3	0	201	100	1,398
NEFS 2	10	216	233	1,240	11,345	3,477	5	1	221	336	277	55	194	49	3,809	573	12,298
NEFS 4	11	245	96	673	6,159	1,326	6	2	56	285	167	12	58	11	1,636	502	5,661
NEFS 5	1	16	0	94	863	1	4	14	2	13	11	7	0	137	4	6	35
NEFS 6	5	104	27	415	3,797	658	9	4	40	137	114	29	40	22	1,670	275	3,025
NEFS 7	4	96	7	272	2,485	271	20	1	11	90	40	135	2	33	630	129	1,409
NEFS 8	12	276	10	896	8,199	109	49	5	58	98	69	407	38	110	224	65	993
NEFS 10	1	17	21	20	187	192	0	0	38	32	39	0	71	7	82	40	629
NEFS 11	1	13	106	4	37	429	0	0	22	51	31	0	17	0	476	273	7,343
NEFS 12	1	21	25	11	99	151	0	0	69	15	11	0	59	2	56	17	639
NEFS 13	17	392	7	2,370	21,684	145	99	16	57	256	174	296	17	179	1,075	135	2,181
NHPB	0	0	10	0	0	5	0	0	0	1	0	0	0	0	5	5	92
SHS 1	3	75	26	263	2,401	571	2	0	19	161	73	96	26	9	733	269	2,217
SHS 2	4	81	42	144	1,313	463	10	2	37	102	56	62	34	39	761	361	5,154
SHS 3	34	773	77	3,920	35,859	4,892	62	9	133	903	524	504	37	348	9,958	2,033	20,947
Common Pool	4	96	25	230	2,103	249	10	13	40	75	48	68	38	134	283	68	732
Sector Total	142	3,215	835	11,344	103,776	14,695	274	56	838	2,924	1,834	1,638	744	1,008	24,228	6,002	81,721

*This table is based on 2020 rosters submitted by sectors and initial 2020 catch limits set by Frameworks 57 and 58.

#Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent potential allocations for each sector.

Table 5 -- ACE (in metric tons), by Stock, for Each Sector for Fishing Year 2020*#^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	8	188	3	101	921	14	1	0	9	7	10	1	45	6	63	29	1,266
MCCS	2	35	47	165	1,507	613	2	0	15	168	83	8	13	10	961	364	4,726
MOON	8	178	13	196	1,789	206	0	0	10	10	15	7	9	12	295	160	2,036
MPB	0	2	5	2	21	76	0	0	1	16	6	0	2	0	91	46	634
NEFS 2	4	98	106	563	5,146	1,577	2	1	100	152	126	25	88	22	1,728	260	5,578
NEFS 4	5	111	43	305	2,794	602	3	1	25	129	76	5	26	5	742	228	2,568
NEFS 5	0	7	0	43	392	0	2	6	1	6	5	3	0	62	2	3	16
NEFS 6	2	47	12	188	1,722	299	4	2	18	62	52	13	18	10	757	125	1,372
NEFS 7	2	43	3	123	1,127	123	9	1	5	41	18	61	1	15	286	58	639
NEFS 8	6	125	5	407	3,719	49	22	2	26	44	31	185	17	50	102	29	450
NEFS 10	0	8	10	9	85	87	0	0	17	15	17	0	32	3	37	18	286
NEFS 11	0	6	48	2	17	195	0	0	10	23	14	0	8	0	216	124	3,331
NEFS 12	0	9	11	5	45	69	0	0	31	7	5	0	27	1	25	8	290
NEFS 13	8	178	3	1,075	9,836	66	45	7	26	116	79	134	8	81	488	61	989
NHPB	0	0	4	0	0	2	0	0	0	0	0	0	0	0	2	2	42
SHS 1	2	34	12	119	1,089	259	1	0	9	73	33	44	12	4	333	122	1,006
SHS 2	2	37	19	65	596	210	5	1	17	46	25	28	15	18	345	164	2,338
SHS 3	15	350	35	1,778	16,265	2,219	28	4	60	410	237	229	17	158	4,517	922	9,502
Common Pool	2	44	11	104	954	113	5	6	18	34	22	31	17	61	128	31	332
Sector Total	64	1,458	379	5,146	47,072	6,665	124	25	380	1,326	832	743	338	457	10,990	2,723	37,068

*This table is based on fishing year 2020 rosters submitted by sectors and initial 2020 catch limits set by Frameworks 57 and 58.

#Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent potential allocations for each sector.

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Exemptions Previously Granted for Fishing Years 2019 and 2020

Previously Granted Exemptions for Fishing Years 2019 and 2020 (1–19)

We have already granted exemptions from the following requirements for fishing years 2019 and 2020, all of which have been requested and granted in previous years: (1) 120-day block out of the fishery required for Day gillnet vessels; (2) 20-day spawning block out of the fishery required for all vessels; (3) limits on the number of gillnets for Day gillnet vessels outside the GOM; (4) prohibition on a vessel hauling another vessel's gillnet gear; (5) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish DAS; (6) limits on the number of hooks that may be fished; (7) DAS Leasing Program length and horsepower restrictions; (8) prohibition on discarding; (9) gear requirements in the Eastern U.S./Canada Management Area; (10) prohibition on a vessel hauling another vessel's hook gear; (11) the requirement to declare an intent to fish in the Eastern U.S./Canada Special Access Program (SAP) and the Closed Area (CA) II Yellowtail Flounder/Haddock SAP prior to leaving the dock; (12) seasonal restrictions for the Eastern U.S./Canada Haddock SAP; (13) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP; (14) sampling exemption; (15) 6.5-inch (16.5-cm) minimum mesh size requirement for trawl nets to allow a 5.5-inch (14.0-cm) codend on directed redfish trips; (16) prohibition on combining small-mesh exempted fishery and sector trips in SNE; (17) extra-large mesh requirement to target dogfish on trips excluded from ASM in SNE and Inshore GB; (18) requirement that Handgear A vessels carry a Vessel Monitoring System (VMS) unit when fishing in a single BSA; and (19) limits on the number of gillnets for Day gillnet vessels in the GOM. A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable final rules identified in Table 6 below.

TABLE 6—EXEMPTIONS PREVIOUSLY GRANTED FOR FISHING YEARS 2019 AND 2020

Exemptions	Rulemaking	Date of publication	Citation
1–2, 4–9	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076
10–11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
12–14	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591
3, 15–16	Fishing Years 2015–2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143
17	Framework 55 Final Rule	May 2, 2016	81 FR 26412
18	Amendment 18 Final Rule	April 21, 2017	82 FR 18706
19	Fishing Year 2018 Sector Operations Final Rule	May 1, 2018	83 FR 18965

Northeast Multispecies **Federal Register** documents can be found at *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/multispecies/.*

New Exemption Requests Not Approved in Fishing Year 2020

Minimum Mesh Size for Gillnets Fished in Georges Bank

For fishing year 2020, sectors requested a new exemption to allow sector vessels to fish gillnets with mesh smaller than the 6.5-inch (16.5-cm) minimum mesh size in the GB BSA. Under current regulations, vessels are prohibited from fishing for groundfish with gillnets with mesh smaller than 6.5 inches (16.5 cm) in the GOM and GB Regulated Mesh Areas. Minimum mesh size restrictions (50 CFR 648.80(a)(3)(i), (a)(4)(i), (b)(2)(i), and (c)(2)(i)) were implemented under previous groundfish actions to reduce overall mortality on groundfish stocks, change the selection pattern of the fishery to target larger fish, improve survival of sublegal fish, and allow sublegal fish more opportunity to spawn before entering the fishery.

Sectors requested the exemption to allow vessels to fish gillnets with mesh as small as 6.0 inches (15.2 cm) in the GB BSA. Additionally, vessels would remain limited to fishing 50 nets under the current mesh size, and could only fish those nets between January 1 and April 30 each year. The intent of the request is to allow vessels fishing with gillnets to target GB haddock, a healthy groundfish stock. We previously approved similar exemptions, which allowed vessels to use 6.0-inch (15.2-cm) mesh gillnets to target haddock in the Gulf of Maine; however, these exemptions were disapproved in 2013 (78 FR 25591; May 2, 2013) due to concerns about GOM haddock stock status, which was poor at the time, and potential impacts on protected species. Despite improved stock status of GOM haddock, we have not re-approved an exemption in the GOM because of concerns about bycatch of GOM cod, which is in poor condition.

We have several concerns regarding the exemption as requested, including concerns for impacts on GB cod, other groundfish stocks, and the potential for impacts on protected resources. While GB haddock is a healthy stock and we are supportive of efforts to increase utilization of GB haddock quota, we are concerned that allowing the use of gillnets smaller than the 6.5-inch (16.5-cm) minimum mesh size may have an impact on GB cod, a stock that is overfished. Although some studies have shown increased selectivity of haddock with smaller mesh gillnets, selectivity curves suggest that smaller mesh gillnets will catch more smaller size cod and other co-occurring species than larger mesh nets. There are studies underway to assess the selectivity of different gillnet mesh sizes, specifically investigating the potential for use in the haddock fishery on GB. However, these studies are not yet completed, and we cannot use them yet to support an exemption. Further, we have concerns about potential impacts on protected species, particularly critically endangered North Atlantic right whales. We are concerned that changes in area fished, gear density, and seasonality of fishing could result in increased interaction risk for this species, as the requested exemption overlaps times and areas known to have a presence of right whales. We are denying the request for approval of this new exemption for fishing year 2020, given the unclear relationship between any potential increase in GB haddock harvest and potential negative impacts on GB cod, combined with the potential for increased interactions with protected resources. We may reevaluate this exemption request in a future action, should further information become available.

Previously Approved Exemptions We Are Modifying

6.5-inch (16.5-cm) Minimum Mesh Size Requirement for Trawl Nets To Allow a 5.5-inch (14.0-cm) Codend on Directed Redfish Trips

Since fishing year 2012, we have approved exemptions that allow sector vessels to target Acadian redfish, a healthy stock with a sub-legal size mesh codend, ranging from 4.5 inches (11.4 cm) to 6 inches (15.2 cm), with different versions requiring different levels of monitoring, different catch thresholds, and different areas where vessels are allowed to use the exemption (Table 7). In 2015, we approved the current version of the exemption (80 FR 25143; May 1, 2015), which was re-approved for fishing years 2019 and 2020. Under the exemption, vessels may fish with a 5.5-inch (14.0-cm) codend, are subject to standard at-sea monitoring coverage, and are required to fish in the Redfish Exemption Area (Figure 1). Sectors are further required to meet a 50-percent redfish catch threshold (50 percent of all groundfish catch on the small-mesh portion of trips must be redfish) and, on observed trips, discards of groundfish may not exceed 5 percent of groundfish catch on the small-mesh portion of the trip.

TABLE 7—PREVIOUSLY APPROVED VERSIONS OF THE REDFISH EXEMPTION

Exemption	Rulemaking	Date	Citation
6.0 inch (15.2 cm) with 100% NMFS-funded coverage.	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129
4.5 inch (11.4 cm) with 100% NMFS-funded coverage.	Fishing Year 2012 Redfish Exemption Final Rule.	March 5, 2013	78 FR 14226
4.5 inch (11.4 cm) with 100% Industry-funded coverage.	Fishing Year 2013 Sector Operations Interim Final Rule.	May 2, 2013	78 FR 25591
6.0 inch (15.2 cm) with standard observer coverage.	Fishing Year 2014 Sector Operations Final Rule	April 28, 2014	79 FR 23278
5.5 inch (14.0 cm) with standard observer coverage.	Fishing Year 2015–2016 Sector Operations Final Rule.	May 1, 2015	80 FR 25143

Northeast Multispecies **Federal Register** documents can be found at *https://www.fisheries.noaa.gov/species/northeast-multispecies.*

In fishing years 2018 and 2019, several sectors failed to meet the 50-percent redfish landings threshold for at least one month; no sectors exceeded the 5-percent groundfish discard threshold. We notified each sector by letter that they were out of compliance, one in April 2019 and the others in February 2020. All of the sectors took steps to improve compliance with the thresholds and were able to restore compliance with the 50-percent threshold. Given the performance of this exemption, we conducted a review of catch data under the exemption since it was approved in 2015. In that review, which included data from nearly 1,500 vessel trip reports and haul-level catch from observed trips, we found a number of areas within the current Redfish Exemption Area where vessels regularly had high levels of non-redfish catch (white hake, GB and GOM haddock, pollock, and GB cod), as well as areas with consistently high levels of redfish catch. In statistical areas 465, 511, and 512, observed hauls with more than 50 percent redfish were extremely rare, instead white hake and haddock dominated groundfish catch. Similarly, in block 131, which is already closed to redfish exemption fishing in February and March due to concerns about GOM cod, observed hauls rarely approached 50 percent redfish; more often haddock, pollock, and white hake made up the majority of catch. In statistical area 464, majority-redfish hauls were occasionally observed, but pollock and sometimes white hake dominated the catch in many observations. In statistical area 561, few exemption hauls were observed, but nearly all were well below 50 percent redfish with other species dominating. In statistical areas 521 and 522, redfish hauls occasionally achieved 50 percent or better redfish catch. However, haddock dominated the catch on many hauls, and there were many hauls observed where cod actually approached or even exceeded 50 percent of the catch; no other areas showed this level of consistently high cod catch under the exemption. In most of statistical area 515, and in a portion of southeastern statistical area 513, redfish were regularly the largest portion of the catch on observed redfish hauls; in many, if not most, hauls redfish exceeded 75 percent of total groundfish catch. While other species, especially pollock and haddock, were occasionally caught in abundance in these areas, redfish dominated in most cases. As a result, we are modifying the Redfish Exemption Area to reflect these findings, and better balance opportunities for sector vessels to efficiently harvest redfish with our concerns for targeting of non-redfish stocks and unintended impacts on other groundfish stocks under the exemption.

The revised Redfish Exemption Area falls entirely in the GOM Regulated Mesh Area, and includes all waters of the U.S. Exclusive Economic Zone north of 42 degrees 20 minutes North latitude, east of 69 degrees 30 minutes West longitude, south of 43 degrees 20 minutes North latitude, and West of 67 degrees 40 minutes West longitude (Figure 2). This area overlaps most of statistical area 515, and also includes a smaller portion of statistical area 513, where our review showed consistently clean redfish fishing, and the vast majority of redfish harvest. Vessels are prohibited from using the exemption in any overlapping closures, including year round closed areas and habitat areas that prohibit the use of mobile gear.

We expect the revised Redfish Exemption Area to continue to allow vessels to efficiently harvest redfish. The revised area includes areas where the majority of redfish are harvested, proportional catch of redfish is high, and bycatch of other groundfish stocks is generally low. We also expect the revised area to reduce opportunities for vessels to target non-redfish groundfish stocks with sub-legal mesh, as it excludes areas where redfish are rarely encountered as a significant proportion of catch by vessels using the exemption. In particular, several areas we propose to remove from the footprint of the exemption area showed consistently high catches of white hake and GB cod, both of which are of concern given their stock status; pollock and haddock catch were also very high in some areas. In portions of the Redfish Exemption Area that overlap the GB BSA, we found significant haddock and cod catch; as a result, we are concerned that including any portion of GB in the Redfish Exemption Area may reduce the incentive for vessels to fish under the

universal sector exemption allowing vessels to fish with a 6.0-inch (15.2-cm) mesh codend when using a haddock separator or Ruhle trawl. This exemption is intended to increase sector vessels ability to target haddock and to minimize unnecessary bycatch of GB cod and other stocks. While our review of catch data could not determine the intent of vessels fishing in the area, it appeared that vessels were less likely to use selective gear when given the less restrictive option of fishing under the redfish exemption. Because there is currently an overlap where vessels may choose between a 5.5-inch (14.0-cm) codend on a redfish trip or a 6.0-inch (15.2-cm) codend with selective gear, the incentive to use the selective gear is minimized, inconsistent with the intent of the universal exemption. The new Redfish Exemption Area should better balance opportunities for sector vessels to efficiently harvest redfish with concerns for impacts on non-redfish stocks, and help reduce the risk of sectors falling out of compliance with the redfish catch and groundfish discard thresholds intended to ensure the viability of the exemption.

We are also changing the gear stowage requirements for vessels on redfish exemption trips. Currently, vessels must stow any sub-legal codend below deck until the vessel begins the redfish portion of its exemption trip, that is, it has transited to the Redfish Exemption Area and notified NMFS, via VMS, that it is is switching to a codend smaller than the regulations would otherwise allow and has reported all catch on board. We are eliminating the requirement to stow the sub-legal codend below deck prior to use, and instead will now require the sub-legal codend to be stowed not available for use consistent with the methods outlined in § 648.2. We will allow for on-reel stowage consistent with requirements for transiting the GOM Cod Protection Closures and Seasonal Closure Areas. This change will allow vessels on a redfish trip to store a net with a sub-legal codend attached on a net reel when transiting to the Redfish Exemption Area so long as the there is no containment rope, codend tripping device, or similar mechanism attached, and the surface of the net is covered and securely bound. Similarly, this change will allow vessels to store sub-legal codends on-deck, so long as they are fan folded, bound around the circumference, and fastened to the deck or rail of the vessel. These changes are intended to better reflect the operational realities of vessels that fish using the redfish exemption. In many cases, storing a codend below-deck may not be practical. We are also concerned that the additional stowage requirement for the redfish exemption is unnecessary and may create confusion for members of the industry, leading to inadvertent non-compliance. While we are removing the below-deck codend storage requirements under the exemption, this action does not remove the regulation requiring gear to be stowed and not available for immediate use when transiting closed areas consistent with § 648.81(e). As a result, vessels transiting the Cashes Ledge Closed Area, the Western GOM Closure Area, and the GOM Cod Spawning Protection Closure (Whaleback) are still be required to remove their codend from the net and store it below deck if using on-reel stowage for their nets.

All other provisions of the redfish exemption remain in place, with the exception of the changes to the Redfish Exemption Area and gear stowage requirements. We are taking public comment on these changes to the redfish exemption in order to assist us in reviewing the impacts and benefits of these changes.

BILLING CODE 3510–22–P

Figure 1 -- Previously Approved Redfish Exemption Area

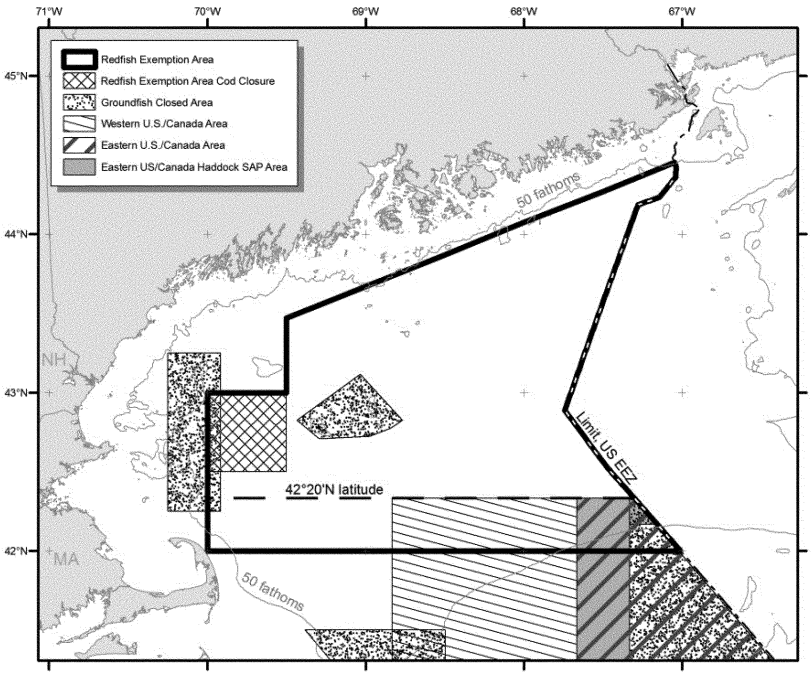
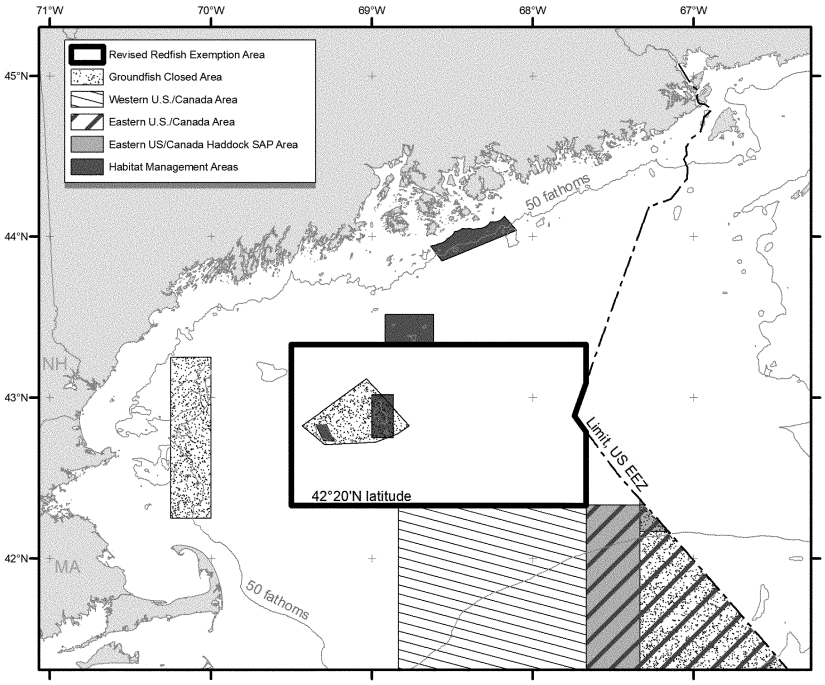


Figure 2 -- Revised Redfish Exemption Area



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Classification

The NMFS Assistant Administrator (AA) has determined that this interim final rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The AA finds that prior notice and the opportunity for public comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), would be impracticable and contrary to the public interest. Similarly, the need to implement these measures in a timely manner constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to make the rule effective May 1, 2020, so that this interim final rule may be in place by the start of the 2020 fishing year. Unforeseen delays and the need to address unanticipated issues prevented NMFS from publishing a proposed rule in a timeframe that would

have enabled a final rule to be published prior to May 1, 2020. Avoiding a delay in effectiveness beyond the May 1, 2020, start of the fishing year prevents vessel owners from incurring significant adverse economic impacts. A delay in implementing this rule would prevent sector vessels from fishing for groundfish until this rulemaking is finalized and sector allocations are made. This would cause major disruption and would effectively shut down the entire groundfish fishery during the delay. Being prohibited from fishing for up to 30 days would have a significant adverse economic impact on these vessels because vessels would be prevented from fishing in a month when sector vessels historically landed approximately 10 percent of several allocations, including Eastern GB cod and GB winter flounder. Any delay would have a significant adverse economic impact on these vessels that are already experiencing negative economic impacts and hardships due to the coronavirus pandemic. A delay would result in substantial lost fishing opportunities during a peak season for groundfish vessels. Additionally, any delay would diminish the intent of this rule to provide flexibility in vessel operations and maximum opportunity to catch the fishery quota. For the reasons outlined above, good cause exists to waive the otherwise applicable requirement to delay implementation of this rule for a period of 30 days.

Additionally, sector exemptions grant relief from restrictions, which provides operational flexibility and efficiency, and helps to avoid short-term adverse economic impacts on NE multispecies sector vessels. When operating under, sector vessels are exempted from common pool trip limits, DAS limits, and seasonal closed areas. These exemptions provide vessels with flexibility in choosing when to fish, how long to fish, what species to target, and how much catch they may land. They also relieve some gear restrictions, reporting and monitoring requirements, and provide access to additional fishing grounds through the authorization of exemptions from Northeast multispecies regulations. This flexibility increases efficiency and reduces costs for sector vessels.

This action is exempt from the procedures of Executive Order (E.O.) 12866.

This rule does not contain policies with Federalism or ''takings'' implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

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

Dated: April 15, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2020–08399 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 200408–0105]

RIN 0648–BJ46

Fisheries of the Northeastern United States; Northeast Skate Complex; Framework Adjustment 8 and 2020–2021 Specifications

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

ACTION: Final rule.

SUMMARY: NMFS is implementing final measures recommended by the New England Fishery Management Council in Framework Adjustment 8 to the Northeast Skate Complex Fishery Management Plan. This action specifies skate catch limits for fishing years 2020 and 2021 and increases seasonal possession limits for both the wing and bait fisheries. This action is necessary to establish skate specifications consistent with the most recent scientific information and the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The intent of this action is to establish catch limits for the skate fishery, while providing operational flexibility to fishery participants.

DATES: Effective on May 1, 2020.

ADDRESSES: The New England Fishery Management Council prepared an environmental assessment (EA) for Northeast Skate Complex Framework Adjustment 8 that describes the action and other considered alternatives. The EA provides an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives; a Regulatory Impact Review; and economic analysis. Copies of this framework adjustment, including the EA and other supporting documents for the action, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also accessible via the internet at *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages a complex of seven skate species (barndoor, clearnose, little, rosette, smooth, thorny, and winter skate) off the New England and mid-Atlantic coasts through the Northeast Skate Complex Fishery Management Plan (FMP). The thorny skate stock is 16 years into a 25-year rebuilding plan, and possession of the species remains prohibited until the stock is rebuilt. None of the six other skate stocks are overfished or subject to overfishing. Skates are harvested and managed within two targeted fisheries, one for food (the wing fishery) and one for bait used in other fisheries (the bait fishery). The FMP requires that the Council annually review and establish catch and possession limits for the skate fishery through the specifications process for up to two fishing years at a time. This action implements increased quotas and seasonal possession limits for both the wing and bait skate fisheries in fishing years 2020 and 2021. The current specifications (84 FR 4373; February 15, 2019) end on April 30, 2020, and will roll over in the event this rule is delayed beyond that date.

The proposed rule for this action published in the **Federal Register** on February 5, 2020 (85 FR 6494), and comments were accepted through March 6, 2020. We received eight comments from the public, but no changes to the final rule are necessary as a result of those comments (see Comments and Responses for additional detail). Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Action

We approve Skate Framework 8 and the Council-recommended specifications as outlined in our proposed rule for this action (85 FR 6494). These 2020–2021 specifications have higher fishery catch limits than fishing year 2019, including a 4-percent increase in acceptable biological catch

(ABC) to 32,715 metric tons (mt) and a 13-percent increase in the overall total allowable landings (TAL) to 17,864 mt. Each of the wing and bait fisheries' TALs will also increase 13 percent from 2019. The final bait fishery TAL will be 5,984 mt, and the wing fishery TAL will be 11,879 mt. These changes are primarily in response to recent decreases in dead discards and state landings.

The fishing year for skates is from May 1 to April 30. However, the directed wing and bait fisheries are managed in separate seasons to allow us to more closely manage harvest. The skate FMP regulations at 50 CFR 648.322 specify the allocation of skate TAL to each fishery (33.5 percent to bait and 66.5 percent to wing), and to each season of the fishing year. In the wing fishery, 57 percent of the wing TAL is allocated to Season 1 (May 1–August 31), and the rest to Season 2 (September 1–April 30). In the bait fishery, 30.8 percent is allocated to Season 1 (May 1–July 31), 37.1 percent is allocated to Season 2 (August 1–October 31), and the remainder is given to Season 3 (November 1–April 30). Table 1 shows the seasonal TALs for the wing and bait fisheries under this action.

TABLE 1—SEASONAL TAL ALLOCATIONS FOR THE 2020–2021 SKATE WING AND BAIT FISHERIES

[In metric tons]

Wing Fishery	Season 1 (May 1–August 31)	6,771
	Season 2 (September 1–April 30)	5,108
Bait Fishery	Season 1 (May 1–July 31)	1,843
	Season 2 (August 1–October 31)	2,220
	Season 3 (November 1–April 30)	1,921

This action also increases seasonal possession limits in both the wing and bait fisheries to allow more flexibility to harvest the additional quota. As described in the proposed rule, the bait fishery Season 3 possession limit will increase in order to maintain the 25,000-lb (11,340-kg) possession limit all year. The wing fishery Season 1 possession limit increases to 3,000 lb (1,361 kg), and the Season 2 possession limit increases to 5,000 lb (2,268 kg). The barndoor skate possession limit in the wing fishery would also increase to 750 lb (340 kg) in Season 1, and to 1,025 lb (465 kg) in Season 2. All other possession limits, including incidental possession limits of 500 lb (227 kg) in the wing fishery and 8,000 lb (3,629 kg) in the bait fishery, remain unchanged. Table 2 shows all of the possession limits for the skate fishery upon implementation of action.

TABLE 2—SKATE FISHERY POSSESSION LIMITS ** FOR FISHING YEARS 2020 AND 2021

Trip type	Season	Wing weight	Whole weight	Barndoor * wing weight	Barndoor * whole weight
Northeast (NE) Multispecies, Scallop, or Monkfish Day-At-Sea (DAS).	Season 1	3,000 lb, *1,361 kg*	6,810 lb, *3,089 kg*	750 lb, *340 kg*	1,703 lb, *772 kg.*
	Season 2	5,000 lb, *2,268 kg*	11,350 lb, *5,148 kg*	1,250 lb, *465 kg*	2,838 lb, *1,287 kg.*
NE Multispecies B DAS	All Year	220 lb, *100 kg*	500 lb, *227 kg*	0	0.
Non-DAS	All Year	500 lb, *227 kg*	1,135 lb, *515 kg*	0	0.
Skate Bait under Letter of Authorization.	All Year	0	25,000 lb, *11,340 kg*	0	0.

* Barndoor skate possession limits are within the overall skate possession limit for each trip, not in addition to it.
** Possession limits may be modified in-season in order to prevent catch from exceeding quotas.

The Council will review these specifications for 2021 to determine if any changes need to be made prior to the 2021 fishing year. NMFS will publish a notice prior to the May 1, 2021, start of the 2021 fishing year to confirm or announce any necessary changes.

Comments and Responses

The public comment period for the proposed rule ended on March 6, 2020, and eight comments were received from the public. Five commenters supported the action, noting the potential to decrease discards with increased possession limits, and the benefit of higher quotas to industry as long as the stocks remain healthy. NMFS agrees, and these are the primary reasons for increasing the quotas and limits in this action. One member of the public submitted two comments. One comment stated that he was a skate bait fisherman and did not want any changes to the fishery, and the second comment added that he would like a change to allow vessels to keep wings as bycatch on a bait trip, but not the changes proposed by this action. NMFS understands the commenter's concern for change, but this action was developed to provide the highest expected benefit to both the wing and bait skate fisheries. This action does not address incidental or bycatch limits of other fisheries in the bait or wing fisheries, although the Council could consider this in a future framework action. This action increases the bait fishery Season 3 possession limit to 25,000 lb (11,340 kg), that season's limit prior to Framework Adjustment 4 in 2018 (83 FR 6133; February 13, 2018).

The final commenter claimed that this action was promoting overfishing and overexploitation of the skate resource at the expense of the other species that prey on skates. The commenter requested that the total take for skates be reduced to 10 mt. The commenter presented no rationale or evidence supporting these claims. This action is based on the best available science, including a 2019 stock assessment update and Northeast Fisheries Science Center trawl survey data through spring 2019. It was developed to prevent overfishing and maintain healthy skate stocks while allowing the fishery to achieve optimum yield. No changes were made to the proposed rule as a result of these comments.

Changes From the Proposed Rule

NMFS has not made any changes to the proposed regulatory text, and there are no substantive changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Administrator, Greater Atlantic Region, has determined that this final rule is necessary and consistent with the Northeast Skate Complex FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council reviewed the Framework 8 regulations and deemed them necessary and appropriate to implement consistent with section 303(c) of the Magnuson-Stevens Act.

This action relieves a restriction by increasing catch and possession limits in the skate fishery, and is therefore not subject to the 30-day delayed effectiveness provision of the APA pursuant to 5 U.S.C. 553(d)(1). This final rule increases the annual TALs for both the skate wing and bait fisheries by 13 percent, and increases seasonal possession limits in both fisheries. These increases are intended to provide additional flexibility and economic opportunity for the skate fishing industry. The 2020 fishing year begins on May 1, 2020. If the 30-day delayed effectiveness period postpones the implementation of these measures beyond the May 1 start of the fishing year, the unnecessarily restrictive, lower 2019 catch limits will roll over into the beginning of 2020. This would be contrary to the public interest as it could create confusion and potential economic harm to the skate fisheries through lost opportunity under the lower catch limits at the beginning of the fishing year. Furthermore, this action does not require any additional time to come into compliance with this rule. Unlike actions that require an adjustment period, skate fishing vessels will not have to purchase new equipment or otherwise expend time or money to comply with these management measures. Therefore, NMFS also finds good cause not to delay this final rule's effectiveness, consistent with 5 U.S.C. 553(d)(3); and to implement these measures on May 1, 2020 for the 2020 fishing year.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule is considered an Executive Order 13771 deregulatory action. To determine the cost savings associated with this rule, the estimated revenue from the increased possession limits were compared to that of the No Action alternative (see **ADDRESSES** to locate the EA for more detailed information on the estimated revenue and alternatives). Based on a simulation using 2018 fishery data, this action is expected to increase skate wing fishery revenues by 4.65 percent ($250,329), and skate bait fishery revenues by 6.6 percent ($72,020), for a total net increase of $322,349. This action also increases the TAL by 13 percent, reducing the likelihood that a quota trigger will be reached and reduce possession to the incidental limit in either the wing or bait fishery. This increases economic opportunity and flexibility, but is difficult to quantify. Therefore, the total estimated net cost savings is $322,349 in 2018 dollars, and the annualized savings to perpetuity is $0.29 million per year in 2016 dollars.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 8, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.322, revise paragraphs (b)(1)(i) and (ii) and (c)(3) to read as follows:

§ 648.322 Skate allocation, possession, and landing provisions.

* * * * *

(b) * * *

(1) * * *

(i) A vessel or operator of a vessel that has been issued a valid Federal skate permit under this part, and fishes under an Atlantic sea scallop, NE multispecies, or monkfish DAS as specified at §§ 648.53, 648.82, and 648.92, respectively, unless otherwise exempted under § 648.80 or paragraph (c) of this section, may fish for, possess, and/or land up to the allowable trip limits specified as follows: Up to 3,000 lb (1,361 kg) of skate wings (6,810 lb (3,089 kg) whole weight) per trip in Season 1 (May 1 through August 31), and 5,000 lb (2,268 kg) of skate wings (11,350 lb (5,148 kg) whole weight) per trip in Season 2 (September 1 through April 30), or any prorated combination of the allowable landing forms defined at paragraph (b)(5) of this section.

(ii) When fishing under the possession limits specified in paragraph (b)(1)(i) of this section, a vessel is allowed to possess and land up to 750 lb (340 kg) of barndoor skate wings (1,702 lb (772 kg) whole weight) per trip in Season 1, and 1,250 lb (567 kg) of barndoor skate wings (2,837 lb (1,287 kg) whole weight) per trip in Season 2. The possession limits for barndoor skate wings are included within the overall possession limit (*i.e.,* total pounds of skate wings on board, including barndoor skate wings, are not allowed to exceed 3,000 lb (1,361 kg) in Season 1 and 5,000 lb (2,268 kg) in Season 2). Vessels are prohibited from discarding any skate wings when in possession of barndoor skate wings. Barndoor skate wings and carcasses on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(c) * * *

(3) The vessel owner or operator possesses or lands no more than 25,000 lb (11,340 kg) of whole skates per trip.

* * * * *

[FR Doc. 2020–07805 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 85, No. 81
Monday, April 27, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–20–0029; SC20–985–2 PR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Spearmint Oil Administrative Committee (Committee) to increase the assessment rate established for the 2020–2021 and subsequent marketing years. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by May 27, 2020.

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

FOR FURTHER INFORMATION CONTACT: Joshua Wilde, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2055, Fax: (503) 326–7440, or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov.*

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

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

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, Far West spearmint oil handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable spearmint oil for the 2020–2021 marketing year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate from $0.10 per pound of Far West spearmint oil handled, the rate that was established for the 2019–2020 marketing year, to $0.14 per pound of Far West spearmint oil handled for the 2020–2021 and subsequent marketing years.

The Order authorizes the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget and assessment rate. The Committee discusses and formulates the assessment rate in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2019–2020 and subsequent marketing years, the Committee recommended, and USDA approved, an assessment rate of $0.10 per pound of Far West spearmint oil handled. That assessment rate would continue in effect from marketing year to marketing year unless modified, suspended, or terminated by USDA upon recommendation with information

submitted by the Committee or other information available to USDA.

The Committee met on February 26, 2020, and unanimously recommended expenditures of $214,825 and an assessment rate of $0.14 per pound of Far West spearmint oil handled for the 2020–2021 and subsequent marketing years. In comparison, last year's budgeted expenditures were $272,850. The proposed assessment rate of $0.14 is $0.04 higher than the $0.10 rate currently in effect. The Committee recommended the assessment rate increase because expenditures have exceeded assessment revenue in the previous six marketing years and financial reserves have been reduced to approximately $87,468. The Committee believes that drawing from reserves to fund operations is not a sustainable strategy and that the previous assessment increase from $0.09 to $0.10 per pound of Far West spearmint oil handled, effective for the 2019–2020 and subsequent marketing years, was not sufficient to offset declining sales volume and increasing costs. The Committee projects expenses to exceed income by $63,525 if the assessment rate is left unchanged for the 2020–2021 marketing year. The Committee believes that the proposed assessment rate would allow the Committee to adequately balance budgeted expenses with projected income for the 2020–2021 and subsequent marketing years.

The major expenditures recommended by the Committee for the 2020–2021 marketing year include $169,000 for contracted administration by Ag Association Management, Inc., $26,025 for administrative expenses, $8,800 for Committee expenses, $6,500 for software/website maintenance, and $4,500 for market research and development projects. In comparison, major expenses for the 2019–2020 marketing year included $169,000 for contracted administration, $30,850 for administrative expenses, $15,000 for Committee expenses, $6,500 for software/website maintenance, and $13,000 for market research and development projects.

The Committee derived the recommended assessment rate by considering anticipated expenses, expected spearmint oil sales, and the amount of funds available in the authorized reserve. Income derived from handler assessments, calculated at $210,000 (1,500,000 pounds of spearmint oil × $0.14 per pound assessment rate), along with $1,300 in other income and $3,525 from reserve funds, would be enough to cover budgeted expenses of $214,825. Funds in the reserve (estimated to be $87,468 at the beginning of the 2020–2021 marketing year) would be kept within the maximum permitted by § 985.42(a) of the Order and would not exceed the Committee's operational expenses of one marketing year.

The assessment rate proposed in this rule would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although the modified assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2020–2021 marketing year budget, and those for subsequent marketing years, would be reviewed and, as appropriate, approved by USDA.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 41 producers and 94 producers of Scotch and Native spearmint oil, respectively, in the regulated area and approximately 8 spearmint oil handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $1,000,000, and small agricultural service firms have been defined as those whose annual receipts are less than $30,000,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil range from $14.00 to $17.50 per pound. The National Agricultural Statistics Service (NASS) reported that the 2018 U.S. season average spearmint oil producer price per pound was $16.80. Multiplying $16.80 per pound by 2018–2019 marketing year spearmint oil utilization of 1,963,028 million pounds yields a crop value estimate of about $33.0 million. Total 2018–2019 marketing year spearmint oil utilization, reported by the Committee, was 717,952 pounds and 1,245,076 pounds for Scotch and Native spearmint oil, respectively.

Given the reporting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $16.80 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 38 of the 41 Scotch spearmint oil producers and 89 of the 94 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third-party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Multiplying 1.20 by the 2018 producer price of $16.80 yields a handler free on board (FOB) price estimate of $20.16 per pound.

Multiplying this estimated handler FOB price by spearmint oil utilization of 1,963,028 pounds results in an estimated handler-level spearmint oil value of $39.6 million. Dividing this figure by the number of handlers (8) yields estimated average annual handler receipts of about $5.0 million, which is well below the SBA threshold for small agricultural service firms.

Furthermore, using confidential data on pounds handled by each handler, and the abovementioned estimated handler price per pound, the Committee reported that it is not likely that any of the eight handlers had a 2018–2019 marketing year spearmint oil sales value that exceeded the $30 million SBA threshold.

Therefore, in view of the foregoing, most producers of spearmint oil may be classified as small entities and all of the handlers of spearmint oil may be classified as small entities.

This proposal would increase the assessment rate collected from handlers

for the 2020–2021 and subsequent marketing years from $0.10 to $0.14 per pound of spearmint oil handled. The Committee unanimously recommended 2020–2021 expenditures of $214,825 and an assessment rate of $0.14 per pound of spearmint oil. The proposed assessment rate of $0.14 is $0.04 higher than the rate currently in effect. The Committee estimates that the industry will handle 1,500,000 pounds of spearmint oil during the 2020–2021 marketing year. Thus, the $0.14 per pound rate should provide $210,000 in assessment income. The Committee anticipates that income derived from handler assessments, along with $1,300 of other income and $3,525 from its reserve fund, will fully fund all budgeted expenses for the 2020–2021 marketing year. Furthermore, the Committee expects that assessment revenue will completely cover budgeted expenses for the 2021–2022 and subsequent marketing years.

The major expenditures recommended by the Committee for the 2020–2021 marketing year include $169,000 for contracted administration by Ag Association Management, Inc., $26,025 for administrative expenses, $8,800 for Committee expenses, $6,500 for software/website maintenance, and $4,500 for market research and development projects. Budgeted expenses for these items in the 2019–2020 marketing year were $169,000, $30,850, $15,000, $6,500, and $13,000, respectively.

The Committee recommended the assessment rate increase because expenditures have exceeded assessment revenue in the previous six marketing years and financial reserves have been reduced to approximately $87,468. The Committee believes that drawing from reserves to fund operations is not a sustainable strategy and that the previous assessment increase from $0.09 to $0.10 per pound of Far West spearmint oil handled was not sufficient to offset declining sales volume. The Committee projects expenses to exceed income by $63,525 if the assessment rate is left unchanged for the 2020–2021 marketing year. The Committee believes that the proposed assessment rate would allow the Committee to adequately balance budgeted expenses with projected income for the 2020–2021 and subsequent marketing years.

Prior to arriving at this budget and assessment rate, the Committee discussed various alternatives, including maintaining the current assessment rate of $0.10 per pound and increasing the assessment rate to a different amount. However, leaving the assessment rate unchanged would have required the Committee to deplete its financial reserve to a fiscally unsustainable level. Based on estimated shipments, the recommended assessment rate of $0.14 per pound of spearmint oil should provide $210,000 in assessment income. The Committee determined assessment revenue would be adequate to cover most of the budgeted expenditures for the 2020–2021 marketing year and all of the Committee's budgeted expenditures for subsequent marketing years. Moving forward, any excess funds would be used to replenish the Committee's monetary reserve. Reserve funds would be kept within the amount authorized in the Order.

A review of historical information and preliminary information pertaining to the upcoming marketing year indicates an average producer price of approximately $15.90–17.40 per pound of spearmint oil for the 2020–2021 season. Therefore, estimated assessment revenue for the 2020–2021 marketing year as a percentage of total producer revenue would be between 0.80 and 0.88 percent ($0.14 divided by $17.40 and $15.90, respectively).

This proposed action would increase the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the Order.

The Committee's meetings were widely publicized throughout the Far West spearmint oil industry. All interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the February 26, 2020, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

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

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large Far West spearmint oil handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is proposed to be amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 985.141 is revised to read as follows:

§ 985.141 Assessment rate.

On and after June 1, 2020, an assessment rate of $0.14 per pound is established for Far West spearmint oil. Unexpended funds may be carried over as a reserve.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–08396 Filed 4–24–20; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1200

[Doc. No. AMS–SC–19–0105]

Administrative Procedures Governing Formulation of a Research and Promotion Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) invites comments on the proposed establishment of administrative procedures to govern formulation of new research and promotion programs under the Commodity Promotion, Research, and Information Act of 1996 (Act). This rule would specify the process for proposing such programs to USDA. The proposed rule would further clarify that AMS will continue to require associations of producers or individuals proposing new programs to post a bond or other collateral to reimburse USDA for the costs of program development.

DATES: Comments must be received by May 27, 2020.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. All comments must be submitted through the Federal e-rulemaking portal at *http://www.regulations.gov* and should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Heather Pichelman, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915; facsimile: (202) 205–2800; or electronic mail: *Heather.Pichelman@usda.gov.*

SUPPLEMENTARY INFORMATION: As authorized under the Act, this proposed rule would add a new subpart D to 7 CFR part 1200—Rules of Practice and Procedure Governing Proceedings Under Research, Promotion, and Information Programs. Proposed subpart D would address procedures specific to the formulation of new programs under the Act.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. 7 U.S.C. 7423 provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Background

This proposed rule invites comments on the procedure to establish new research and promotion programs—or orders—under the Act. 7 U.S.C. 7413(b)(1)(B) authorizes associations of producers of an agricultural commodity or other individuals to petition USDA to establish a research, promotion, and/or information program with respect to that commodity. The purpose of such programs is to provide a framework for agricultural industries to pool their resources and combine efforts to develop new markets, strengthen existing markets, and conduct important research and promotion activities. *See* 7 U.S.C. 7411(b).

USDA's Agricultural Marketing Service (AMS) oversees these programs. With this proposed rule, AMS seeks to establish procedures for formulating new programs so interested parties are aware of the process and requirements.

Proposed § 1200.202(a) would provide that an industry association or individuals may file a written proposal for a new research and promotion program with the AMS Administrator (Administrator). Under proposed § 1200.202(b), the Administrator would consider whether there is broad industry support for the proposed program and whether proposed provisions of the program are authorized under the Act. The Administrator would also evaluate anticipated benefits to the industry and the economic feasibility of the program. Finally, the Administrator would consider whether the proposed program would tend to effectuate the declared policy of the Act. Under proposed § 1200.202(c), if the Administrator determined that the program would not effectuate the policy of the Act, AMS would deny the proposal and would so notify the proponent(s), explaining the grounds for denial. Under proposed § 1200.202(d), if the Administrator determined that the proposed program would likely effectuate the purposes of the Act by benefitting producers, handlers, and importers of the commodity, or others in the marketing chain, the Administrator would notify the proponent(s) that AMS would proceed with program development and, in accordance with proposed § 1200.204, the proponent(s) would be required to post a bond or other collateral to cover AMS expenses to develop the program.

The Act provides that once a board is established under an order, the Secretary of Agriculture (Secretary) must be reimbursed for all expenses incurred in the implementation, administration, and supervision of the order, including all referenda costs incurred in connection with the order. The board uses assessment funds collected from regulated entities to reimburse the Secretary for program oversight.

However, AMS incurs substantial expense in the development process leading to program establishment. AMS may conduct industry outreach meetings, solicit public input, analyze economic data, draft rulemaking documents, and conduct initial referenda. These activities are necessary

to progress toward program establishment. Typical expenses for these preliminary activities may include, but not be limited to, employee time and travel, supplies, printing, and mailing.

In some cases, the proponent industry may elect to defer an initial referendum for up to three years after the program is established. In other cases, despite all efforts of the proponent and AMS to develop a new program, ultimately the proposed program may not be established. Nevertheless, under either of these scenarios, AMS will have already incurred expenses related to program development.

Section 7417(a)(2) of the Act provides that the Secretary can require the industry seeking a new program to post a bond or other collateral to cover the cost of the initial referendum. Proposed § 1200.201 would define *cost of the referendum* to mean all the expenses AMS incurs in the development of a potential new program, including the cost of conducting an initial referendum.

The amount of the bond or collateral required under proposed § 1200.204 would be based on unique factors like the projected number of staff hours involved, the amount of staff travel necessary for outreach, the size and complexity of the proposed program, and the number of industry members to be polled in an initial referendum. This would ensure that AMS would be reimbursed on a timely basis for all expenses related to program development, even if the initial referendum is deferred or if the program is not established.

Section 1200.202(e) of the proposed rule would provide that once AMS has worked with industries or individuals to develop a proposed order, AMS would publish notice of the proposal in the **Federal Register** to allow the public to comment on the proposed program. Based on comments, AMS would determine whether to proceed with program establishment.

Under § 1200.203 of the proposed rule, if AMS determined to proceed with program establishment, the Administrator could conduct an initial referendum among the producers, handlers, and importers who would be subject to assessment under the program in order to determine whether they favor establishment of the program. The Act provides that USDA could also establish the program and defer the initial referendum for up to three years after the program is established. *See* 7 U.S.C. 7417(b). In either case, referendum voters would be those entities who, during a representative period determined by the Administrator, produced, handled, and/or imported the agricultural commodity. For referendum expenses incurred after a board is established, the Secretary will be reimbursed by the board appointed to administer the program, as provided by the Act. *See* 7 U.S.C. 7417(f).

Under proposed § 1200.205, if at any time during the development process, based on public comments, referendum votes, or other information available, AMS determined that the proposed program would not tend to effectuate the policy of the Act, the Administrator would terminate proceedings and would collect reimbursement for program development expenses from the bond or collateral posted by the program proponent(s).

The proposed rule would also make other administrative provisions related to establishment of a new program. Section 1200.201 of the proposed rule would define other terms necessary for administration of the regulation. Section 1200.206 would provide for the issuance, effectuation, and publication of the new order.

Initial Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), requires agencies to consider the economic impact of each rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The purpose of research, promotion, and information programs is to benefit all sizes of producers, handlers, and importers of an agricultural commodity.

The Act makes it possible for producer associations or other individuals engaged in specific agricultural commodity industries to submit a proposal for a new program. It is impossible for AMS to determine which industries may seek research and promotion programs in the future or to determine the number or size of business entities that might propose such programs. The expenses necessary for each program's development depend on factors such as projected staff hours to develop the program, travel expenses related to outreach, size and complexity of the proposed program, and the size of the industry to be polled in a referendum. Based on its experience with past program proposals, AMS estimates that expenses for typical program development range from $80,000 to $150,000. Thus, under the proposed rule, proponents could be required to post bonds or other collateral to cover those amounts if AMS agreed to proceed with proposed program development. Costs to individuals or businesses would depend on the number of entities in each proponent group. Given that we don't know the identity or business size of future program proponents, AMS cannot determine what economic impact this proposed rule might have on small entities. Based on experience with proponents seeking to establish new programs under the Act, AMS believes that this rule is unlikely to have a significant economic impact on a substantial number of small entities.

There would be no new direct costs associated with the implementation of the proposed rule. The proposed rule codifies procedures for proposing new research and promotion programs under the Act that have been practiced since the Act's adoption in 1996. In addition to specifying the program proposal process, the rule would clarify that the cost of the referendum to be covered by the required bond or collateral would include all the costs associated with program development.

Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

E-Government Act

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

List of Subjects in 7 CFR Part 1200

Administrative practice and procedure, Agricultural research, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, AMS proposes to amend 7 CFR part 1200 as follows:

PART 1200—RULES OF PRACTICE AND PROCEDURE GOVERNING PROCEEDINGS UNDER RESEARCH, PROMOTION, AND INFORMATION PROGRAMS

■ 1. The authority citation for part 1200 continues to read as follows:

Authority: 7 U.S.C. 2101–2119, 2611–2627, 2701–2718, 2901–2911, 4501–4514, 4801–4819, 4901–4916, 6101–6112, 6301–6311, 6401–6417, 7411–7425, 7481–7491, and 7801–7813.

■ 2. In part 1200, add subpart D, consisting of §§ 1200.200 through 1200.206, to read as follows:

Subpart D—Administrative Procedures Governing Formulation of a Research and Promotion Order

Sec.
1200.200 General.
1200.201 Definitions.
1200.202 Proposals.
1200.203 Initial referendum.
1200.204 Reimbursement of Secretary's expenses.
1200.205 Termination of proceedings.
1200.206 Execution of the order.

Authority: 7 U.S.C. 7411–7425.

Subpart D—Administrative Procedures Governing Formulation of a Research and Promotion Order

§ 1200.200 General.

The terms defined/specified in this subpart shall apply to all research and promotion programs authorized under the Act.

§ 1200.201 Definitions.

Act means the Commodity Research, Promotion, and Information Act of 1996 (7 U.S.C. 7411–7425).

Administrator means the Administrator of the Agricultural Marketing Service or any officer or employee of the United States Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act for the Administrator.

Cost of the Referendum means all USDA expenditures related to development of an order proposal, including, but not limited to, salaries, travel, supplies, printing, mailing, and shipping, and any costs related to an initial referendum.

Order means any order which may be issued pursuant to the Act.

Secretary means the United States Secretary of Agriculture or any officer or employee of the United States Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act for the Secretary.

§ 1200.202 Proposals.

(a) An order may be proposed by any association of producers of an agricultural commodity, by any person that may be affected by the issuance of an order with respect to an agricultural commodity, or by the Secretary. Any person or organization other than the Secretary proposing an order shall file with the Administrator a written proposal.

(b) Upon receipt of a proposal, the Administrator shall investigate and evaluate the proposal.

(c) If the proposal is submitted by an association of producers of the agricultural commodity or by any person that may be affected by the issuance of an order, and the investigation and consideration lead the Administrator to conclude that the proposed order will not tend to effectuate the declared policy of the Act, the Administrator shall deny the proposal. The Administrator will promptly notify the proponent(s) of such denial, which will be accompanied by a brief statement of the grounds for the denial.

(d) If the proposal was submitted by an association of producers of the agricultural commodity or by any person that may be affected by the issuance of an order and the investigation and consideration lead the Administrator to conclude that an order will tend to effectuate the declared policy of the Act, the Administrator will promptly notify the proponent(s) of such conclusion, and the proponent(s) will be required to post a bond or other collateral in accordance with § 1200.204.

(e) If the Administrator concludes that an order will tend to effectuate the declared policy of the Act, the Administrator shall publish the proposed order in the **Federal Register** and give due notice and opportunity for public comment on the proposed order.

§ 1200.203 Initial referendum.

For the purpose of ascertaining whether the persons to be covered by an order favor the order going into effect, the Administrator may conduct an initial referendum among persons to be subject to an assessment under the order who, during a representative period determined by the Administrator, engaged in the production or handling of the agricultural commodity or the importation of the agricultural commodity.

§ 1200.204 Reimbursement of Secretary's expenses.

The Administrator may require any person or organization proposing an order to post a bond or other collateral to cover the cost of the referendum as defined in § 1200.201.

§ 1200.205 Termination of proceedings.

If at any time during development of a new program the Administrator concludes, based on public comments, referendum votes, or other available information, that an order will not tend to effectuate the declared policy of the Act, the Administrator shall terminate the proceedings and collect reimbursements from the bond or other collateral posted pursuant to § 1200.204 for any expenses incurred in development of the proposed program.

§ 1200.206 Execution of the order.

(a) *Issuance of the order.* The Administrator shall, if the Administrator finds that it will tend to effectuate the purposes of the Act, issue the final order.

(b) *Effective date of order.* No order shall become effective in less than 30 days after its publication in the **Federal Register**, unless the Administrator, upon good cause found and published with the order, fixes an earlier effective date.

(c) *Notice of issuance.* After the Administrator issues the order, AMS will publish notice of the order's issuance in the **Federal Register**.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–08410 Filed 4–24–20; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[Document Number AMS–SC–19–0109]

Watermelon Research and Promotion Plan; Realignment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on realigning the representation on the National Watermelon Promotion Board (Board) prescribed in the Watermelon Research and Promotion Plan (Plan) by reducing the number of production districts and reducing the number importers on the Board, accordingly. This action would contribute to effective administration of the program.

DATES: Comments must be received by May 27, 2020.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. All comments must be submitted through the Federal e-rulemaking portal at *http://www.regulations.gov* and should reference the document number and the

date and page number of this issue of the **Federal Register.** All comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Stacy Jones King, Agricultural Marketing Specialist, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 731–2117; facsimile: (202) 205–2800; or electronic mail: *Stacy.JonesKing@usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal affecting 7 CFR part 1210 is authorized under the Watermelon Research and Promotion Act (Act) (7 U.S.C. 4901–4916).

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The Act provides that it shall not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

Under section 1650 of the Act (7 U.S.C. 4909), a person may file a written petition with USDA if they believe that the Plan, any provision of the Plan, or any obligation imposed in connection with the Plan, is not in accordance with the law. In any petition, the person may request a modification of the Plan or an exemption from the Plan. The petitioner will have the opportunity for a hearing on the petition. Afterwards, an Administrative Law Judge (ALJ) will issue a decision. If the petitioner disagrees with the ALJ's ruling, the petitioner has 30 days to appeal to the Judicial Officer, who will issue a ruling on behalf of USDA. If the petitioner disagrees with USDA's ruling, the petitioner may file, within 20 days, an appeal in the U.S. District Court for the district in which the petitioner resides or conducts business.

Background

This proposal invites comments on realigning the Board's representation and procedures under the Plan. The Board administers the Plan with oversight by USDA. The Plan is a nationally coordinated program of research, development, advertising, and promotion designed to strengthen the watermelon's position in the marketplace and to establish, maintain, and expand markets for watermelons. The program is financed by assessments on producers growing 10 acres or more of watermelons, handlers of watermelons, and importers of 150,000 pounds of watermelons or more per year. The Plan specifies that handlers are responsible for collecting and submitting both the producer and handler assessments to the Board, reporting their handling of watermelons, and maintaining records necessary to verify their reporting(s). Importers are responsible for payment of assessments to the Board on watermelons imported into the United States through U.S. Customs and Border Protection (Customs).

This proposal invites comments on realignment of the Board by reducing the number of production districts under the Plan for producer and handler representation on the Board, and proportionally reducing the number of importer seats on the Board from twelve to nine. The Board administers the Plan with oversight by USDA. These changes were recommended by the Board after a review of the production volume and assessments paid in each production district as well as the assessments paid by importers. The Plan requires that such a review be conducted at least every 5 years. These changes would help facilitate program operations and the Board voted to forward this recommendation to the Secretary at their October 26, 2019 meeting.

Section 1210.320(a) of the Plan specifies that the Board shall be comprised of producers, handlers, importers, and one public representative appointed by the Secretary. Pursuant to § 1210.320(b), the Plan originally divided the United States into seven districts of comparable production volumes of watermelons, and each district was allocated two producer members and two handler members. Section 1210.320(d) specifies that importer representation on the Board shall be proportionate to the percentage of assessments paid by importers to the Board, except that at least one representative of importers shall serve on the Board.

The current Board is comprised of 41 members—14 producers (two from each district), 14 handlers (two from each district), 12 importers, and one public member.

Review of U.S. Districts

Section 1210.320(c) requires the Board, at least every five years, to review the districts to determine whether realignment is necessary. In conducting the review, the Board must consider: (1) The most recent three years of USDA production reports or Board assessment reports if USDA production reports are unavailable; (2) shifts and trends in quantities of watermelon produced, and (3) other relevant factors. As a result of the review, the Board may recommend to USDA that the districts be realigned.

Pursuant to § 1210.501 of the Plan, the seven current districts are as follows:

District 1—The State of Florida;

District 2—The States of Kentucky, North Carolina, South Carolina, Tennessee, Virginia and West Virginia;

District 3—The State of Georgia;

District 4—The States of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin, and Washington, DC;

District 5—The State of California;

District 6—The State of Texas;

District 7—The States of Alabama, Alaska, Arizona, Arkansas, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

The districts listed above were recommended by the Board in 2016 and established through rulemaking by USDA in 2017 (82 FR 44966).

In 2019, the Board's Executive Committee conducted a review of the U.S. watermelon production districts to determine whether realignment was necessary. The committee held teleconferences on August 14 and September 11, 2019, and reviewed production data for 2016, 2017 and 2018 from USDA's National Agricultural Statistics Service's (NASS) Vegetables Annual Summary for 2018 and Market News Reports. Due to changes in the geographical coverage of USDA's data collection on watermelon production, Board assessment data was used for the states for which USDA data was not available. To protect personally identifiable information (PII) of watermelon producers and handlers, the average of 2016–2018 assessment data was converted to a percentage of production. The combined data is shown in Table 1 below.

TABLE 1—STATE PRODUCTION BASED ON USDA AND BOARD ASSESSMENT DATA 2016–2018

State	% of 3-year average of U.S. production
Alabama	0.2
Arizona	2.9
Arkansas	0.8
California	13.8
Colorado	0.4
Delaware	2.8
Florida	17.9
Georgia	18.0
Hawaii	0.1
Illinois	1.8
Indiana	10.6
Kentucky	0.2
Louisiana	0.1
Maryland	1.9
Michigan	2.3
Mississippi	0.2
Missouri	4.3
Nebraska	0.2
New Mexico	0.6
New York	0.6
North Carolina	4.0
Ohio	0.1
Oklahoma	0.2
Oregon	1.0
South Carolina	1.8
Texas	11.8
Virginia	0.3
Washington	1.1

Upon review, the Board recommended at their October 26, 2019 meeting to reduce the number of U.S. production districts from seven to five, thus eliminating two districts, retaining two districts as drawn, and creating three new districts. The proposed districts would be as follows:

District 1—The State of Florida (no change);

District 2—The State of Georgia (formerly District 3).

District 3—The States of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

District 4—The States of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and Washington, DC.

District 5—The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

As shown in Table 2, each district would represent, on average, 20 percent of the total U.S. production, with a range of approximately 18 to 24.5 percent. USDA has reviewed NASS, Market News, and Board assessment data, and as shown in Table 2, determined that the production estimates are consistent with the Board's recommendation.

TABLE 2—PROPOSED PERCENT OF U.S. PRODUCTION BY DISTRICT [1]

District	Board data (%)	USDA analysis (%)	Difference (%)
1	17.8	18.2	+0.4
2	18.0	18.0	None.
3	19.0	19.2	+0.2
4	20.6	20.7	+0.1
5	24.5	23.9	−0.6

Section 1210.501 of the Plan would be revised accordingly.

Review of Imports

Section 1210.320(e) of the Plan requires USDA to evaluate the average annual percentage of assessments paid by importers during the three-year period preceding the date of the evaluation and adjust, to the extent practicable, the number of importer representatives on the Board.

Table 4 below shows domestic and import assessment data for watermelons for the years 2016, 2017 and 2018. The data is from the Board's financial audits for 2016, 2017 [2] and 2018.

TABLE 4—U.S. AND IMPORT ASSESSMENT DATA FOR 2016–2018

Year	Domestic (U.S.) assessments	Import assessments	Total
2016	$2,319,704	$1,172,834	$3,492,538
2017	2,347,522	1,049,875	3,397,397
2018	2,311,116	1,041,244	3,352,360

[1] Table values were rounded to the nearest percent.

[2] National Watermelon Promotion Board, Financial Statements and Supplementary Information, Years Ending March 31, 2016, 2017, and 2018, BDO USA, LLP.

TABLE 4—U.S. AND IMPORT ASSESSMENT DATA FOR 2016–2018—Continued

Year	Domestic (U.S.) assessments	Import assessments	Total
3-Year Average	2,326,114	1,087,984	3,414,098
Percent of Total	68 percent	32 percent	

Based on this data, the three-year average annual import assessments for watermelons for 2016–2018 was $1,087,984, approximately 32 percent of the Board's assessment income. To make the number of importers on the Board proportionate to the assessments paid as well as to the percentages of U.S. watermelon produced by the reduced number of production districts, the number of importers should decrease from twelve to nine members.

In order to clearly summarize the change in board membership for producers, handlers, and importers, § 1210.502 of the Plan would be revised to reflect the new composition of the Board.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the economic impact of the proposed rule on the small entities. Accordingly, AMS has considered the economic impact of this action on such entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $1,000,000 and small agricultural service firms (handlers and importers) as those having annual receipts of no more than $30 million.

According to the Board, there are 505 producers, 140 handlers, and 252 importers who were required to pay assessments under the Plan in 2018. NASS data for the 2018 crop year estimated about 350.5 hundredweight (cwt.) of watermelons were produced per acre in the United States, and the 2018 grower price was $16.90 per cwt.[3] Thus, the value of watermelon production per acre in 2018 averaged about $5,923 (350.5 cwt. × $16.90). At that average price, a producer would have to farm over 169 acres to receive an annual income from watermelons of $1,000,000 ($1,000,000 divided by $5,923 per acre equals approximately 169 acres). Using 2017 USDA Census of Agriculture data, a maximum of 119 farms had watermelon acreage greater than or equal to 250 acres, and 13,401 out of a total of 13,520 farms producing watermelons reported less than 250 acres of watermelon on their farms.[4] Therefore, assuming watermelon producers operate no more than one farm, a majority (99 percent) of all U.S. watermelon farms would be classified as small businesses.

Also based on the Board's data, using a price of $0.169 per pound and the number of pounds handled annually, none of the watermelon handlers have receipts over the $30 million threshold.[5] [6] Therefore, all watermelon handlers would be considered small businesses. A handler would have to ship over 177 million pounds of watermelons to be considered large (177,514,793 × $0.169 f.o.b. equals approximately $30,000,000).

Based on 2018 Customs data, over 99 percent of watermelon importers shipped less than $30 million worth of watermelons that year. Based on the foregoing, the majority of watermelon producers, handlers and importers that would be affected by this proposed rule would be classified as small entities.

Regarding the value of the commodity, based on 2018 NASS data, the value of the U.S. watermelon crop was about $656.6 million.[7] According to Customs data, the value of 2018 imports was about $312.4 million.

This proposal invites comments on revising §§ 1210.321, 1210.423, 1210.501 and 1210.502 of the Plan to reduce the number of U.S. production districts from seven to five, thus eliminating two districts, retaining two districts as drawn, and creating three new districts. Accordingly, § 1210.320 requires the number of importer members to also decrease proportionately from 12 to 9 members, for a total of 30 Board members.

The Plan currently divides the United States into seven districts of comparable production volumes of watermelons, and each district is allocated two producer members and two handler members. Further, importer representation on the Board must be, to the extent practicable, proportionate to the percentage of assessments paid by importers, except there must be at least one importer on the Board.

At least every five years, the Board is required to evaluate, based on the preceding three-year period, the average production in each production district and the average annual percentage of assessments paid by importers. The Board conducted this review in 2019 and recommended reducing the number of districts from seven to five. Authority for these changes is provided in § 1210.320 of the Plan.

Regarding the economic impact of the proposed rule on affected entities, neither the reduction in the number of production districts nor the reduction in Board membership imposes any additional costs on industry members. The recommended changes are necessary to improve the Board's ability to ensure both a quorum at Board meetings and a sufficient number of potential nominees. Further, the accompanying reduction of importer seats from twelve to nine provides for the equitable representation of producers, handlers and importers on the Board.

Regarding alternatives, the Board considered two scenarios in realigning the districts. Scenario 1 would divide the U.S. into four production districts, and Scenario 2 would divide the U.S. into five production districts. In accordance with the Plan, both scenarios preserve the composition of 2 producers and 2 handlers per district. Ultimately the Board recommended Scenario 2, retaining the State of Florida as District 1, changing the district designation for Georgia from District 3 to District 2, and creating new Districts 3, 4, and 5 as follows:

[3] Vegetables, 2018 Summary, March 2019, USDA, p. 10.; *https://downloads.usda.library.cornell.edu/usda-esmis/files/02870v86p/gm80j322z/5138jn50j/vegean19.pdf.*

[4] 2017 Census of Agriculture, April 11, 2019, USDA, National Agricultural Statistics Service, p. 39; *https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf.*

[5] Vegetables, 2018 Summary, March 2019, USDA, *https://downloads.usda.library.cornell.edu/usda-esmis/files/02870v86p/gm80j322z/5138jn50j/vegean19.pdf.*

[6] National Watermelon Promotion Board assessment records, 2016–2018.

[7] Vegetables, 2018 Summary, March 2019, USDA, p. 10.

(a) District 3 would be comprised of the States of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas;

(b) District 4 would be comprised of the States of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and Washington, DC; and

(c) District 5 would be comprised of the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

In accordance with § 1210.320, the Board recommended the alignment scenario described in this proposed rule because it: (1) Would provide for a proportional geographical representation on the Board for producers and handlers; (2) would not create any producer or handler vacancies on the Board; and (3) would increase the pool of candidates to be considered for appointment to the Board by the Secretary.

Reporting and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Plan's information collection and recordkeeping requirements have been approved previously under OMB number 0581–0093. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting requirements or recordkeeping burden on domestic producers, handlers, or importers of watermelon.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

Regarding outreach efforts, the Board's Executive Committee held teleconferences on August 14 and September 11, 2019 to review the production data to assess whether changes to the number of districts and district boundaries were warranted. All Board and committee meetings, including meetings held via teleconference, are open to the public and interested persons are invited to participate and express their views.

AMS has performed this initial RFA analysis regarding the impact of these changes to the Plan on small entities and invites comments concerning potential effects of this action.

USDA has determined that this proposed rule is consistent with and would effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1210

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Reporting and recordkeeping requirements, Watermelon promotion.

For the reasons set forth in the preamble, 7 CFR part 1210 is proposed to be amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

■ 1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916 and 7 U.S.C. 7401.

Subpart C—Rules and Regulations

■ 2. Amend § 1210.321 by revising the section heading and paragraph (f)(1) to read as follows:

§ 1210.321 Realignment of districts.

* * * * *

(f) * * *

(1) No State in a multi-State district shall have more than three producer and handler representatives concurrently on the Board.

* * * * *

■ 3. Amend § 1210.403 by revising paragraph (c) to read as follows:

§ 1210.403 Voting procedures.

* * * * *

(c) In multi-State districts, the convention chairperson will direct the eligible producer voters and handler voters from each State to caucus separately for the purpose of electing a State spokesperson for each group. Election of each State spokesperson shall be by simple majority of all individual voters in attendance. In lieu of written ballots, a State spokesperson may be elected by voice vote or a show of hands. The role of the State spokesperson is to coordinate State voting and to cast all State votes.

* * * * *

■ 4. Section 1210.501 is revised to read as follows:

§ 1210.501 Realignment of districts.

In accordance with § 1210.320(c) of the Plan, the districts shall be as follows:

(a) *District 1*—The State of Florida.

(b) *District 2*—The State of Georgia.

(c) *District 3*—The States of Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

(d) *District 4*—The States of Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and Washington, DC.

(e) *District 5*—The States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

■ 5. Section 1210.502 is revised to read as follows:

§ 1210.502 Board members.

The Board consists of 10 producers, 10 handlers, nine importers, and one public member appointed by the Secretary.

Bruce Summers,

Administrator.

[FR Doc. 2020–08395 Filed 4–24–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0339; Product Identifier 2020–NM–046–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all

Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. This proposed AD would require modification and re-identification of the affected thrust reversers (TRs) and latch access doors (LADs), as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 11, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), 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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0339.

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–2020–0339; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *Kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0339; Product Identifier 2020–NM–046–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0060, dated March 16, 2020 (''EASA AD 2020–0060'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 airplanes. This proposed AD was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. The FAA is proposing this AD to address a possible breach in the engine core firewall. This condition, if not corrected, could lead to an uncontained engine fire, possibly resulting in reduced control of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0060 describes procedures for modification and re-identification of the affected TRs and latch access doors LADs.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0060 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0060 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0060 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0060 that is required for compliance with EASA AD 2020–0060 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No.

FAA–2020–0339 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 3 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
18 work-hours × $85 per hour = $1,530	$0 *	$1,530	$4,590

* The FAA has received no definitive data that would enable the agency to provide a parts cost estimate for the required actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0339; Product Identifier 2020–NM–046–AD.

(a) Comments Due Date

The FAA must receive comments by June 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 78, Exhaust.

(e) Reason

This AD was prompted by reports that the latches for the forward and aft pressure relief doors could be opened during exposure to fire, leading to a breach in the engine core firewall. The FAA is issuing this AD to address this condition, which if not corrected, could lead to an uncontained engine fire, possibly resulting in reduced control of the airplane.

(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 2020–0060, dated March 16, 2020 (''EASA AD 2020–0060'').

(h) Exceptions to EASA AD 2020–0060

(1) Where EASA AD 2020–0060 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1.3) of EASA AD 2020–0060 requires marking the service bulletin reference on the identification plate of the affected thrust reverser (TR) or latch access door (LAD), this AD allows marking it within an inch of the identification plate or decal.

(3) The ''Remarks'' section of EASA AD 2020–0060 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation 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 2020–0060 that contains RC procedures and tests: Except as required by paragraph (i)(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.

(j) Related Information

(1) For information about EASA AD 2020–0060, 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.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. 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–2020–0339.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *Kathleen.arrigotti@faa.gov.*

Issued on April 17, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08753 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0337; Product Identifier 2020–NM–044–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A330–941 airplanes. This proposed AD was prompted by a report that seven spoiler servo-controls (SSCs) lost hydraulic locking function due to a sheared seal on the blocking valve. This proposed AD would require repetitive operational tests of the hydraulic locking function on each SSC and replacement if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 11, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), 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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0337.

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–2020–0337; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0337; Product Identifier 2020–NM–044–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0054, dated March 11, 2020 (''EASA AD 2020–0054'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A330–941 airplanes.

This proposed AD was prompted by a report that seven SSCs lost hydraulic locking function due to a sheared seal on the blocking valve. The FAA is proposing this AD to address loss of hydraulic locking function on the SSCs, which in combination with one engine inoperative at takeoff, could result in reduced controllability of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0054 describes procedures for repetitive operational tests of the hydraulic locking function on each SSC (any type), when fitted on the blue or yellow hydraulic circuits, and replacing any affected SSC with a serviceable part. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop

in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0054 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result EASA AD 2020–0054 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0054 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0054 that is required for compliance with EASA AD 2020–0054 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0337 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 5 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0	$510	$2,550

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
3 work-hours × $85 per hour = $255	$35,000	$35,255

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0337; Product Identifier 2020–NM–044–AD.

(a) Comments Due Date

The FAA must receive comments by June 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A330–941 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a report that seven spoiler servo-controls (SSCs) lost hydraulic locking function due to a sheared seal on the blocking valve. The FAA is issuing this AD to address loss of hydraulic locking function on the SSCs, which in combination with one engine inoperative at takeoff, could result in reduced controllability of the airplane.

(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 2020–0054, dated March 11, 2020 (''EASA AD 2020–0054'').

(h) Exception to EASA AD 2020–0054

The ''Remarks'' section of EASA AD 2020–0054 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation 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 2020–0054 that contains RC procedures and tests: Except as required by paragraph (i)(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.

(j) Related Information

(1) For information about EASA AD 2020–0054, 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.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. 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–2020–0337.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on April 17, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08752 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0336; Product Identifier 2020–NM–032–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. This proposed AD would require replacement of affected passenger oxygen masks, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 11, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0336.

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–2020–0336; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or

arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0336; Product Identifier 2020–NM–032–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0031, dated February 18, 2020 (''EASA AD 2020–0031'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes.

This proposed AD was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. The FAA is proposing this AD to address sticking of the breathing bag on certain passenger oxygen masks, which could prevent the breathing bag from fully inflating, and possibly injure cabin occupants following a depressurization event. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0031 describes procedures for replacement of affected passenger oxygen masks. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0031 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0031 will be incorporated by reference in the FAA final rule. This proposed AD would therefore require compliance with EASA AD 2020–0031 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0031 that is required for compliance with EASA AD 2020–0031 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0336 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 13 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0 *	$510	$6,630

* The FAA has received no definitive data that would enable the FAA to provide cost estimates of the parts cost for the replacement specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the

national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

(2) 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0336; Product Identifier 2020–NM–032–AD.

(a) Comments Due Date

The FAA must receive comments by June 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A350–941 and -1041 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a report that sticking effects have been observed affecting the breathing bag on certain passenger oxygen masks. The FAA is issuing this AD to address sticking of the breathing bag on certain passenger oxygen masks, which could prevent the breathing bag from fully inflating, and possibly injure cabin occupants following a depressurization event.

(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 2020–0031, dated February 18, 2020 (''EASA AD 2020–0031'').

(h) Exceptions to EASA AD 2020–0031

(1) Where EASA AD 2020–0031 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0031 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation 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 2020–0031 that contains RC procedures and tests: Except as required by paragraph (i)(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.

(j) Related Information

(1) For information about EASA AD 2020–0031, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. 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–2020–0336.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218; email *kathleen.arrigotti@faa.gov.*

Issued on April 17, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–08750 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0334; Product Identifier 2020–NM–014–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Gulfstream Aerospace LP Model Gulfstream G280 airplanes. This proposed AD was prompted by a report of inadequate clearance between the fuel probes and forward fuel tank structure. This proposed AD would require measuring the clearance between certain fuel probes and the forward fuel tank structure, and reinstalling the probes if necessary, as specified in a Civil Aviation Authority of Israel (CAAI) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 11, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

For the material identified in this proposed AD that will be incorporated by reference (IBR), contact the CAAI, Mr. Vladimir Novicov, Engineering Branch, CAAI—P.O. Box 1101, 3 Golan Street, Airport City, Israel, 70151; telephone 972–3–9774529; fax 972–3–9774592; email *novicovv@mot.gov.il.* You may find this IBR material on the CAAI website at *www.caa.gov.il.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0334.

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–2020–0334; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0334; Product Identifier 2020–NM–014–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The CAAI, which is the aviation authority for Israel, has issued Israeli AD ISR–I–53–19–10–5, dated October 10, 2019 (''Israeli AD ISR–I–53–19–10–5'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Gulfstream Aerospace LP Model Gulfstream G280 airplanes.

This proposed AD was prompted by a report of inadequate clearance between certain fuel probes (probe No.1 and probe No.3) and the forward fuel tank structure. The FAA is proposing this AD to address such inadequate clearance, which could result in a potential source of ignition in a fuel tank, possible fire, and consequent reduced structural integrity of the airplane. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

Israeli AD ISR–I–53–19–10–5 requires checking the clearance between forward fuel probes No. 1 and aft probe No. 3 and the forward fuel tank structure, by measuring each probe's distance to the adjacent skin, and adjusting the clearance, including reinstallation of the probes at the correct distance if necessary. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to a bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in Israeli AD ISR–I–53–19–10–5 described previously, as incorporated by reference.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and the European Union Aviation Safety Agency (EASA) to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities to use this process. As a result, Israeli AD ISR–I–53–19–10–5 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Israeli AD ISR–I–53–19–10–5 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in Israeli AD ISR–I–53–19–10–5 that is required for compliance with Israeli AD ISR–I–53–19–10–5 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0334 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 80 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 20 work-hours × $85 per hour = $1,700	$0	Up to $1,700	Up to $136,000.

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Gulfstream Aerospace LP: Docket No. FAA–2020–0334; Product Identifier 2020–NM–014–AD.

(a) Comments Due Date

The FAA must receive comments by June 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to certain Gulfstream Aerospace LP Model Gulfstream G280 airplanes, certificated in any category, as identified in Civil Aviation Authority of Israel (CAAI) AD ISR–I–53–19–10–5, dated October 10, 2019 (''Israeli AD ISR–I–53–19–10–5'').

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report of inadequate clearance between the fuel probes and forward fuel tank structure. The FAA is issuing this AD to address such inadequate clearance, which could result in a potential source of ignition in a fuel tank, possible fire, and consequent reduced structural integrity of the airplane.

(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, Israeli AD ISR–I–53–19–10–5.

(h) Exceptions and Clarifications of Israeli AD ISR–I–53–19–10–5

(1) Where Israeli AD ISR–I–53–19–10–5 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Israeli AD ISR–I–53–19–10–5 requires operators to ''check . . . clearance between fuel probes and forward fuel tank structure,'' this AD requires measuring the specified probes' distance to the adjacent skin.

(3) Where Israeli AD ISR–I–53–19–10–5 requires operators to ''adjust clearance'' for the corrective action, this AD requires reinstallation of the probe at the correct distance.

(4) Israeli AD ISR–I–53–19–10–5 requires compliance ''at the next suitable planned maintenance inspection within the next 36 months.'' This AD requires compliance within 36 months after the effective date of this AD.

(5) The rework (reinstallation of the fuel probes at the correct distance) required for inadequate clearance must be done before further flight after the measurement.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or the CAAI; or CAAI's authorized Designee. If approved by the CAAI Designee, the approval must include the Designee's authorized signature.

(j) Related Information

(1) For information about Israeli AD ISR–I–53–19–10–5, contact the CAAI, Mr. Vladimir Novicov, Engineering Branch, CAAI—P.O. Box 1101, 3 Golan Street, Airport City, Israel, 70151, telephone 972–3–9774529, fax 972–3–9774592; email *novicovv@mot.gov.il.* You may find this incorporated by reference (IBR) material on the CAAI website at *www.caa.gov.il.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. 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–2020–0334.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3226; email *tom.rodriguez@faa.gov.*

Issued on April 16, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2020–08751 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0338; Product Identifier 2020–NM–047–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in certain emergency locator transmitters (ELT), which highlighted a lack of protection against current injections of 28 volts direct current (DC) or 115 volts alternating current (AC) that could lead to thermal runaway and a battery fire. This proposed AD would require modifying a certain ELT by installing a diode between the ELT and the terminal block, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by June 11, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For the material identified in this proposed AD that will be incorporated by reference (IBR), 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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0338.

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–2020–0338; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0338; Product Identifier 2020–NM–047–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0070, dated March 24, 2020 (''EASA AD 2020–0070'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes.

This proposed AD was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in certain ELTs, which highlighted a lack of protection against current injections of 28 volts DC or 115 volts AC that could lead to thermal runaway and a battery fire. The FAA is proposing this AD to address local fires in non-rechargeable lithium batteries installed in certain ELTs, which could result in damage to the airplane and injury to occupants. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2020–0070 describes procedures for modifying a certain ELT by installing a diode between the ELT and the terminal block. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0070 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0070 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require

compliance with EASA AD 2020–0070 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0070 that is required for compliance with EASA AD 2020–0070 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0338 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 7 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × $85 per hour = $425	$400	$825	$5,775

According to the manufacturer, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage for affected individuals. As a result, the FAA has included all known costs in the cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) 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.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2020–0338; Product Identifier 2020–NM–047–AD.

(a) Comments Due Date

The FAA must receive comments by June 11, 2020.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0070, dated March 24, 2020 (''EASA AD 2020–0070'').

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/Furnishings.

(e) Reason

This AD was prompted by the results of laboratory tests on non-rechargeable lithium batteries installed in certain emergency locator transmitters (ELTs), which highlighted a lack of protection against current injections of 28 volts direct current (DC) or 115 volts alternating current (AC) that could lead to thermal runaway and a battery fire. The FAA is issuing this AD to address local fires in non-rechargeable lithium batteries installed in ELTs, which could result in damage to the airplane and injury to occupants.

(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, EASA AD 2020–0070.

(h) Exceptions to EASA AD 2020–0070

(1) Where EASA AD 2020–0070 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0070 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation 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 2020–0070 that contains RC procedures and tests: Except as required by paragraph (i)(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.

(j) Related Information

(1) For information about EASA AD 2020–0070, 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.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. 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–2020–0338.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

Issued on April 17, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2020–08754 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2020–0217]

RIN 1625–AA08

Special Local Regulation; Great Western Tube Float; Colorado River, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the location of the special local regulation for the annual Great Western Tube Float, which is held on the navigable waters of the Colorado River in Parker, AZ. The change of the location for the special local regulation is necessary to provide for the safety of life on the navigable waters during the event. This action will restrict vessel traffic in certain waters of the Colorado River, from 7 a.m. to 6 p.m. one Saturday in June, from Buckskin Mountain State Park to La Paz County Park. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 12, 2020.

ADDRESSES: You may submit comments identified by docket number USCG–2020–0217 using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Briana Biagas, Waterways Management, U.S. Coast Guard; telephone 619–278–7656, email *D11MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The Great Western Tube Float is an annual recurring event listed in Table 1, Item 9 of 33 CFR 100.1102, Annual Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona). Special local regulations exist for the marine event to allow for special use of the Colorado River, Parker, AZ for this event.

The purpose of this rulemaking is to update the location for the Great Western Tube Float which will provide effective control over the marine event and insure safety of life in the regatta or marine parade area. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The Great Western Tube Float is an annual event normally held on a Saturday in June on the waters of the Colorado River, Parker, AZ.

33 CFR 100.1102 lists the annual marine events and special local regulations on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona). The enforcement date and regulated location for this marine event are listed in Table 1, Item 9 of Section 100.1102.

The location listed in the Table indicates that the marine event will occur on the navigable waters of the Colorado River from La Paz County Park to the BlueWater Resort and Casino, immediately before the Headgate Dam. However, this rule will change the location to the navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park, to reflect the actual location of this year's event. This change is needed to accommodate the sponsor's event plan and ensure that adequate regulations are in place to protect the safety of vessels and individuals that may be present in the regulated area. No other portion of Table 1 of Section 100.1102 or other provisions in Section 100.1102 would be affected by this regulation.

The special local regulations are necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the Colorado River waterway. Persons and vessels will continue to be prohibited from anchoring, blocking, loitering, or impeding within this regulated waterway during the enforcement period unless authorized by the COTP, or his designated representative. Additionally, movement of all vessels within the regulated area and entry of all vessels into the regulated area will be restricted. Before the effective period, the Coast Guard will publish information on the event in the weekly LNM. The proposed regulatory text appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. This event takes place annually on one Saturday in June and will utlize only a small portion of the Colorado River during the event. This event is already included in our regulations, the only change is to the location on the river where the event would take place. The Coast Guard will publish a local notice to mariners in the weeks before the event that details the vessel restrictions of the regulated area.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, 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 preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of marine event special local regulations on the navigable waters of the Colorado River. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal

eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.1102, in Table 1 to § 100.1102, amend item ''9'' to read as follows:

9. Great Western Tube Float	
Sponsor	City of Parker, AZ.
Event Description	River float.
Date	One Saturday in June.
Location	Parker, AZ.
Regulated Area	The navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park.

Dated: April 15, 2020.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2020–08393 Filed 4–24–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2019–OSERS–0163]

Proposed Priorities—Innovative Rehabilitation Training Program

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

ACTION: Proposed priorities.

SUMMARY: The Assistant Secretary for the Office of Special Education and Rehabilitative Services proposes priorities under the Innovative Rehabilitation Training program, Catalog of Federal Domestic Assistance (CFDA) numbers 84.263D/E/F. The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2020 and later years. We take this action to improve employment outcomes and raise expectations for all people with disabilities. The program funds time-limited pilot innovative rehabilitation training projects to develop, refine, implement, evaluate, and disseminate innovative methods of training vocational rehabilitation (VR) personnel to support the work of the State VR agencies in the following topic areas: Client Assistance Program (84.263D); assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting (84.263E); and field-initiated projects in an area related to VR (84.263F).

DATES: We must receive your comments on or before May 27, 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, address them to Cassandra P. Shoffler, U.S. Department of Education, 400 Maryland Avenue SW, Room 5122, 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: Cassandra P. Shoffler, U.S. Department of Education, 400 Maryland Avenue SW, Room 5122, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: (202) 245–7827. Email: *84.263DEF@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 the proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the proposed priority 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 the proposed priorities. Please let us know of any further 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 the proposed priorities 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 the proposed priorities. 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: The Innovative Rehabilitation Training program is designed to develop (a) new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to individuals with disabilities; (b) new and improved methods of training rehabilitation personnel so that there may be a more effective delivery of rehabilitation services to individuals with disabilities by designated State rehabilitation agencies and designated State rehabilitation units or other public or non-profit rehabilitation service agencies or organizations; and (c) new innovative training programs for VR professionals and paraprofessionals to have a 21st-century understanding of the evolving labor force and the needs of individuals with disabilities so they can more effectively provide VR services to individuals with disabilities.

Program Authority: 29 U.S.C. 709(c) and 772.

Applicable Program Regulations: 34 CFR parts 385 and 387.

Proposed Priorities: This document contains four proposed priorities.

Proposed Priority 1—Topic Area One: Innovative Rehabilitation Training Project, Client Assistance Program

Background

The purpose of the Client Assistance Program (CAP) under the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA) (Rehabilitation Act), is to advise and inform VR clients and applicants with disabilities of all services and benefits available to them through programs authorized under the Rehabilitation Act, including under sections 113 and 511, and title I of the Americans with Disabilities Act of 1990, and advocate on behalf of VR clients and applicants in their relationships with projects, programs, and services provided under the Rehabilitation Act.

According to the Annual Client Assistance Program Report (RSA–227), CAP offices responded to 40,917 requests for information and referral in FY 2018. They also provided extensive services—including assistance and advocacy—to 4,038 individuals with disabilities that year.

In FY 2014, the Rehabilitation Services Administration (RSA) funded a CAP training and technical assistance center, which primarily provides training on the statutory and regulatory requirements governing VR services. Such training continues to be necessary, however, to be effective advocates for VR clients and applicants today. CAP professionals also need greater expertise about the expanded opportunities for quality employment and economic self-sufficiency made available after WIOA. These opportunities include a focus on acquiring career-oriented credentials, such as advanced postsecondary degrees; career exploration and advancement strategies, such as work-based learning, apprenticeships, customized employment, and career pathways; and pre-employment transition services and outreach to subminimum wage employers. Furthermore, CAP professionals require updated leadership, relationship-building, and management skills to be effective advocates for VR clients and applicants.

Proposed Priority

A project under this priority must increase the capacity of CAP professionals to inform VR clients and applicants about the expanded opportunities under WIOA and provide the assistance and advocacy the clients and applicants need. The project must develop a new or substantially improved training program, including stand-alone modules to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals, or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for feedback and continuous improvement to ensure the training program or modules are refined throughout years two, three, four, and five must be included.

The training must be of sufficient scope, intensity, and duration for VR CAP professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the topic area.

The training curricula and materials must encompass: (a) The expanded opportunities available under WIOA and the pertinent provisions regarding unified and combined State plans, common performance measures, and the workforce development system; (b) specific opportunities and challenges for individuals with the most significant disabilities, students and youth with disabilities, and traditionally underserved populations, including those at the intersection of poverty and disability; and (c) leadership, relationship-building, and management skills promoting effective CAP personnel interaction with State VR agencies, State Rehabilitation Councils, and other VR stakeholders.

Training delivery methods must encompass: (a) State-of-the-art communication tools and platforms, including virtual conferences, social media, and searchable databases; and (b) the latest knowledge translation methods and techniques. The applicant must include the resources developed by the RSA VR Technical Assistance Centers and Demonstration and Training projects, available at the National Clearinghouse for Rehabilitation Training Materials, and other Federal and nongovernment sources, in developing its training and technical assistance curricula and delivery methods.

Proposed Priority 2—Topic Area Two: Innovative Rehabilitation Training Program, Assisting and Supporting Individuals With Disabilities Pursuing Self-Employment, Business Ownership, and Telecommuting

Background

Self-employment, business ownership, and telecommuting could be viable options for individuals with disabilities who face barriers to competitive integrated employment, such as health challenges, inaccessible work sites, and lack of transportation, and could offer people with disabilities an opportunity for economic independence. A 2017 study funded by the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) [1] analyzed data

[1] Reference: *naric.com/?q=en/rif/self-employment-may-be-promising-avenue-economic-independence-people-disabilities.* Additional

Continued

from 230,931 VR consumers age 16 or older who completed VR services and became employed in 2008 or 2009. The researchers found that: (1) On average, only 2.1 percent of VR consumers became self-employed; (2) self-employment rates were lowest for consumers in urban counties (1.4 percent) and highest for consumers in isolated rural counties (5.2 percent), while the rates in large rural and small rural counties fell in between (3.5 percent and 3.7 percent); and (3) consumers who became self-employed earned about $1.30 more per hour, on average, at the start of their jobs than consumers who became competitively employed. Consumers who became self-employed were also able to work about three hours less per week, on average, and still earn weekly pay equivalent to their competitively employed peers.

The U.S. Department of Labor, Office of Disability Employment Policy (ODEP) examined telework practices of public and private sector employers, finding that 80 percent had employees with disabilities and 23 percent had employees who telework, but only 8 percent had employees with disabilities who telework.[2]

The use of self-employment, business ownership, and telecommuting may assist VR consumers with achieving competitive integrated employment.

Proposed Priority

A project in the area of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting must develop a new or substantially improved and, to the extent possible, evidence-based[3] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for feedback and continuous improvement to ensure the training program or modules are refined throughout years two, three, four, and five must be included.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the area of assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting.

Proposed Priority 3—Topic Area Three: Innovative Rehabilitation Training Program, Field Initiated

Background

The purpose of the Innovative Rehabilitation Training program, Field Initiated project, is to develop, refine, implement, evaluate, and disseminate innovative methods of training for VR personnel in an area for which no training currently exists, enhance training in an area for which the existing training is no longer current or relevant, or enhance training in an area that has received increased emphasis under the Rehabilitation Act.

Proposed Priority

A field-initiated project must clearly identify the topic to be addressed and provide sufficient evidence to demonstrate the need for the innovative rehabilitation training in a proposed new topic area or, in areas for which there is existing training, demonstrate that the existing training is not adequately meeting the needs of VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals.

The project must develop a new or substantially improved and, to the extent possible, evidence-based[4] training program, including stand-alone modules and instructional materials to be incorporated into an existing academic degree program for educating VR counselors or other VR professionals and paraprofessionals, or into short-term training for VR professionals, or both. The training program or modules must be developed by the end of the first year of the project period and piloted, refined, implemented, evaluated, and disseminated in years two, three, four, and five of the project period. A process for feedback and continuous improvement to ensure the training program or modules are refined throughout years two, three, four, and five must be included.

The training must be of sufficient scope, intensity, and duration for VR professionals, paraprofessionals, and individuals studying to become VR professionals and paraprofessionals to achieve increased skill, knowledge, and competence in the topic area.

Proposed Priority 4—Applications From New Potential Grantees

Background

In order to increase the size of the applicant pool, we propose a priority for applications from new potential grantees.

Proposed Priority

(a) Under this priority, an applicant must demonstrate one or more of the following:

(i) The applicant has never received a grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(ii) The applicant does not, as of the deadline date for submission of applications, have an active grant, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, under the program from which it seeks funds.

(iii) The applicant has not had an active discretionary grant under the program from which it seeks funds, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(iv) The applicant has not had an active discretionary grant from the Department, including through

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information on this study can be found at Ipsen, C., and Swicegood, G. (2017) Rural and urban vocational rehabilitation self-employment outcomes. Journal of Vocational Rehabilitation, 46, 97–105. This article is available from the NARIC collection under Accession Number J75341.

[2] Linden, Maureen: Telework research and practice: Impacts on people with disabilities. *www.researchgate.net/profile/Maureen_Linden/publication/261881961_Telework_Research_and_Practice_Impacts_on_People_with_Disabilities/links/586405d708ae6eb871ad02f5/Telework-Research-and-Practice-Impacts-on-People-with-Disabilities.pdf.*

[3] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1).

[4] For the purpose of this priority, ''evidence-based'' means the proposed project component is supported, at a minimum, by evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model (as defined in 34 CFR 77.1) is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes (as defined in 34 CFR 77.1)

membership in a group application submitted in accordance with 34 CFR 75.127–75.129, in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(v) The applicant has not had an active contract from the Department in one of the following number of years before the deadline date for submission of applications under the program:

(1) One year;
(2) Two years;
(3) Three years;
(4) Four years;
(5) Five years;
(6) Six years; or
(7) Seven years.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

Types of Priorities

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

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

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

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

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.

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 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 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 both 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 support the work of the State VR agencies in the Client Assistance Program (84.263D); assisting and supporting individuals with disabilities pursuing self-employment, business ownership, and telecommuting (84.263E); and field-initiated projects related to VR (84.263F); 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 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 this 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 ''small entities'' as for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 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 would be limited to paperwork burden related to preparing an application and that the benefits of these proposed priorities 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 would not impose a burden on a significant number of small entities.

Paperwork Reduction Act of 1995: The proposed priorities 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 79. 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. 2020–08070 Filed 4–22–20; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2019–OSERS–0044]

Proposed Waiver and Extension of the Project Period for a Grant That Provides Rehabilitation Short-Term Training to the Client Assistance Program (CAP)

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

ACTION: Proposed waiver and extension of project period.

SUMMARY: The Secretary proposes to waive the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. The proposed waiver and extension would enable the Rehabilitation Short-Term Training to the CAP under Catalog of Federal Domestic Assistance (CFDA) number 84.246K to receive funding for an additional performance period of one year, not to exceed September 30, 2021.

DATES: We must receive your comments on or before May 27, 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 ''How to use *Regulations.gov*'' in the Help section.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver

your comments about the proposed waiver and extension, 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: Contact 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: *felipe.lulli@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 this proposed waiver and extension.

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 this proposed waiver and extension. Please let us know of any further 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 this proposed waiver and extension in Room 5059, 550 12th Street SW, Washington, DC, between the hours of 8:30 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 this proposed waiver and extension. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

We are proposing to extend the Rehabilitation Short-Term Training—Client Assistance Program (CAP) for an additional year to assess and enhance the Department's CAP training and technical assistance approaches in light of (a) the expanded quality employment opportunities for individuals with disabilities promoted by the Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3101 *et seq.*); (b) promising employment initiatives advanced by the Rehabilitation Service Administration's (RSA's) Vocational Rehabilitation Technical Assistance Centers, consistent with WIOA; and (c) new training delivery platforms and methodologies that could be applied to this CAP training program. In short, the waiver and extension will allow RSA to design a new, innovative training program that, consistent with WIOA, would maximize the capacity of CAP personnel to inform, advise, and advocate for individuals with disabilities and facilitate their access to expanded quality employment opportunities in their States through services and supports available under the Rehabilitation Act of 1973, as amended by WIOA (Rehabilitation Act). These services and supports may include (a) pre-employment transition services and the limitations on the use of subminimum wages under sections 113 and 511 of the Rehabilitation Act; (b) career-focused credentials attainment and measurable skill gains; and (c) career exploration and career advancement strategies such as work-based learning, apprenticeships, customized employment, and career pathways.

The Rehabilitation Act authorizes the Short-Term Training Program under section 302 (29 U.S.C. 772) to train CAP personnel authorized under section 112 of the Rehabilitation Act (29 U.S.C. 732).

In September 2015, RSA awarded a 60-month grant to the National Disability Rights Network under the Rehabilitation Short-Term Training to the CAP to provide training and technical instruction to the 57 CAP grantees on the statutory and regulatory requirements governing the provision of vocational rehabilitation (VR) and other services under the Rehabilitation Act. The National Disability Rights Network's capacity-building activities address CAP management and operations, individual and systems advocacy, data collection and reporting, and specific provisions such as pre-employment transition services and limitations on the use of subminimum wages. Its training and technical instruction vehicles include an annual VR orientation meeting, a fiscal management conference, webinars, on-site visits, ongoing web resources and alerts, specialized institutes, and an annual conference, among other activities. The current project period ends on September 30, 2020.

Waivers and Extensions

The Department will not be running a Rehabilitation Short-Term Training to the CAP competition in FY 2020. Rather, the Department will be including the CAP as one of the topic areas under the Innovative Rehabilitation Training program. The Department has concluded that it would not be in the public interest to have a lapse in the critically needed resources currently provided by the Rehabilitation Short-Term Training to the CAP. Allowing training and technical instruction to lapse while the Department establishes its innovative CAP training program would reduce the capacity of the 57 CAP grantees nationwide to provide information to, and advocate on behalf of, individuals with disabilities seeking or receiving services from the VR and other programs under the Rehabilitation Act critical to their achievement of high-quality employment, independent living, and self-sufficiency.

For these reasons, the Secretary proposes to waive the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, and the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver would allow the Department to issue a one-time FY 2020 continuation award to the Rehabilitation Short-Term Training to the CAP, as follows.

84.246K	Rehabilitation Short-Term Training to the CAP	$200,000

Any activities carried out during the year of this continuation award must be consistent with the scope, goals, and objectives of the grantee's application as approved in the FY 2015 competition.

The requirements for continuation awards are set forth in 34 CFR 75.253.

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waiver and extension of the project period would not have a significant economic impact on a substantial number of small entities. The only entity that would be affected by the proposed waiver and extension of the project period is the current grantee and any other potential applicant.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the extension of an existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of proposed waiver and extension of the project period does not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. 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.

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 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. 2020–08172 Filed 4–22–20; 4:15 pm]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2019–0638; FRL–10008–00–Region 4]

Air Plan Approval; North Carolina; Miscellaneous Permit Provisions Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), with letters dated September 18, 2009, September 16, 2016, and July 10, 2019. These SIP revisions amend several of North Carolina's rules regarding construction and operating permits. This action is being proposed pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before May 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2019–0638 at *www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Evan Adams, 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. The telephone number is (404) 562–9009. Mr. Adams can also be reached via electronic mail at *adams.evan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

North Carolina has a SIP-approved combined construction and operating permit program for minor sources, and the program's regulations include requirements for obtaining preconstruction and operating permits for different types of minor sources. The program covers ''true minor'' sources, which have the potential to emit (PTE) certain pollutants below major source thresholds for new sources and modifications. The SIP-approved minor source permitting program also includes provisions for issuing permits that establish federally enforceable emission limits to restrict the PTE of certain pollutants below major source and major modification applicability thresholds, referred to as ''synthetic minor'' sources in the North Carolina SIP. These program rules also specify exemptions from the requirement to obtain construction and operating permits.

North Carolina's September 18, 2009,[1] [2] submittal revises rule 15A North Carolina Administrative Code (NCAC) 02Q .0304, *Applications,* to make clarifying and ministerial edits. The September 16, 2016,[3] [4] submittal revises 15A NCAC 02D .0101, *Definitions,* and 15A NCAC 02Q .0101, *Required Air Quality Permits;* .0103, *Definitions;* and .0104, *Where to Obtain and File Permit Applications,* to make

[1] EPA received the submittal on September 22, 2009.

[2] EPA received a supplemental submittal of corrected redline/strikeout changes for 02Q Section .0304 on June 7, 2019. See the docket for this action.

[3] EPA received the submittal on October 4, 2016.

[4] EPA notes Section 02Q .0203,—''Permit and Application Fees'' was submitted as well. However, this Section is not approved into the SIP, and is not appropriate for the SIP. EPA will therefore not take action on this Section.

clarifying and administrative updates.[5] Finally, the July 10, 2019, submittal readopts, and makes clarifying and ministerial edits to, the following: 15A NCAC 02Q .0101, *Required Air Quality Permits;* .0103, *Definitions;* .0104, *Where to Obtain and File Permit Applications;* .0105, *Copies of Referenced Documents;* .0106, *Incorporation by Reference;* .0107, *Confidential Information;* .0108, *Delegation of Authority;* .0109, *Compliance Schedule for Previously Exempted Activities;* .0110, *Retention of Permit at Permitted Facility;* and .0111, *Applicability Determinations.*[6] These changes are discussed in detail in Section II of this notice.

EPA has reviewed the proposed changes to the minor source construction and operating permitting regulations and preliminarily finds them to be consistent with CAA sections 110(a)(2)(C) and 110(l) and EPA's minor NSR regulations found at 40 CFR 51.160—164.

II. Analysis of North Carolina's Submittals

A. September 18, 2009, Submittal[7]

The September 18, 2009, submittal makes changes to Rule 15A NCAC 02Q .0304, *Applications,* to make clarifying and ministerial updates to the required elements of applications for obtaining, modifying, or renewing a permit. Specifically, redundant language is removed and minor edits are made to clarify applicable provisions. Accordingly, EPA is proposing to approve these changes as minor clarifying amendments.

B. September 16, 2016, Submittal

The September 16, 2016, submittal makes several rule changes. First, Subchapter 02D is revised at 15A NCAC 02D .0101, *Definitions,* to make ministerial edits throughout the rule, including changes to punctuation, numbering, and other minor language edits. Next, the submittal adds a definition for ''transportation facility,'' which notes that such a facility is a ''complex source,'' as defined by General Statutes, Article 21, *Water and Air Resources,* § 143–213, *Definitions* at 213(22). North Carolina's SIP includes an identical definition in 02Q .0103, *Definitions.* EPA is preliminarily concluding that the inclusion of this definition in 02D .0101 is consistent with applicable CAA requirements.

Next, 02Q .0101, *Required Air Quality Permits,* is changed to include ministerial edits at paragraph (a), including changes to punctuation and other minor language edits. Additionally, paragraph (b) is changed to remove ''Transportation Facility Construction Permits'' as a listed type of required permit. This type of permit was previously included in the North Carolina SIP under 02D Section .0800 and 02Q Section .0600, but those Sections have since been removed from the SIP. *See* 82 FR 22086 (May 12, 2017). As a result, EPA is proposing approval of this change to 02Q .0101.

Finally, 02Q .0103, *Definitions;* and .0104, *Where to Obtain and File Permit Applications,* are revised to include ministerial edits throughout (*e.g.,* changes to punctuation and other minor language edits) and to remove or revise language that previously cross-referenced 02D Section .0800 and 02Q Section .0600. As described above, these changes are necessary to accurately reflect the current SIP requirements given the removal of 02D .0800 and 02Q .0600. EPA is proposing to approve these changes as minor clarifying amendments.

C. July 10, 2019, Submittal

North Carolina's July 10, 2019, submittal makes several rule changes. First, the revision makes non-substantive and ministerial edits to the following: 15A NCAC 02Q .0101, *Required Air Quality Permits;* .0103, *Definitions;* .0104, *Where to Obtain and File Permit Applications;* .0107, *Confidential Information;* .0108, *Delegation of Authority;* .0109, *Compliance Schedule for Previously Exempted Activities;* .0110, *Retention of Permit at Permitted Facility;* and .0111, *Applicability Determinations.* For example, the proposed edits include changes to punctuation, numbering, and other minor language edits.

In 15A NCAC 02Q .0105, *Copies of Referenced Documents,* DAQ updated the agency name and the addresses of offices for which reference documents can be located. Additionally, the changes to 15A NCAC 02Q .0106, *Incorporation by Reference,* replace the address where a copy of the CFR can be purchased to a link to the Government Printing Office where a digital copy of the CFR can be obtained for free. These ministerial updates will better serve the regulated community and the public.

EPA views these changes in the July submittal as either non-substantive or otherwise necessary to clarify applicability. Therefore, EPA proposes to find that the changes will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act, consistent with CAA section 110(l).

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 15A NCAC 02D .0101, *Definitions,* state effective January 1, 2015; 15A NCAC 02Q .0101, *Required Air Quality Permits;* .0103, *Definitions;* .0104, *Where to Obtain and File Permit Applications;* .0105, *Copies of Referenced Documents;* .0106, *Incorporation by Reference;* .0107, *Confidential Information;* .0108, *Delegation of Authority;* .0109, *Compliance Schedule for Previously Exempted Facilities;* .0110, *Retention of Permit at Permitted Facility;* and .0111, *Applicability Determinations,* state effective April 1, 2018; and 15A NCAC 02Q .0304, *Applications,* state effective September 1, 2010. These changes are either non-substantive or otherwise necessary to clarify applicability. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the changes described above to North Carolina's SIP submitted on September 18, 2009, September 16, 2016, and July 10, 2019.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those

[5] North Carolina's September 16, 2016, submittal also removes Rule 02D Section .800, *Complex Sources,* and Rule 02Q Section .0600, *Transportation Facilities Procedures.* EPA previously approved this portion of the submittal on May 12, 2017 (82 FR 22086).

[6] EPA is only proposing action on these portions of North Carolina's July 10, 2019 submittal. EPA will act on other portions of that submittal in a separate action.

[7] At this time, EPA is not acting on changes to 02Q Section .0902 as submitted on September 18, 2009, and supplemented with a June 7, 2019, letter transmitting corrected redline/strikeout changes. EPA will take action on this portion of the submittal at a later date.

imposed by state law. For that reason, this proposed action:

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Mary Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–08500 Filed 4–24–20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2019–0557; FRL–10008–33–Region 5]

Air Plan Approval; Wisconsin; Redesignation of the Inland Sheboygan, WI Area to Attainment of the 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Inland Sheboygan County, Wisconsin area is attaining the 2008 primary and secondary ozone National Ambient Air Quality Standards (NAAQS), and to act in accordance with a request from the Wisconsin Department of Natural Resources (WDNR) to redesignate the area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). WDNR submitted this request on October 9, 2019. EPA is proposing to approve, as a revision to the Wisconsin State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2030 in the Inland Sheboygan area. EPA finds adequate and is proposing to approve Wisconsin's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Inland Sheboygan area. Finally, EPA is proposing to approve the Wisconsin SIP as meeting the applicable base year inventory requirement, emission statement requirements, VOC Reasonably Available Control Technology (RACT) requirements, motor vehicle inspection and maintenance (I/M) program requirements, and NO_X RACT requirements.

DATES: Comments must be received on or before May 27, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0557 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of Wisconsin's redesignation request for the 2008 ozone NAAQS?
V. Has the state adopted approvable motor vehicle emission budgets?
VI. Base year emissions inventory.
VII. Emissions statement.
VIII. Motor vehicle I/M.
IX. VOC RACT.
X. NO_X RACT.
XI. What is EPA's analysis of Wisconsin's redesignation request for the 1997 ozone NAAQS?
XII. What Action is EPA Taking?
XIII. Statutory and Executive Order Reviews.

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Inland Sheboygan nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019, and that the Inland Sheboygan area has met the requirements for

redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Inland Sheboygan area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the State's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Inland Sheboygan area in attainment of the 2008 ozone NAAQS through 2030. EPA is also proposing to approve, as revisions to the Wisconsin SIP, the State's 2011 base year emissions inventory, emission statement certification, VOC RACT requirements, motor vehicle I/M certification, and NO_X RACT certification. EPA also finds adequate and is proposing to approve the newly established 2020 and 2030 MVEBs for the Inland Sheboygan area.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA revised the former 1-hour ozone primary and secondary standards and replaced them with 8-hour standards at a level of 0.08 parts per million (ppm) (40 CFR 50.10). On March 27, 2008, EPA further revised the 8-hour ozone NAAQS by lowering the level of the primary and secondary standards from 0.08 ppm to 0.075 ppm (40 CFR 50.15).

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. On April 30, 2004 (69 FR 23858) and May 21, 2012 (77 FR 30088), EPA designated the entirety of Sheboygan County in Wisconsin as nonattainment for the 1997 ozone NAAQS and 2008 ozone NAAQS, respectively.

On March 1, 2011, EPA determined that the Sheboygan nonattainment area had attained the 1997 ozone NAAQS (76 FR 11080). Since that determination, the area has continued to attain the 1997 ozone NAAQS, and the area retains its Moderate classification. On December 19, 2016, EPA reclassified the Sheboygan nonattainment area for the 2008 ozone NAAQS as Moderate with an attainment date of July 20, 2018 (81 FR 91841).

On July 15, 2019, EPA revised the designation for the Sheboygan nonattainment area for the 1997 ozone NAAQS and 2008 ozone NAAQS, by splitting the original area into two distinct nonattainment areas that together cover the identical geographic area of the original nonattainment area (84 FR 33699).[1] One of the separate areas, called the Shoreline Sheboygan County, WI nonattainment area, consists of the eastern portion of the original area, including the Sheboygan Kohler-Andrae monitor. The other separate area, called the Inland Sheboygan County, WI nonattainment area, consists of the western portion of the original area, including the Sheboygan Haven monitor. On August 23, 2019, EPA determined that the Inland Sheboygan area and Shoreline Sheboygan area qualified for one-year attainment date extensions for the 2008 ozone NAAQS to July 20, 2019 (84 FR 44238).

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Wisconsin's redesignation request for the 2008 ozone NAAQS?

A. Has the Inland Sheboygan area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in

[1] In this proposed rule, EPA is not reopening for public comment our final July 15, 2019, action to split the original Sheboygan nonattainment area into two distinct nonattainment areas.

accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,[2] on average, for the 3-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the 3-year period. *See* section 2.3 of appendix P to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from the Sheboygan Haven monitor, which is the only monitoring site in the Inland Sheboygan area. These data are from the 3-year period from 2017–2019, which is the most recent 3-year period available. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Inland Sheboygan area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design value) for the monitoring site are summarized in Table 1.

TABLE 1—ANNUAL FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH-HIGHEST DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE INLAND SHEBOYGAN AREA

Area	Monitor	Year	Percent observed	Fourth-highest (ppm)	2017–2019 average (ppm)
Inland Sheboygan County, WI	Sheboygan Haven (55–117–0009) ..	2017	100	0.070	0.066
		2018	100	0.070	
		2019	100	0.059	

The Inland Sheboygan area's 3-year ozone design value for 2017–2019 is 0.066 ppm, which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the Inland Sheboygan area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Inland Sheboygan area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2020 data to date indicate that this area continues to attain the 2008 ozone NAAQS. As discussed in section IV.D.3. below, WDNR has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Wisconsin met all applicable requirements of section 110 and part D of the CAA for the Inland Sheboygan area, and does Wisconsin have a fully approved SIP for the area under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). We are proposing to determine that Wisconsin has met all currently applicable SIP requirements for purposes of redesignation of the Inland Sheboygan area to attainment of the 2008 ozone standard under section 110 and part D of the CAA, in accordance with section 107(d)(3)(E)(v). Additionally, with the exception of the base year emissions inventory requirement of section 182(a)(1) of the CAA, the emissions statement requirement of section 182(a)(3)(B) of the CAA, the VOC RACT requirements of section 182(b)(2) of the CAA, the I/M requirements of section 182(b)(4) of the CAA, and the NO_X RACT requirements of section 182(f) of the CAA, EPA finds that all applicable requirements of the Wisconsin SIP for the area, for purposes of redesignation, have been fully approved under section 110(k) of the CAA. As discussed in sections VI. through X. below, EPA is proposing to approve Wisconsin's base year emissions inventory, emissions statement, motor vehicle I/M, VOC RACT, and NO_X RACT SIP submissions as meeting the Moderate RACT requirements of section 182(b)(2) of the CAA for the Inland Sheboygan area under the 2008 ozone NAAQS. Upon final approval of these SIP elements, all applicable requirements of the Wisconsin SIP for the area will have been fully approved under section 110(k) of the CAA.

In making these determinations, EPA ascertained which CAA requirements are applicable to the Inland Sheboygan area and the Wisconsin SIP and, if applicable, whether the required Wisconsin SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum (*see* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. *See also* the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

Since EPA is proposing to determine that the Inland Sheboygan area has attained the 2008 ozone standard, under 40 CFR 51.1118, if that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements (the

[2] The ozone season is defined by state in 40 CFR 58, appendix D. The ozone season for Wisconsin is March–October 15. *See* 80 FR 65292, 65466–67 (October 26, 2015).

Reasonably Available Control Measures (RACM) requirement of section 172(c)(1) of the CAA, the Reasonable Further Progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA) would not be applicable to the area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble EPA stated that:

The section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498, 13564 (April 16, 1992).

See also Calcagni memorandum at 6 (''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'').

1. Wisconsin Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Inland Sheboygan Area for Purposes of Redesignation

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* the NO_X SIP call, the Clean Air Interstate Rule (CAIR), and the Cross State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements that are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Loraine, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Wisconsin's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[3]

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Inland Sheboygan area was initially classified as Marginal and then reclassified as Moderate under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in sections 182(a) and (b) (Marginal and Moderate nonattainment area requirements). A thorough discussion of the requirements contained in section 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than three years from the date of the nonattainment designation.

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting RACT on existing sources. Because attainment has been reached in the Inland Sheboygan area, no additional measures are needed to provide for attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.1118.

[3] EPA has previously approved provisions of the Wisconsin SIP addressing section 110 elements under the 2008 ozone NAAQS at 80 FR 54725 (September 11, 2015), 81 FR 3334 (January 21, 2016), 81 FR 53309 (August 12, 2016), and 82 FR 9515 (February 7, 2017).

The RFP requirement under section 172(c)(2) is defined as progress that must be made toward attainment. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement is superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Wisconsin's NSR program on October 6, 2014 (79 FR 160064) and February 7, 2017 (82 FR 9515). However, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Wisconsin has demonstrated that the Inland Sheboygan area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Wisconsin's PSD program will become effective in the Inland Sheboygan area upon redesignation to attainment. EPA approved Wisconsin's PSD program on January 22, 2003 (68 FR 2909) and February 25, 2010 (75 FR 8496).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Wisconsin SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the implementation of contingency measures if the area fails to make reasonably further progress or to attain the NAAQS by the attainment deadline. With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Inland Sheboygan area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). See also 40 CFR 51.1118.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity), as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d), because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved.[4] *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Wisconsin has an approved conformity SIP for the Inland Sheboygan area. *See* 79 FR 10995 (February 27, 2014).

[4] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of MVEBs, such as control strategy SIPs and maintenance plans.

iii. Subpart 2 Section 182(a) and (b) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. EPA approved Wisconsin's base year emissions inventory for the entirety of Sheboygan County on March 7, 2016 (81 FR 11673). In its October 9, 2019 submittal, WDNR requested that EPA replace the previously approved 2011 inventory for all of Sheboygan County with a 2011 base year emissions inventory for the Inland Sheboygan area. This inventory is discussed below in section IV.C.2. and VI. of this proposed rule. EPA is proposing to approve the inventory for the Inland Sheboygan area for the 2011 nonattainment year as meeting the section 182(a)(1) base year inventory requirement.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Inland Sheboygan area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Inland Sheboygan area under the prior 1-hour ozone NAAQS. *See* 59 FR 41709 (August 15, 1994) and 60 FR 20643 (April 27, 1995).

Section 182(a)(2)(B) requires each state with a Marginal ozone nonattainment area that implemented or was required to implement a vehicle I/M program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Wisconsin's redesignation request for this standard, the Inland Sheboygan area is not subject to the section 182(a)(2)(B) requirement because the area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments and because Wisconsin complied with this requirement for the Inland Sheboygan

area under the prior 1-hour ozone NAAQS.

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below in section IV.D.4. of this proposed rule, Wisconsin will continue to update its emissions inventory at least once every three years. With regard to stationary source emission statements, EPA approved Wisconsin's emission reporting program as satisfying the CAA emission statement requirement on December 6, 1993 (58 FR 64155). In a September 25, 2017 SIP submittal, WDNR certified that this approved SIP regulation remains in place and remain enforceable for the 2008 ozone standard. As discussed in section VII., below, EPA is proposing to approve Wisconsin's emission statement certification SIP as meeting the section 182(a)(3)(B) requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard.

Section 182(b)(2) requires states with Moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) All sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. For the reasons discussed in section IX., below, EPA is proposing to find that the Wisconsin SIP meets the section 182(b)(2) Moderate RACT requirements for the Inland Sheboygan area under the 2008 ozone NAAQS.

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps. EPA approved a revision to Wisconsin's Stage II program on November 4, 2013 (78 FR 65875).

Section 182(b)(4) requires an I/M program in each state with a Moderate ozone nonattainment area. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and approved revisions to the program on September 19, 2013 (78 FR 57501). On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved I/M program meets the I/M requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS. As discussed in section VIII., below, EPA is proposing to approve Wisconsin's I/M certification SIP as meeting the I/M requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Regarding the source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Wisconsin currently has a fully-approved part D NSR program in place. EPA approved Wisconsin's NSR SIP on January 18, 1995 (60 FR 3538) and February 7, 2017 (82 FR 9515). Further, EPA approved Wisconsin's SIP revision addressing the NSR requirements for the 2008 ozone NAAQS, on May 3, 2019 (84 FR 18989). In addition, EPA approved Wisconsin's PSD program on October 6, 2014 (79 FR 60064). The State's PSD program will become effective in the Inland Sheboygan area upon redesignation of the area to attainment.

Section 182(f) requires states with Moderate nonattainment areas to implement NO_X RACT. EPA approved Wisconsin's NO_X RACT SIP on October 19, 2010 (75 FR 64155). On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved NO_X RACT rules meet the NO_X RACT requirements of CAA section 182(f) for the Inland Sheboygan area for the 2008 ozone NAAQS. As discussed in section X., below, EPA is proposing to approve Wisconsin's NO_X RACT certification SIP as meeting the NO_X RACT requirements of the CAA for the Inland Sheboygan area for the 2008 ozone NAAQS.

Thus, as discussed above, with approval of Wisconsin's section 182(1)(1) base year inventory requirement, section 182(a)(3)(B) emission statement requirements, section 182(b)(2) VOC RACT requirements, section 182(b)(4) I/M program requirements, and section 182(f) NO_X RACT requirements, EPA finds that the Inland Sheboygan area will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Inland Sheboygan Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Wisconsin has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes approval of Wisconsin's section 182(a)(1) base year inventory requirements, section 182(a)(3)(B) emission statement requirements, section 182(b)(2) VOC RACT requirements, section 182(b)(4) I/M program requirements, and section 182(f) NO_X RACT requirements, EPA will have fully approved the Wisconsin SIP for the Inland Sheboygan area under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426). Additional measures may also be approved in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Inland Sheboygan area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Wisconsin has demonstrated that that the observed ozone air quality improvement in the Inland Sheboygan area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the State has calculated the change in emissions between 2011 and 2014. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to several regulatory control measures that the Inland Sheboygan area and upwind areas have implemented in recent years. In addition, Wisconsin provided an analysis to demonstrate the

improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Wisconsin has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

CAIR/CSAPR. Under the ''good neighbor provision'' of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Wisconsin, to prohibit emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of both ozone and $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina* v. *EPA,* 531 F.3d 896, *modified,* 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS.[5] Through Federal Implementation Plans, CSAPR required electric generating units (EGUs) in eastern states, including Wisconsin, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_X trading program for EGUs in eastern states, including Wisconsin, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20% reduction in ozone season NO_X emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO_X emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following:

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000(65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur, which were phased in between 2004 and 2006. By 2006, refiners and importers were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland Sheboygan area, the majority of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as remaining older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule is being phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for non-methane organic gases (NMOG) and NO_X, presented as NMOG+NO_X, and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80% reduction from today's fleet average and a 70% reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from previous standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowered the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. EPA estimated that by 2015 NO_X and VOC emissions would decrease nationally by 1,260,000 tons and 54,000 tons, respectively, and that by 2030 NO_X and VOC emissions will decrease nationally by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Inland

[5] In a December 27, 2011 rulemaking, EPA included Wisconsin in the ozone season NO_X program, addressing the 1997 ozone NAAQS (76 FR 80760).

Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards were phased in for the 2008 through 2015 model years based on engine size. The sulfur limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these non-road diesel engines by approximately 90%. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Non-road Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model years 2004 through 2012. When fully implemented, EPA estimates an overall 72% reduction in national VOC emissions from these engines and an 80% reduction in national NO_X emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011 and are expected to result in a 15 to 25% reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80% reduction in NO_X from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Inland Sheboygan area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission Reductions

Wisconsin is using a 2011 emissions inventory as the nonattainment year. Although the Sheboygan Haven monitor in the Inland Sheboygan area was not yet operational in 2011, this is appropriate because it was one of the years used to designate the area as nonattainment due to an exceedance of the NAAQS at the Sheboygan Kohler-Andrae monitor. Wisconsin is using 2014 as the attainment year, which is appropriate because the Sheboygan Haven monitor in the Inland Sheboygan area began operating in 2014, and the monitor attained the NAAQS in the 2014 attainment year and every year thereafter.

Point source inventory. Wisconsin created the point source emission inventory using annually reported point source emissions, EPA's Clean Air Markets Division database, and approved EPA techniques for emissions calculation (*e.g.,* emission factors) for 2011 and 2014 point source emissions from state inventory databases.

There is one EGU point source facility located in the Inland Sheboygan County area. For this facility, WDNR used the maximum daily heat input reported in EPA's Clean Air Markets Division (CAMD) database as a conservative estimate of summer day heat input during the 2011 and 2014 ozone seasons. The summer day emissions were then calculated by multiplying the maximum daily heat input by an average NO_X and VOC emission rate.

Wisconsin tabulated the 2011 and 2014 emissions inventories for non-EGU point sources using the emissions data reported annually by each facility operator to the Wisconsin air emissions inventory (AEI). The AEI calculates emissions for each individual emissions unit or process line by multiplying fuel or process throughput by the appropriate emission factor that is derived from mass balance analysis, stack testing, continuous emissions monitoring, engineering analysis, or EPA's Factor Information Retrieval database. The emission calculations in the AEI also account for any operating control equipment.

Nonpoint (area) source inventory. For the 2011 nonattainment year, nonpoint source emissions inventory estimates were based on the 2011 National Emissions Inventory (NEI) version 2, except for the residential and commercial portable fuel containers and Stage II refueling categories.[6] Emission calculation methodologies used in developing 2011 nonpoint emissions inventory are available in EPA's 2011 NEI, version 2 TSD.[7]

For the 2014 attainment year, nonpoint source emissions inventory estimates were based on the data interpolation between 2011 NEI version 2 and EPA's 2017 emissions modeling inventory, except for the Stage II refueling category. Methodologies used to develop 2017 emissions modeling inventory are available in EPA's 2011 version 6.3 emissions modeling platform.[8]

In order to obtain the area source emissions for the Inland Sheboygan County area, the whole county emission estimates were allocated to the partial county based on population data. The Sheboygan County population for 2014 was estimated by interpolating the population between 2013 and 2015 population data from the Wisconsin Department of Administration. The partial county population was identified based on the relative population of the Minor Civil Divisions in the Inland Sheboygan County area compared with the entire county. For 2011 and 2014, 48% of the county's population was estimated to live in the Inland Sheboygan County area.

On-road mobile source inventory. On-road mobile sources are motorized mobile equipment that are primarily used on public roadways. Examples of on-road mobile sources include cars, trucks, buses and road motorcycles. Wisconsin used the Motor Vehicle Emission Simulator (MOVES), EPA's recommended mobile source model, to develop on-road emissions rates. The version used was MOVES2014b.

The modeling inputs to MOVES include detailed transportation data (*e.g.,* vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), which were provided by the Wisconsin Department of Transportation.

Non-road mobile source inventory. The methodology for the 2011 and 2014 non-road emissions categories were developed using EPA's MOVES2014b

[6] For the 2011 nonattainment year, WDNR back-calculated VOC emissions for commercial portable fuel containers from WDNR's 2014 emission estimates and EPA's 2017 emission estimates. For the 2011 nonattainment year and 2014 attainment year, WDNR estimated emissions from vehicle refueling at gasoline stations (Stage II refueling) using EPA's MOVES2014a model with the same activity inputs used for the on-road modeling.

[7] *https://www.epa.gov/sites/production/files/2015-10/documents/nei2011v2_tsd_14aug2015.pdf.*

[8] *https://www.epa.gov/air-emissions-modeling/2011-version-63-platform.*

model, using the same summer day temperatures used for the on-road modeling. The model was run for Sheboygan County for the months of June, July and August. Summer day emissions were calculated by dividing the total emissions over these three months by 92 (the number of days in the three months). Emissions were then allocated from the full county to the Inland Sheboygan area based on surrogates such as population, land area and water area, depending on the category.

For commercial marine, aircraft and rail locomotive (MAR) categories, for the 2011 nonattainment year, the annual emissions estimates used for Sheboygan County are those in EPA's 2011 NEI version 2. For the 2014 attainment year, annual emissions estimates for Sheboygan County were based on the data interpolation between 2011 NEI version 2 and EPA's 2017 emissions modeling inventory.

Summer day emissions for these MAR categories were estimated by dividing the annual emissions by 365. This same value was used in EPA's 2011 version 6.3 emissions modeling platform. The allocation of the full county emissions to the Inland Sheboygan area is based on surrogates such as population, land area and water area, depending on the MAR category.

Using the inventories described above, Wisconsin's submittal documents changes in VOC and NO_X emissions from 2011 to 2014 for the Inland Sheboygan area. Emissions data are shown in Table 2. Data are expressed in terms of tons per summer day (TPSD). Due to rounding, some totals may not correspond with the sum of the separate categories, and some net change amounts may not correspond with the difference of the separate years.

TABLE 2—NO_X AND VOC EMISSIONS IN THE INLAND SHEBOYGAN AREA FOR THE 2011 NONATTAINMENT YEAR AND 2014 ATTAINMENT YEAR (TPSD)

	NO_X			VOC		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point—EGU	0.48	0.53	+0.05	0.04	0.04	0.00
Point—non-EGU	0.82	0.86	+0.04	1.10	1.10	0.00
Area	0.63	0.63	0.00	2.95	2.96	+0.01
On-road	2.60	1.90	−0.70	1.26	0.90	−0.36
Non-road	2.10	1.74	−0.36	2.29	1.92	−0.37
Total	6.62	5.66	−0.96	7.65	6.91	−0.74

As shown in Table 2, NO_X and VOC emissions in the Inland Sheboygan area declined by 0.96 TPSD and 0.74 TPSD, respectively, between 2011 and 2014.

3. Meteorology

To further support Wisconsin's demonstration that the improvement in air quality is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by WDNR. Because the Sheboygan Haven monitor in the Inland Sheboygan area was not operational until 2014, WDNR lacks long-term meteorological data from the Sheboygan Haven site. However, in its February 11, 2020 request that EPA redesignate the Shoreline Sheboygan area, WDNR submitted a meteorological analysis based on 19 years of data collected at the Sheboygan Kohler-Andrae monitor, which is approximately 11 miles from the Haven monitor. Because data from the Sheboygan Kohler-Andrae monitor were used in the initial nonattainment designation of the area, and because this is the closest ozone monitor with sufficient data to perform a longer term analysis of ozone trends vs. meteorological indicators, this analysis is appropriate for purposes of demonstrating that the improvement in air quality in the Inland Sheboygan area is due to permanent and enforceable emissions reductions rather than favorable meteorology.

In its February 11, 2020 submittal, Wisconsin analyzed the maximum fourth-highest 8-hour ozone values for May, June, July, August, and September, for years 2001 to 2019. First, the maximum 8-hour ozone concentration at the Sheboygan Kohler-Andrae monitor was compared to the number of days where the maximum temperature was greater than or equal to 80 °F. Second, WDNR examined the relationship between the average summer temperature for each year of the 2001–2019 period and the fourth-highest 8-hour ozone concentration. These analyses show that over the last 19 years, ozone concentrations at the Kohler-Andrae monitor have decreased substantially. In contrast, temperatures have remained relatively constant, with an increase in the number of hot days and a slight decrease in the average season temperature. Because the correlation between temperature and ozone formation is well established, these data suggest that reductions in precursors are responsible for the reductions in ozone concentrations in the area, and not unusually favorable summer temperatures.

As discussed above, Wisconsin identified numerous Federal rules that resulted in the reduction of VOC and NO_X emissions from 2011 to 2014. In addition, Wisconsin's analyses of meteorological variables associated with ozone formation demonstrate that the improvement in air quality in the area between the year violations occurred and the year attainment was achieved is not due to unusually favorable meteorology. Therefore, EPA finds that Wisconsin has shown that the air quality improvements in the Inland Sheboygan area are due to permanent and enforceable emissions reductions.

D. Does Wisconsin have a fully approvable ozone maintenance plan for the Inland Sheboygan area?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To

address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Inland Sheboygan area to attainment for the 2008 ozone NAAQS, Wisconsin submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Wisconsin's ozone maintenance plan includes the necessary components and to approve the maintenance plan as a revision of the Wisconsin SIP.

1. Attainment Inventory

As discussed above, the Sheboygan Haven monitor in the Inland Sheboygan area has shown attainment of the standard since 2014. Wisconsin selected 2014 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Inland Sheboygan area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions is discussed above in section IV.C.2. of this proposed rule. The emissions for the 2014 attainment year, by source category, are summarized in Table 2 above.

2. Has the state documented maintenance of the ozone standard in the Inland Sheboygan area?

Wisconsin has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by ensuring that current and future emissions of VOC and NO_X for the Inland Sheboygan area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA,* 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Wisconsin is using emissions inventories for the years 2020 and 2030 to demonstrate maintenance. 2030 was selected because it is 10 years after the expected effective date of the redesignation to attainment, and 2020 was selected to demonstrate that emissions are not expected to spike in the interim between the 2014 attainment year and the 2030 final maintenance year. The emissions inventories were developed as described below.

Wisconsin estimated the future year point source emissions by applying growth factors to the 2014 attainment year emissions inventory, as well as considering new and modified sources. Wisconsin's 2020 area source emissions were estimated primarily by interpolating between EPA's 2017 and 2028 modeling inventories, while 2030 area source emissions were estimated primarily by extrapolating EPA's 2023 and 2028 modeling inventories.

The 2020 and 2030 projected on-road and non-road emissions, except for MAR categories, were developed using the MOVES2014a model, as was the case for the 2011 and 2014 emissions. However, for the two MAR categories of aircraft and rail locomotive, the 2020 and 2030 emissions were calculated by linearly interpolating or extrapolating from the 2017, 2023 and, where available, 2028 values from EPA's 2011 Emissions Modeling Platform, Version 6.3.

Emissions data for the 2011 nonattainment year, 2014 attainment year, 2020 interim year, and 2030 maintenance year are shown in Tables 3 and 4 below. Data are expressed in terms of TPSD. Due to rounding, some totals may not correspond with the sum of the separate categories, and some net change amounts may not correspond with the difference of the separate years.

TABLE 3—NO_X EMISSIONS IN THE INLAND SHEBOYGAN AREA FOR THE 2011 NONATTAINMENT YEAR, 2014 ATTAINMENT YEAR, 2020 INTERIM YEAR, AND 2030 MAINTENANCE YEAR (TPSD)

	2011	2014	2020	2030	Net change (2014–2030)
Point—EGU	0.48	0.53	0.62	0.62	+0.09
Point—non-EGU	0.82	0.86	0.99	1.06	+0.20
Area	0.63	0.63	0.64	0.65	+0.02
On-road	2.60	1.90	1.16	0.54	−1.35
Non-road	2.10	1.74	1.22	0.86	−0.89
Total	6.62	5.66	4.63	3.73	−1.93

TABLE 4—VOC EMISSIONS IN THE INLAND SHEBOYGAN AREA FOR THE 2011 NONATTAINMENT YEAR, 2014 ATTAINMENT YEAR, 2020 INTERIM YEAR, AND 2030 MAINTENANCE YEAR (TPSD)

	2011	2014	2020	2030	Net change (2014–2030)
Point—EGU	0.04	0.04	0.04	0.04	0.00
Point—non-EGU	1.10	1.10	1.26	1.36	+0.26
Area	2.95	2.96	2.90	2.83	−0.13
On-road	1.26	0.90	0.65	0.34	−0.56
Non-road	2.29	1.92	1.38	1.21	−0.71
Total	7.65	6.91	6.24	5.78	−1.13

As shown in Tables 3 and 4, NO_X and VOC emissions in the Inland Sheboygan area are projected to decrease by 1.93 TPSD and 1.13 TPSD, respectively, between the 2014 attainment year and 2030 maintenance year. Wisconsin's

maintenance demonstration for the Inland Sheboygan area shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when considering both future source growth and implementation of future controls.

3. Continued Air Quality Monitoring

Wisconsin has committed to continue to operate the Sheboygan Haven monitor in the Inland Sheboygan area. Wisconsin has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Wisconsin remains obligated to meet monitoring requirements, to continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

Wisconsin has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Inland Sheboygan area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. Wisconsin will continue to operate the current ozone monitor located in the Inland Sheboygan area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, Wisconsin will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Wisconsin was compiled for 2014. Point source facilities covered by Wisconsin's emission statement rule, Wisconsin Administrative Code NR 438, will continue to submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Inland Sheboygan area?

Section 175A of the CAA requires that the state adopt a maintenance plan as a SIP revision that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Wisconsin has adopted a contingency plan for the Inland Sheboygan area to address possible future ozone air quality problems. The contingency plan adopted by Wisconsin has two levels of response, a warning level response and an action level response.

In Wisconsin's plan, a warning level response will be triggered when an annual fourth-highest monitored value of 0.075 ppm or higher is monitored within the maintenance area. A warning level response will require Wisconsin to conduct a study. The study would include the two elements. The first element would assess whether actual emissions have deviated significantly from the emissions projections contained in this maintenance plan for the area, along with an evaluation of which sectors and states are responsible for any emissions increases. Second, Wisconsin would investigate whether unusual meteorological conditions during the high-ozone year led to the high monitored ozone concentrations. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation, as well as economic and social impacts, and will be completed no later than May 1st of the next season. Implementation of necessary controls in response to a warning level response trigger will occur within 18 months.

In Wisconsin's plan, an action level response would be triggered if a three-year design value exceeds the level of the 2008 ozone NAAQS (0.075 ppm). When an action level response is triggered, Wisconsin will determine what additional control measures are needed to assure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. Wisconsin may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Wisconsin included the following list of potential contingency measures in its maintenance plan. However, Wisconsin is not limited to the measures on this list:

1. Anti-idling control program for mobile sources, targeting diesel vehicles
2. Diesel exhaust retrofits
3. Traffic flow improvements
4. Park and ride facilities
5. Rideshare/carpool program
6. Expansion of the vehicle emissions testing program

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Wisconsin notes that because it is not possible to determine what control measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Wisconsin's maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Wisconsin has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Inland Sheboygan area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by Wisconsin for the Inland Sheboygan area meets the requirements of section 175A of the CAA, and EPA proposes to approve it as a revision to the Wisconsin SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or

projects that receive Federal funding or support, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and ensuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone NAAQS in EPA's December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X) to address pollution from on-road transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

As discussed earlier, Wisconsin's maintenance plan includes NO_X and VOC MVEBs for the Inland Sheboygan area for 2020, which is an interim year, as well as 2030, which is the last year of the maintenance period. The MVEBS were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBS were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

TABLE 5—MVEBS FOR THE INLAND SHEBOYGAN AREA FOR THE 2020 INTERIM YEAR AND 2030 MAINTENANCE YEAR

[Tons per hot summer day]

Year	NO_X	VOC
2020	1.16	0.65
2030	0.54	0.34

EPA is proposing to approve the MVEBs for use to determine transportation conformity in the Inland Sheboygan area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

B. What is a safety margin?

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 3 and 4, the emissions in the Inland Sheboygan area are projected to have safety margins of 1.93 TPSD for NO_X and 1.13 TPSD for VOC in 2030 (the difference between emissions in the 2014 attainment year, and projected emissions in the 2030 maintenance year, for all sources in the Inland Sheboygan area). Similarly, there is a safety margin of 1.03 TPSD for NO_X and 0.67 TPSD for VOC in 2020. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Wisconsin is not allocating any of the safety margin to the mobile source sector. Wisconsin can request an allocation to the MVEBs of the available safety margins reflected in the demonstration of maintenance in a future SIP revision.

VI. Base Year Emissions Inventory

As discussed above, section 182(a)(1) of the CAA requires areas to submit a base year emissions inventory. As part of Wisconsin's redesignation request for the Inland Sheboygan area, the State submitted a 2011 base year emissions inventory. This inventory is discussed above in section IV.C.2. and summarized in Table 2. EPA is proposing to approve this 2011 base year inventory as meeting the section 182(a)(1) emissions inventory requirement for the Inland Sheboygan area.

VII. Emissions Statement

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas to submit revisions to their SIP to require the owner or operator of each major stationary source of NO_X or VOC to provide the state with an annual statement documenting the actual emissions of NO_X and VOC from their source. Under section 182(a)(3)(B)(ii), a state may waive the emissions statement requirement for any class or category of stationary sources which emits less than 25 tons per year of VOC or NO_X if the state, in its base year emissions inventory, provides an inventory of emissions from such class or category of sources. States and EPA have generally interpreted this waiver provision to apply to sources (without specification of a specific source class or source category) emitting less than 25 tons per year of VOC or NO_X.

Many states, including Wisconsin, adopted these emissions statement rules for the 1-hour ozone NAAQS. For these states, EPA is accepting certifications that their previously adopted emissions statement rules remain in place and are adequate to meet the emissions statement rule requirement under the 2008 ozone standard.

Under NR 438 of the Wisconsin Administrative Code, Wisconsin requires annual NO_X and VOC emission reporting from any facility in the State that emits NO_X above 10,000 pounds (5 tons) per year and VOC above 6,000 pounds (3 tons) per year. This includes facilities in nonattainment areas such as the Inland Sheboygan area for the 2008 ozone NAAQS. EPA previously approved NR 438 into the Wisconsin SIP on December 6, 1993 (58 FR 64155).

In a September 25, 2017, SIP submission, WDNR certified that this approved SIP regulation remains in place and remains enforceable for the 2008 ozone NAAQS.

Because Wisconsin has an EPA approved SIP provision requiring stationary sources to report annually their NO_X emissions over 5 tons and VOC emissions over 3 tons, EPA is proposing to approve Wisconsin's emissions statement certification SIP as meeting the requirement of section 182(a)(3)(B) of the CAA for the 2008 ozone for the Inland Sheboygan area.

VIII. Motor Vehicle I/M

The requirement to adopt a motor vehicle I/M program for Moderate ozone nonattainment areas is described in CAA section 182(b)(4) and the regulations for basic and enhanced I/M

programs are found at 40 CFR part 51, subpart S. Under these cumulative requirements, states with areas classified as Moderate nonattainment for ozone with 1990 Census-defined urbanized populations of 200,000 or more are required to adopt basic I/M programs, while Serious and higher classified ozone nonattainment areas outside of the northeast ozone transport region with 1980 Census-defined urbanized populations of 200,000 or more are required to adopt enhanced I/M programs. Wisconsin's I/M program has been in operation since 1984. It was originally implemented in accordance with the 1977 CAA Amendments and operated in the six counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington and Waukesha. Sheboygan County was added to the program in July 1993, resulting in a seven-county program area that has remained to the present. In 1995, Wisconsin transitioned to an enhanced I/M program. EPA approved Wisconsin's I/M program on August 16, 2001 (66 FR 42949) and approved revisions to the program on September 19, 2013 (78 FR 57501). Wisconsin's approved I/M program in the SIP is consistent with the requirements of 40 CFR part 51, subpart S, for the alternate low enhanced performance standards. In its September 25, 2017, submission, Wisconsin certified that it still meets the Federal I/M performance requirement. Therefore, EPA is proposing to find that Wisconsin has met the I/M requirement for the Inland Sheboygan area for the 2008 ozone NAAQS.

IX. VOC RACT

Sections 172(c)(1) and 182(b)(2) of the CAA require states to implement RACT in ozone nonattainment areas classified as Moderate (and higher). Specifically, these areas are required to implement RACT for all major VOC and NO_X emissions sources and for all sources covered by a CTG. A CTG is a document issued by EPA which establishes a ''presumptive norm'' for RACT for a specific VOC source category. States must submit rules, or negative declarations when no such sources exist for CTG source categories.

EPA's SIP Requirements Rule for the 2008 ozone NAAQS provides several pathways by which states may meet RACT requirements. States can meet the RACT requirements associated with the 2008 ozone NAAQS either through: (1) A certification that previously adopted RACT controls in their SIP approved by EPA under a prior ozone NAAQS continue to represent adequate RACT control levels for attainment of the 2008 ozone NAAQS; (2) through the adoption of new or more stringent regulations or controls that represent RACT control levels; and/or (3) a negative declaration if there are no source categories subject to certain CTGs within the nonattainment area.

Wisconsin previously addressed RACT requirements in the Inland Sheboygan area in developing attainment plans for the 1979 and 1997 ozone standards. Wisconsin has previously adopted RACT rules for VOC emission sources in its nonattainment areas under Wisconsin Administrative Code NR 420. Wisconsin has evaluated the previously adopted regulations and determined that these rules still satisfy RACT. Wisconsin's submittal describes the VOC RACT program for the Inland Sheboygan area. The submittal provided a list of the CTGs for which RACT requirements have been codified in Wisconsin Administrative Code.

Wisconsin has not adopted VOC RACT regulations for four CTGs: Shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, and the oil and natural gas industry. In addition, while Wisconsin has adopted rules to cover industrial adhesive use, metal and plastic parts coatings, and automobile and light-duty truck manufacturing, Wisconsin's Administrative Code does not reflect the most recently published CTG for these three categories.

Wisconsin preformed an applicability analysis for these seven categories in the Inland Sheboygan nonattainment area. Wisconsin's analysis took the following steps: First, Wisconsin relied on the Wisconsin Air Emissions Inventory to create a list of all the VOC emitting facilities in the Inland Sheboygan area. Wisconsin searched the list for facilities having the applicable CTG Standard Industrial Classification (SIC) codes. Second, Wisconsin searched the Wisconsin Air Resource Program database, which contains facility and emissions information about all Wisconsin companies that have obtained an air pollution control permit, for sources located within the partial county nonattainment area with the applicable SIC codes. Third, Wisconsin searched the membership directories found on the applicable SIC code organizations' websites. Finally, Wisconsin searched the ReferenceUSA database for facilities located within the Inland Sheboygan area with the SIC codes listed above.

Wisconsin's analysis determined that there are no facilities in the Inland Sheboygan area for the shipbuilding and ship repair, aerospace manufacturing, fiberglass boat manufacturing, oil and natural gas industry, miscellaneous industrial adhesives, metal and plastic parts coatings, and automobile and light-duty truck assembly coatings categories. These are the seven categories in which Wisconsin has not adapted the most recently published CTGs. Wisconsin provided Negative Declarations for these CTG categories.

In summary, Wisconsin has certified that the VOC RACT rules previously adopted by the state and approved into Wisconsin's SIP continue to meet VOC RACT requirements for the area under the 2008 ozone NAAQS. Wisconsin has adequately documented its analysis of sources in the area to support its negative declarations for categories in which Wisconsin has not adopted the most recently published CTGs. EPA finds Wisconsin's VOC RACT SIP submittal to be approvable as meeting the Moderate VOC RACT requirements of section 182(b)(2) of the CAA.

X. NO_X RACT

Section 182(f) of the CAA requires RACT level controls for major stationary sources of NO_X located in Moderate ozone nonattainment areas. Section 302 of the CAA defines a major stationary source as any facility which has the potential to emit 100 tons per year of any air pollutant. RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. On October 19, 2010, EPA approved Wisconsin's NO_X RACT program into the SIP for purposes of the 1997 ozone NAAQS (75 FR 64155). Wisconsin's NO_X RACT requirements are codified at NR 428.20 to 428.26 of the Wisconsin Administrative Code. Wisconsin's NO_X RACT rules are applicable to major stationary sources of NO_X located in Wisconsin's Moderate ozone nonattainment areas, including the Inland Sheboygan area. On September 25, 2017, WDNR submitted a SIP certifying that Wisconsin's SIP-approved NO_X RACT rules meet the NO_X RACT requirements of CAA section 182(f) for the Inland Sheboygan area for the 2008 ozone NAAQS. Because Wisconsin has EPA-approved NO_X RACT rules applicable to Inland Sheboygan area sources in its SIP, EPA is proposing to find that Wisconsin has satisfied the NO_X RACT requirements for the Inland Sheboygan area for the 2008 ozone NAAQS.

XI. What is EPA's analysis of Wisconsin's redesignation request for the 1997 ozone NAAQS?

On March 6, 2015, EPA revoked the 1997 ozone NAAQS along with

associated designations and classifications (80 FR 12264). Thus, the Inland Sheboygan area has no designation under the 1997 ozone NAAQS that can be changed through redesignation as governed by CAA section 107(d)(3)(E). Therefore, EPA is not proposing a redesignation of the Inland Sheboygan area for the 1997 ozone NAAQS under CAA section 107(d)(3)(E).

However, in evaluating Wisconsin's request to redesignate the Inland Sheboygan area under the 2008 ozone standard, EPA determined that the area has met the five criteria in section 107(d)(3)(E) for redesignation, including the requirement that Wisconsin meet all applicable requirements of section 110 and part D of the CAA for the Inland Sheboygan area, and have a fully approved SIP for the area under section 110(k) of the CAA. As part of that evaluation, EPA has determined that Wisconsin has a fully approved SIP and meets the anti-backsliding requirements under the 1997 ozone standard as codified at 40 CFR 51.1105(a)(1) and 40 CFR 51.1100(o).

XII. What action is EPA taking?

EPA is proposing to determine that the Inland Sheboygan nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019. EPA is proposing to determine that upon final approval of Wisconsin's 2011 base year emissions inventory, emission statement certification SIP, VOC RACT SIP, I/M certification SIP, and NO_X RACT certification SIP, the area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Inland Sheboygan area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Wisconsin SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Inland Sheboygan area in attainment of the 2008 ozone NAAQS through 2030. EPA finds adequate and is proposing to approve the newly-established 2020 and 2030 MVEBs for the Inland Sheboygan area.

XIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: April 15, 2020.

Cheryl Newton,

Deputy Regional Administrator, Region 5.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[AU Docket No. 20–25; FCC 20–23; FRS 16583]

Auction of Flexible-Use Service Licenses in the 3.7–3.98 GHz Band for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auction 107

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: In this document, the Commission announces an auction of flexible-use overlay licenses in the 3.7–3.98 GHz band (the 3.7 GHz Service), designated as Auction 107. This document proposes and seeks comment on competitive bidding procedures to be used for Auction 107.

DATES: Comments are due on or before May 1, 2020, and reply comments are due on or before May 15, 2020.

ADDRESSES: Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998). All filings in response to the *Auction 107 Comment Public Notice* must refer to AU Docket No. 20–25. The Commission strongly encourages interested parties to file comments electronically and requests that an additional copy of all comments and reply comments be submitted electronically to the following email address: *auction107@fcc.gov.*

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs.* Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, AU Docket No. 20–25.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For auction legal questions, Erik Beith or Tajma Rahimic in the Auctions Division of the Office of Economics and Analytics at (202) 418–0660. For general auction questions, the Auctions Hotline at (717) 338–2868. For 3.7 GHz Service legal questions, Anna Gentry in the Wireless Telecommunications Bureau's Mobility Division at (202) 418–1991. For 3.7 GHz Service technical questions, Janet Young in the Wireless Telecommunications Bureau's Broadband Division at (202) 418–0837.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice (*Auction 107 Comment Public Notice*), AU Docket No. 20–25, FCC 20–23, adopted on February 28, 2020 and released on March 3, 2020. The *Auction 107 Comment Public Notice* includes the following attachment: Attachment A, Proposed Upfront Payment and Minimum Opening Bid Amounts. The complete text of the *Auction 107 Comment Public Notice,* including its attachment, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's website at *www.fcc.gov/auction/107* or by using the search function for AU Docket No. 20–25 on the Commission's ECFS web page at *www.fcc.gov/ecfs.* Alternative formats are available to persons with disabilities by sending an email to *FCC504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the *Auction 107 Comment Public Notice* in AU Docket No. 20–25.

I. Introduction

1. By the *Auction 107 Comment Public Notice,* the Commission seeks comment on the procedures to be used for Auction 107, the auction of new flexible-use overlay licenses in the 3.7–3.98 GHz band (the 3.7 GHz Service). The Commission expects the bidding for licenses in Auction 107 to commence on December 8, 2020. The Commission proposes to use an ascending clock auction format for the licenses offered in Auction 107 and then hold a sealed bid assignment phase. The *Auction 107 Comment Public Notice* seeks comment on proposed auction procedures for bidding to acquire licenses in Auction 107.

II. Licenses To Be Offered in Auction 107

2. Auction 107 will offer 5,684 new flexible-use overlay licenses for spectrum in the 3.7–3.98 GHz band throughout the contiguous United States subject to clearing requirements. The Commission adopted the *3.7 GHz Report and Order,* [April 23, 2020], which describes in detail the rules applicable to the licenses offered in these 280 megahertz of spectrum. The Commission will offer up to 280 megahertz of spectrum licensed on an unpaired basis in three blocks divided into 20-megahertz sub-blocks by partial economic area (PEA) in the contiguous states and the District of Columbia (PEAs 1–41, 43–211, 213–263, 265–297, 299–359, and 361–411). The Commission will not issue flexible-use overlay licenses for Honolulu, Anchorage, Kodiak, Fairbanks, Juneau, Puerto Rico, Guam-Northern Mariana Islands, U.S. Virgin Islands, American Samoa, and the Gulf of Mexico (PEAs numbers 42, 212, 264, 298, 360, 412–416). Specifically, the A Block will cover 100 megahertz from 3.7–3.8 GHz in five 20-megahertz sub-blocks: 3700–3720 MHz (A1), 3720–3740 MHz (A2), 3740–3760 MHz (A3), 3760–3780 MHz (A4), and 3780–3800 MHz (A5). The B Block will cover 100 megahertz from 3.8–3.9 GHz in five 20-megahertz sub-blocks: 3800–3820 MHz (B1), 3820–3840 MHz (B2), 3840–3860 MHz (B3), 3860–3880 MHz (B4), and 3880–3900 MHz (B5). The C Block will cover 80 megahertz from 3.9–3.98 GHz, and four 20-megahertz sub-blocks will be licensed for flexible use: 3900–3920 MHz (C1), 3920–3940 MHz (C2), 3940–3960 MHz (C3), and 3960–3980 MHz (C4). The 20 megahertz at 3980–4000 MHz will be a guard band and not available for auction. All 3.7 GHz Service licenses will be issued for 15-year, renewable license terms. A licensee in the 3.7–3.98 GHz band may provide any services permitted under terrestrial fixed or mobile allocations, as set forth in the non-Federal Government column of the Table of Frequency Allocations in section 2.106 of the Commission's rules, as modified by the *3.7 GHz Report and Order.*

3. A list of markets in which licenses will be offered in Auction 107, including proposed upfront payment and minimum opening bid amounts, is available in Attachment A to the *Auction 107 Comment Public Notice.*

4. *Transition of Incumbent Operations.* The 3.7–4.2 GHz band currently is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite

Service (FSS) and Fixed Service (FS) services. In the *3.7 GHz Report and Order,* the Commission modified the licenses and market access authorizations of incumbent FSS operators and FS licensees to clear the 3.7–4.0 GHz band for new flexible-use terrestrial operations. For additional information about clearing and conditions on the licenses to be offered in Auction 107, potential bidders should carefully review the *3.7 GHz Report and Order.*

5. Each potential bidder is solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the potential uses of a license that it may seek in Auction 107. In addition to the typical due diligence considerations that the Commission encourages of bidders in all auctions, the Commission calls particular attention in Auction 107 to the clearing process and license conditions described in the *3.7 GHz Report and Order.* Each applicant should closely follow releases from the Commission concerning these issues and consider carefully the technical and economic implications for commercial use of the 3.7–3.98 GHz band. The Commission makes no representations or warranties about the use of this spectrum for particular services. Each applicant should be aware that a Commission auction represents an opportunity to become a Commission licensee, subject to certain conditions and regulations. This includes the established authority of the Commission to alter the terms of existing licenses by rulemaking, which is equally applicable to licenses awarded by auction. A Commission auction does not constitute an endorsement by the Commission of any particular service, technology, or product, nor does a Commission license constitute a guarantee of business success.

III. Proposed Pre-Bidding Procedures

6. In the *3.7 GHz Report and Order,* the Commission decided to conduct any auction of new flexible-use licenses for the 3.7 GHz Service in conformity with the amended Part 1 rules. The Commission's Part 1 rules require each applicant seeking to bid to acquire licenses in a spectrum auction to provide certain information in a short-form application (FCC Form 175), including ownership details and numerous certifications.

7. *Prohibition of Certain Communications.* Section 1.2105(c)(1) of the Commission's rules provides that, subject to specified exceptions, after the short-form application filing deadline, all applicants are prohibited from cooperating or collaborating with respect to, communicating with or disclosing, to each other or any nationwide provider of communications services that is not an applicant, or, if the applicant is a nationwide provider, any non-nationwide provider that is not an applicant, in any manner the substance of their own, or each other's, or any other applicants' bids or bidding strategies (including post-auction market structure), or discussing or negotiating settlement agreements, until after the down payment deadline. Section 1.2105(c)(5)(i) defines ''applicant'' as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10% or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.

8. The operation of the rule prohibiting certain communications requires that the Commission identify nationwide providers in connection with each auction. Because the applicable service rules for the 3.7–3.98 GHz band will allow a licensee to provide flexible terrestrial wireless services, including mobile services, the Commission's identification of four nationwide providers in the *Communications Marketplace Report* suggests that it should identify those same entities as nationwide providers for purposes of 3.7 GHz licenses and Auction 107. This is consistent with the Commission's identification of ''nationwide providers'' for the purpose of implementing its competitive bidding rules in Auctions 101, 102, 103 and the forward auction portion of the Broadcast Incentive Auction. Accordingly, consistent with the procedures adopted for prior auctions of flexible-use licenses for advanced wireless services, the Commission proposes to identify AT&T, Sprint, T-Mobile, and Verizon Wireless as ''nationwide providers'' for the purpose of implementing the Commission's competitive bidding rules in Auction 107, including section 1.2105(c), the rule prohibiting certain communications. The Commission seeks comment on this proposal.

A. Bidding Credit Caps

9. The Commission seeks comment on establishing reasonable caps on the total amount of bidding credits that an eligible small business, very small business, or rural service provider may be awarded for Auction 107.

10. Eligibility for the small business bidding credit is determined according to a tiered schedule of small business size definitions that are based on an applicant's average annual gross revenues for the relevant preceding period, and which determine the size of the bidding credit discount. In the *3.7 GHz Report and Order,* the Commission determined that eligibility for the small business bidding credit in the auction of licenses in the 3.7–3.98 GHz band would be defined using two of the thresholds of the standardized schedule of small business sizes. Specifically, the Commission determined that an entity with average annual gross revenues for the preceding five years not exceeding $55 million would be designated as a ''small business'' eligible for a 15% bidding credit, and that an entity with average annual gross revenues for the preceding five years not exceeding $20 million would be designated as a ''very small business'' eligible for a 25% bidding credit. The Commission further determined that entities providing commercial communication services to a customer base of fewer than 250,000 combined wireless, wireline, broadband, and cable subscribers in primarily rural areas would be eligible for the 15% rural service provider bidding credit. The Commission defined rural area as a county with a population density of 100 persons or fewer per square mile.

11. In the *Updating Part 1 Report and Order,* 80 FR 56764, September 18, 2015, the Commission established a process to implement a reasonable cap on the total amount of bidding credits that an eligible small business or rural service provider may be awarded in any auction, based on an evaluation of the expected capital requirements presented by the particular service and inventory of licenses being auctioned. The Commission determined that bidding credit caps would be implemented on an auction-by-auction basis, but resolved that, for any particular auction, the total amount of the bidding credit cap for small businesses would not be less than $25 million, and the bidding credit cap for rural service providers would not be less than $10 million. For Auctions 101, 102, and 103, the Commission adopted a $25 million cap on the total amount of bidding credits that may be awarded to an eligible small business in each auction and a $10 million cap on rural service provider bidding credits in each auction.

12. The Commission proposes to adopt the same bidding credit caps for Auction 107. Like Auctions 101, 102, and 103, the Commission believes that the range of potential use cases suitable

for spectrum in the 3.7–3.98 GHz band, combined with the relatively small geographic areas for new flexible-use overlay licenses in the 3.7 GHz Service, may permit deployment of smaller scale networks with lower total costs. Moreover, past auction data suggests that the proposed caps will allow the substantial majority of eligible small businesses in the auction to take advantage of the bidding credit program. The Commission therefore believes that its proposed caps will promote the statutory goals of providing meaningful opportunities for *bona fide* small businesses to compete in auctions and in the provision of spectrum-based services, without compromising the Commission's responsibility to prevent unjust enrichment and ensure efficient and intensive use of spectrum.

13. Similarly, the Commission proposes to adopt a $10 million cap on the total amount of bidding credits that may be awarded to an eligible rural service provider in Auction 107. An entity is not eligible for a rural service provider bidding credit if it has already claimed a small business bidding credit. The Commission anticipates that a $10 million cap on rural service provider bidding credits will not constrain the ability of any rural service provider to participate fully and fairly in Auction 107. No rural service provider exceeded the $10 million cap in the Broadcast Incentive Auction, Auction 101, or Auction 102. In addition, to create parity in Auction 107 among eligible small businesses and rural service providers competing against each other in smaller markets, the Commission proposes a $10 million cap on the overall amount of bidding credits that any winning small business bidder may apply to winning licenses in markets with a population of 500,000 or less. This proposal is consistent with the approach adopted by the Commission in the Broadcast Incentive Auction, Auction 101, Auction 102, and Auction 103.

14. The Commission seeks comment on these proposed caps. Specifically, do the expected capital requirements associated with operating in the 3.7–3.98 GHz band, the potential number and value of 3.7 GHz Service licenses, past auction data, or any other considerations justify a higher cap for either type of bidding credit? Moreover, are there convincing reasons for not maintaining parity with the bidding credit caps in Auctions 101, 102, and 103? Commenters are encouraged to identify unique circumstances and characteristics of this mid-band auction that should guide the Commission in establishing bidding credit caps, and to provide specific, data-driven arguments in support of their proposals.

15. The Commission reminds applicants applying for designated entity bidding credits that they should take due account of the requirements of the Commission's rules and implementing orders regarding *de jure* and *de facto* control of such applicants. These rules include a prohibition, which applies to all applicants (whether or not they are seeking bidding credits), against changes in ownership of the applicant that would constitute an assignment or transfer of control. Applicants should not expect to receive any opportunities to revise their ownership structure after the filing of their short- and long-form applications, including making revisions to their agreements or other arrangements with interest holders, lenders, or others in order to address potential concerns relating to compliance with the designated entity bidding credit requirements. Applicants will not be permitted to change their bidding credit type selection (*i.e.,* from small business to rural service provider, or vice versa) after the short-form deadline.

B. Information Procedures During the Auction Process

16. As with most recent Commission spectrum license auctions, the Commission proposes to limit information available in Auction 107 in order to prevent the identification of bidders placing particular bids until after the bidding has closed. More specifically, the Commission proposes to not make public until after bidding has closed: (1) The PEAs that an applicant selects for bidding in its short-form application (FCC Form 175), (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 107, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid.

17. Bidders would have access to additional information related to their own bidding and bid eligibility. For example, bidders would be able to view their own level of eligibility before and during the auction through the FCC auction bidding system.

18. After the close of bidding, bidders' PEA selections, upfront payment amounts, bidding eligibility, bids, and other bidding-related information would be made publicly available.

19. The Commission seeks comment on the details of its proposal for implementing limited information procedures, or anonymous bidding, in Auction 107. Commenters opposing the use of anonymous bidding in Auction 107 should explain their reasoning and propose alternative information rules.

C. Upfront Payments and Bidding Eligibility

20. In keeping with the Commission's usual practice in spectrum license auctions, the Commission proposes that applicants be required to submit upfront payments as a prerequisite to becoming qualified to bid. The upfront payment is a refundable deposit made by an applicant to establish its eligibility to bid on licenses. Upfront payments protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of bidding. The Commission's rules require that any auction applicant that, pursuant to 47 CFR 1.2105(a)(2)(xii), certifies that it is a former defaulter must submit an upfront payment equal to 50% more than the amount that otherwise would be required. The Commission proposes upfront payments based on $0.015 per MHz-pop. The results of these calculations will be rounded using the Commission's standard rounding procedures for auctions: Results above $10,000 are rounded to the nearest $1,000; results below $10,000 but above $1,000 are rounded to the nearest $100; and results below $1,000 are rounded to the nearest $10. The proposed upfront payments equal approximately half the proposed minimum opening bids, which are established as described in Section IV.A.7.a of the *Auction 107 Comment Public Notice.* The Commission seeks comment on these upfront payment amounts, which are specified in Attachment A to the *Auction 107 Comment Public Notice.* If commenters believe that these upfront payment amounts are not reasonable amounts, they should explain their reasoning and suggest an alternative approach. Commenters may wish to suggest other modifications to our proposal, such as weighting the minimum opening bid calculation using past auction prices.

21. The Commission further proposes that the amount of the upfront payment submitted by a bidder would determine its initial bidding eligibility in bidding units, which are a measure of bidder eligibility and bidding activity. The Commission proposes to assign each generic spectrum block in a given PEA a specific number of bidding units, equal to one bidding unit per $10 of the upfront payment listed in Attachment A to the *Auction 107 Comment Public Notice.* The number of bidding units for one block in a given PEA is fixed, since it is based on the MHz-pops in the block, and does not change during the

auction as prices change. To the extent that bidders wish to bid on multiple generic blocks simultaneously, whether within the same PEA or in different PEAs, they would need to ensure that their upfront payment provides enough eligibility to cover multiple blocks.

22. Under the Commission's proposed approach, a bidder's upfront payment would not be attributed to blocks in a specific PEA or PEAs, or to particular categories of blocks, if there is more than one. A bidder may place bids on multiple blocks in PEAs that it selected for bidding in its FCC Form 175, provided that the total number of bidding units associated with those blocks does not exceed its eligibility-based limit for the round. A bidder cannot increase its eligibility during the auction; it can only maintain its eligibility or decrease its eligibility. Thus, in calculating its upfront payment amount, and hence its initial bidding eligibility, an applicant must determine the maximum number of bidding units on which it may wish to bid in any single round and submit an upfront payment amount covering that total number of bidding units. The Commission seeks comment on these proposals.

D. Auction Delay, Suspension, or Cancellation

23. For Auction 107, the Commission proposes that, at any time before or during the bidding process, the Office of Economics and Analytics (OEA), in conjunction with the Wireless Telecommunications Bureau (WTB), may delay, suspend, or cancel bidding in Auction 107 in the event of a natural disaster, technical obstacle, network interruption, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such a case, OEA would notify participants of any such delay, suspension, or cancellation by public notice and/or through the FCC auction bidding system's announcement function. If the bidding is delayed or suspended, OEA, in its sole discretion, may elect to resume the auction starting from the beginning of the current round or from some previous round, or it may cancel the auction in its entirety. The Commission emphasizes that OEA and WTB would exercise this authority solely at their discretion. The Commission seeks comment on this proposal.

IV. Proposed Bidding Procedures

24. The Commission proposes to conduct Auction 107 using an ascending clock auction design. Under the proposed auction format, bidding would take place in two phases. The first phase of the auction—the clock phase—would consist of successive clock bidding rounds in which bidders indicate their demands for categories of generic license blocks in specific PEAs, followed by a second phase—the assignment phase—with bidding for frequency-specific license assignments. The Commission seeks comment on bidding procedures for the two phases of Auction 107.

25. The Commission directs OEA, in conjunction with WTB, to prepare and release a technical guide supplementing the information in the *Auction 107 Comment Public Notice* and including the mathematical details and algorithms of the proposed auction design.

A. Clock Phase

1. Clock Auction Design

26. During the clock phase of Auction 107, bidders will indicate their demands for generic license blocks in two bidding categories in specific geographic areas—in this case, PEAs. The Commission's proposed clock auction format would proceed in a series of rounds, with bidding being conducted simultaneously for all spectrum blocks in all PEAs available in the auction. During each bidding round, the bidding system would announce a per-block clock price for each category in each PEA, and qualified bidders would submit, for each category and PEA for which they wish to bid, the number of blocks they seek at the clock prices associated with the current round. Bidding rounds would be open for predetermined periods of time. Bidders would be subject to activity and eligibility rules that govern the pace at which they participate in the auction.

27. Under the Commission's proposal, for each product—a category in a PEA—the clock price for a generic license block would increase from round to round if bidders indicate total demand for blocks in that product that exceeds the number of blocks available. The bidding rounds would continue until, for all products, the total number of blocks that bidders demand does not exceed the supply of available blocks. At that point, those bidders indicating demand for a product at the final price would be deemed winning bidders.

28. Following the clock phase, the assignment phase will offer clock phase winners the opportunity to bid an additional amount for licenses with specific frequencies. All winning bidders, regardless of whether they bid in the assignment phase, will be assigned licenses for contiguous blocks within a category in a PEA.

29. The Commission seeks comment on specific procedures to implement this ascending clock auction and on alternative procedures for conducting, in a timely manner, an auction of 3.7–3.98 GHz licenses.

2. Generic License Blocks in Two Categories

30. The *3.7 GHz Report and Order* determined that the 3.7–3.98 GHz band will be reconfigured and licensed in uniform 20-megahertz sub-blocks in each of 406 PEAs. The *3.7 GHz Report and Order* also establishes a two-phase accelerated relocation process. In Phase I, participating incumbent space station operators would relocate their services out of blocks A1–A5 and relocate incumbent earth stations in the 46 PEAs that are subject to the Phase I deadline out of those blocks. In Phase II, participating space station operators would relocate their services out of blocks B1–B5 and C1–C4 and transition all incumbent earth stations out of all the blocks. To facilitate bidding in the clock phase, the Commission proposes to establish two categories of generic blocks in each PEA.

31. The Commission proposes that the first category of generic blocks will consist of the 20-megahertz subblocks between 3.7–3.8 GHz. This category, designated Category A, will comprise a total of five blocks: A1–A5. A second category, Category BC, will consist of the remaining sub-blocks between 3.8–3.98 GHz for a total of nine blocks: (B1–B5, C1–C4).

32. In each bidding round, a bidder will have the opportunity to bid for the quantity of generic blocks it demands in each of the two bidding categories. Bidding in the clock phase will determine a single price for all the generic blocks in each category in each PEA.

33. The Commission's proposal for bidding on generic blocks in two categories is based on the close similarity of the blocks within each bidding category. The Commission distinguishes between Category A and Category BC to recognize that bidders may value early access to blocks A1–A5, both in the 46 PEAs subject to the Phase I incumbent earth station deadline and in other PEAs where a bidder might seek voluntary early transition of incumbent earth stations. To the extent a bidder has a preference for specific frequency licenses, the bidder may bid for its preferred blocks in the assignment phase. However, a bidder for a generic block cannot be assured that it will be assigned, or not be assigned,

any particular frequency block. The Commission asks that commenters explain any concerns they may have about the interchangeability of generic blocks within the two proposed categories of generic blocks, bearing in mind potential tradeoffs between the number of categories and auction length, the ability of the auction system to assign contiguous blocks to winners of multiple blocks, and bidder manageability.

34. The Commission also seeks comment on an alternative approach to establishing bidding categories, grouping the available blocks according to the specific clearing deadline to which incumbent earth stations are subject, *i.e.,* Phase I or Phase II. Specifically, the Commission could designate blocks A1–A5 in the 46 PEAs that are subject to the Phase I deadline as Category P1 for clock phase bidding. And the Commission could designate all other blocks as Category P2 for clock phase bidding. Thus, under this alternative approach, the 46 PEAs that are subject to the Phase I deadline would each have two bidding categories and the 360 PEAs that are not subject to the Phase I incumbent earth station deadline would each have a single bidding category. The Commission asks commenters to consider whether the A Block licenses that would not be subject to the Phase I deadline are sufficiently interchangeable with the B and C Block licenses to be bid as a single bidding category in the clock phase, and whether this categorization would facilitate contiguous assignment across all blocks in the assignment phase.

3. Bidding Rounds

35. Under the proposed clock auction format, Auction 107 would consist of sequential bidding rounds, each followed by the release of round results. The Commission proposes to conduct bidding simultaneously for all spectrum blocks in both bidding categories for all PEAs available in the auction. In the first bidding round of Auction 107, a bidder would indicate, for each product, how many generic license blocks it demands at the minimum opening bid price. During each subsequent bidding round, the bidding system would announce a per-block clock price for each product, and qualified bidders would submit, for each product for which they wish to bid, the number of blocks they seek at the clock prices associated with the current round. Bidding rounds would be open for predetermined periods of time. Bidders would be subject to activity and eligibility rules that govern the pace at which they participate in the auction.

36. For each product, the clock price for a generic license block would increase from round to round if bidders indicate total demand for that product that exceeds the number of blocks available. The bidding rounds would continue until, for all products, the total number of blocks that bidders demand does not exceed the supply of available blocks. At that point, those bidders indicating demand for a block at the final price would be deemed winning bidders.

37. The initial bidding schedule would be announced in a public notice to be released at least one week before the start of bidding. Under the Commission's proposal, OEA would retain the discretion to adjust the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. Such adjustments may include changes in the amount of time for bidding rounds, the amount of time between rounds, or the number of rounds per day, and would depend upon bidding activity and other factors. The Commission seeks comment on this proposal. Commenters should address the role of the bidding schedule in managing the pace of the auction and should specifically discuss the tradeoffs in managing auction pace by bidding schedule changes, by changing the activity requirement percentage or the bid increment percentage, or by using other means.

38. The Commission proposes to conduct Auction 107 over the internet. A bidder would be able to submit its bids using the bidding interface screens and/or using the bidding system's upload function that allows bid files in a CSV format to be uploaded. The bidding system would not allow bids to be submitted unless the bidder selected the PEAs on its FCC Form 175 and the bidder has sufficient bidding eligibility.

39. During each round of the bidding, a bidder would also be able to remove bids placed in the current bidding round. If a bidder modifies its bids for blocks in a PEA in a round, the system would take the last bid submission as that bidder's bid for the round. No bids may be withdrawn after the close of a round.

4. Stopping Rule

40. The Commission proposes a simultaneous stopping rule for Auction 107, under which all blocks in both categories in all PEAs would remain available for bidding until the bidding stops in every PEA. Specifically, the Commission proposes that bidding close for all blocks after the first round in which there is no excess demand in any product. Excess demand is calculated as the difference between the number of blocks of aggregate demand and supply. Consequently, under this approach, it is not possible to determine in advance how long Auction 107 would last. The Commission seeks comment on its proposed simultaneous stopping rule.

5. Availability of Bidding Information

41. The Commission proposes to make public after each round of Auction 107, for each category in each PEA: The supply; the aggregate demand; the posted price of the last completed round; and the clock price for the next round. The posted price of the previous round is, generally: The start-of-round price if supply exceeds demand; the clock price of the previous round if demand exceeds supply; or the price at which a reduction caused demand to equal supply. The identities of bidders demanding blocks in a specific category or PEA would not be disclosed until after Auction 107 concludes (*i.e.,* after the close of bidding).

42. Under the Commission's proposal, each bidder would have access to additional information related to its own bidding and bid eligibility. Specifically, after the bids of a round have been processed, the bidding system would inform each bidder of the number of blocks it holds after the round (its processed demand) for every PEA and its eligibility for the next round.

43. Limiting the availability of bidding information during the auction balances the Commission's interest in providing bidders with sufficient information about the status of their own bids and the general level of bidding in all areas and license categories to allow them to bid confidently and effectively, while restricting the availability of information that may facilitate identification of bidders placing particular bids, which could potentially lead to undesirable strategic bidding.

6. Activity Rule, Activity Upper Limit, and Reducing Eligibility

44. To ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For this clock auction, a bidder's activity in a round for purposes of the activity rule would be the sum of the bidding units associated with the bidder's demands as applied by the auction system during bid processing. Bidders are required to be active on a specific percentage (the activity

requirement percentage) of their current bidding eligibility during each round of the auction. Failure to maintain the requisite activity level would result in a reduction in the bidder's eligibility, possibly curtailing or eliminating the bidder's ability to place additional bids in the auction.

45. The Commission proposes to require that bidders maintain a fixed, high level of activity in each round of Auction 107 in order to maintain bidding eligibility. Specifically, the Commission proposes to require that bidders be active on between 90% and 100% of their bidding eligibility in all clock rounds, with the specific percentage within this range to be set for each round. Thus, the activity rule would be satisfied when a bidder has bidding activity on blocks with bidding units that total 90% to 100% of its current eligibility in the round. If the activity rule is met, then the bidder's eligibility does not change for the next round. If the activity rule is not met in a round, the bidder's eligibility would be reduced. The Commission proposes to calculate bidding activity based on the bids that are applied by the FCC auction bidding system. That is, if a bidder requests a reduction in the quantity of blocks it demands in a PEA, but the FCC auction bidding system cannot apply the request because demand would fall below the available supply, then the bidder's activity would reflect its unreduced demand. Under the ascending clock auction format, the FCC auction bidding system will not allow a bidder to reduce the quantity of blocks it demands in an individual PEA if the reduction would result in aggregate demand falling below (or further below) the available supply of blocks in the PEA.

46. Because a bidder's eligibility for the next round is calculated based on the bidder's demands as applied by the auction system during bid processing, a bidder's eligibility may be reduced even if the bidder submitted bids with activity that exceeds the required activity for the round. This may occur, for example, if the bidder bids to reduce its demand in PEA X by two blocks (with 10 bidding units each) and bids to increase its demand by one block (with 20 bidding units) in PEA Y. If the bidder's demand can only be reduced by one block in PEA X (because there is only one block of excess demand), the increase in PEA Y cannot be applied, and absent other bidding activity the bidder's eligibility would be reduced. To potentially help a bidder avoid having its eligibility reduced as a result of submitted bids that could not be accepted during bid processing, the Commission seeks comment on additional procedures that would allow a bidder to submit bids with associated bidding activity greater than its current bidding eligibility. For example, depending upon the bidder's overall bidding eligibility and the activity limit percentage, a bidder could submit an ''additional'' bid or bids that would be considered (in price point order with its other bids) and applied as available eligibility permits during the bid processing. However, under these additional procedures, the bidder's activity as applied by the auction system during bid processing would not exceed the bidder's current bidding eligibility. That is, if a bidder were allowed to submit bids with associated bidding units exceeding 100% of its current bidding eligibility, its processed activity would never exceed its eligibility.

47. Specifically, the Commission seeks comment on additional procedures by which, after Round 1, a bidder may submit bids with bidding units totaling up to an activity upper limit equal to the bidder's current bidding eligibility for the round times a percentage (the activity limit percentage) equal to or greater than 100%. For Round 1, the activity upper limit would be 100% of the bidder's initial bidding eligibility. The Commission seeks comment on setting an initial activity limit percentage of 120% to apply to Round 2 and subsequent rounds (potentially changing it during the auction within a range of 100% and 140%), in which the Commission would implement this approach. In any bidding round, the auction bidding system would advise the bidder of its current bidding eligibility, its required bidding activity, and its activity upper limit.

48. Under the Commission's proposed procedures, OEA would retain the discretion to change the activity requirement percentage during the auction, and the Commission seeks comment in connection with potential additional procedures on whether OEA should similarly retain the discretion to change the activity limit percentage during the auction. The bidding system would announce any such changes in advance of the round in which they would take effect, giving bidders adequate notice to adjust their bidding strategies.

49. The Commission invites comment on this activity rule proposal and it further seeks comment on using an activity upper limit to address the potential for loss of bidding eligibility under some circumstances. The Commission also encourages commenters to address whether the Commission should set the activity requirement percentage between 90% and 100% for each round and, should the Commission adopt an activity upper limit, whether to set the activity limit percentage between 100% and 140%. Further, the Commission seeks comment on where to set these percentages initially. The Commission also seeks comment on the relationship between the proposed activity rules and the ability of bidders to switch their demands across PEAs. The Commission encourages any commenters that oppose the proposed range for the activity requirement percentage and the activity limit percentage range described herein to explain their reasons with specificity.

50. *Missing bids.* The Commission points out that under the proposed clock auction format, bidders are required to indicate their demands in every round, even if their demands at the new round's prices are unchanged from the previous round. Missing bids—bids that are not reconfirmed—are treated by the auction bidding system as requests to reduce to a quantity of zero blocks for the product. If these requests are applied, or applied partially, then a bidder's bidding activity, and its bidding eligibility for the next round, may be reduced.

51. For Auction 107, the Commission does not propose to provide for activity rule waivers to preserve a bidder's eligibility. The Commission notes that its proposal to permit a bidder to submit bids with bidding activity greater than its eligibility, within the precise limits described herein, would address some of the circumstances under which a bidder risks losing bidding eligibility and otherwise could wish to use a bidding activity waiver, while minimizing any potential adverse impacts on bidder incentives to bid sincerely and on the price setting mechanism of the clock auction. This approach not to allow waivers is consistent with the ascending clock auction procedures used in other FCC clock auctions. The clock auction relies on precisely identifying the point at which demand decreases to equal supply to determine winning bidders and final prices. Allowing waivers would create uncertainty with respect to the exact level of bidder demand and interfere with the basic clock price-setting and winner determination mechanism. Moreover, uncertainty about the level of demand would affect the way bidders' requests to reduce demand are processed by the bidding system. The Commission seeks comment on this approach.

7. Acceptable Bids

a. Minimum Opening Bids

52. As part of the pre-bidding process for each auction, the Commission seeks comment on the use of a minimum opening bid amount and/or reserve price, as mandated by section 309(j) of the Communications Act of 1934, as amended.

53. The Commission proposes to establish minimum opening bid amounts for Auction 107. The bidding system will not accept bids lower than these amounts. Based on the Commission's experience in past auctions, setting minimum opening bid amounts judiciously is an effective tool for accelerating the competitive bidding process. For Auction 107, the Commission proposes to establish initial clock prices, or minimum opening bids, by PEA.

54. The Commission does not propose to establish any aggregate reserve price in Auction 107. The Commission is not aware at this time of circumstances that require establishment of an aggregate reserve price in the public interest for the auction of 3.7 GHz Service licenses and propose only the per product minimum opening bids that it discusses here. The Commission seeks comment on this issue.

55. For Auction 107, the Commission proposes to calculate minimum opening bid amounts using a formula based on bandwidth and license area population, which is similar to its approach in many previous spectrum auctions. The Commission proposes to use a calculation based on $0.03 per MHz-pop. The Commission seeks comment on these minimum opening bid amounts, which are specified in Attachment A to the *Auction 107 Comment Public Notice.* If commenters believe that these minimum opening bid amounts would result in unsold licenses, are not reasonable amounts, or should instead operate as reserve prices, they should explain their reasoning and propose an alternative approach. Commenters may wish to suggest other modifications to the Commission's proposal, such as weighting the minimum opening bid calculation using past auction prices. Commenters should support their claims with valuation analyses and suggested amounts or formulas for reserve prices or minimum opening bids.

56. In establishing minimum opening bid amounts, the Commission particularly seeks comment on factors that could reasonably affect bidders' valuation of the spectrum, including the type of service offered, market size, population covered by the proposed facility, and any other relevant factors.

57. Commenters may also wish to address the general role of minimum opening bids in managing the pace of the auction. For example, commenters could compare using minimum opening bids—*e.g.,* by setting higher minimum opening bids to reduce the number of rounds it takes licenses to reach their final prices—to other means of controlling auction pace, such as changing the bidding schedule, the activity requirement percentage, or the bid increment percentage.

b. Clock Price Increments

58. Under the Commission's proposed clock phase procedures for Auction 107, after bidding in the first round and before each subsequent round, the FCC auction bidding system would announce the start-of-round price and the clock price for the upcoming round—that is, the lowest price and the highest price at which bidders can specify the number of blocks they demand during the round. The start-of-round price is also referred to as the posted price of the previous round. As long as aggregate demand for blocks in the product exceeds the supply of blocks, the start-of-round price would be equal to the clock price from the prior round. If demand equaled supply at a price in a previous round, then the start-of-round price for the next round would be equal to the price at which demand equaled supply. If demand was less than supply in the previous round, then the start-of-round price for the next round would not increase.

59. The Commission proposes to set the clock price for blocks in a specific product for a round by adding a percentage increment to the start-of-round price. For example, if the start-of-round price for a block in a given PEA is $10,000, and the percentage increment is 20%, then the clock price for the round will be $12,000. The result will be rounded up to the nearest $1,000.

60. The Commission proposes to set the increment percentage within a range of 5% to 20% inclusive, to set the initial increment percentage at 10%, and potentially to adjust the increment as rounds continue. The proposed 5% to 20% increment range will allow the Commission to set a percentage that manages the auction pace and takes into account bidders' needs to evaluate their bidding strategies while moving the auction along quickly.

61. The Commission seeks comment on these proposed procedures.

c. Intra-Round Bids

62. The Commission proposes generally to permit a bidder to make intra-round bids by indicating a point between the start-of-round price and the clock price at which its demand for blocks changes. In placing an intra-round bid, a bidder would indicate a specific price and a quantity of blocks it demands if the price for blocks should increase beyond that price. For example, if a bidder has processed demand of 3 blocks at the start of the round price of $200, but wishes to hold only 2 blocks if the price increases by more than $10 (assuming the bid increment is more than $10), the bidder will indicate a bid quantity of 2 at a price of $210 ($200+$10). Similarly, if the bidder wishes to reduce its demand to 0 if the price increases above $200 at all, the bidder will indicate a bid quantity of 0 at the start-of-round price of $200.

63. Intra-round bids would be optional; a bidder may choose to express its demands only at the clock prices. This proposal to permit intra-round bidding would allow the auction system to use relatively large increments, thereby speeding the auction, without running the risk that a jump in the clock price will overshoot the market clearing price—the point at which demand for blocks equals the available supply. The Commission seeks comment on the proposal to allow intra-round bids.

8. Bids To Change Demand, Bid Types, and Bid Processing

64. Under the ascending clock auction format the Commission proposes for Auction 107, a bidder would indicate in each round the number of blocks in each product that it demands at a given price. A bidder that wishes to change the quantity it demands (relative to its demands from the previous round as processed by the bidding system) would express its demands at the clock price or at an intra-round price. A bidder that is willing to maintain the same demand in a product at the new clock price would bid for that quantity at the clock price, indicating that it is willing to pay up to that price, if need be, for the specified quantity. Bids to maintain demand would always be applied by the auction bidding system.

65. In order to facilitate bidding for multiple blocks in a PEA, the Commission proposes that bidders will be permitted to make two types of bids: Simple bids and switch bids. A ''simple'' bid indicates a desired quantity of blocks in a category at a price (either the clock price or an intra-round price). A ''switch'' bid allows the

bidder to request to move its demand for a quantity of blocks from the A category to the BC category, or vice versa, within the same PEA at a price for the ''from'' category (either the clock price or an intra-round price).

66. The Commission does not propose to incorporate any form of package bidding procedures into the clock phase of Auction 107. Package bidding would add complexity to the bidding process, and the Commission does not see significant benefit from such procedures, given the clock auction and assignment phase format it is proposing. A bidder may bid on multiple blocks in a PEA and in multiple PEAs. The Commission proposes that the assignment phase will assign contiguous blocks to winners of multiple blocks in a category in a PEA and give bidders an opportunity to express their preferences for specific frequency blocks, thereby facilitating aggregations of licenses.

67. The Commission proposes bid processing procedures that the auction bidding system would use, after each bidding round, to process bids to change demand to determine the processed demand of each bidder for each product and a posted price for each product that would serve as the start-of-round price for the next round.

a. No Excess Supply Rule for Bids To Reduce Demand

68. Under the ascending clock auction format, the FCC auction bidding system will not allow a bidder to reduce the quantity of blocks it demands in a product if the reduction would result in aggregate demand falling below (or further below) the available supply of blocks in the product. Therefore, if a bidder submits a simple bid to reduce the number of blocks for which it has processed demand as of the previous round, the FCC auction bidding system will treat the bid as a request to reduce demand that will be applied only if the ''no excess supply'' rule would be satisfied. Similarly, if a bidder submits a switch bid to move its demand for a quantity of blocks from the A category to the BC category within the same PEA, the FCC auction bidding system will treat the bid as a request that will be applied only if the ''no excess supply'' rule would be satisfied for the A category in the PEA.

b. Eligibility Rule for Bids To Increase Demand

69. The bidding system will not allow a bidder to increase the quantity of blocks it demands in a product if the total number of bidding units associated with the bidder's demand exceeds the bidder's bidding eligibility for the round. Therefore, if a bidder submits a simple bid to increase the number of blocks for which it has processed demand as of the previous round, the FCC auction bidding system will treat the bid as a request to increase demand that will be applied only if that would not cause the bidder's activity to exceed its eligibility. The eligibility rule for bids to increase demand does not apply to switch bids because the bidder's processed activity does not change when a switch bid is applied.

c. Partial Application of Bids

70. Under our proposed bid processing procedures, a bid (simple bid or switch bid) that involves a reduction from the bidder's previous demands could be applied partially—that is, reduced by fewer blocks than requested in the bid—if excess demand is insufficient to support the entire reduction. A switch bid may be applied partially, but the increase in demand in the ''to'' category will always match in quantity the reduction in the ''from'' category. A simple bid to increase a bidder's demand could be applied partially if the total number of bidding units associated with the bidder's demand exceeds the bidder's bidding eligibility for the round.

d. Processed Demands

71. The Commission proposes to process bids to change demand in order of price point after a round ends, where the price point represents the percentage of the bidding interval for the round. For example, if the start-of-round price is $5,000 and the clock price is $6,000, a price of $5,100 will correspond to the 10% price point, since it is 10% of the bidding interval between $5,000 and $6,000. Bids to maintain demand are always applied before the bidding system considers bids to change demand. Under this proposal, the FCC auction bidding system would process bids to change demand in ascending order of price point, first considering intra-round bids in order of price point and then bids at the clock price. The system would consider bids at the lowest price point across all PEAs, then look at bids at the next price point in all areas, and so on. The Commission proposes that, if there are multiple bids at a single price point, the system will process bids in order of a bid-specific pseudo-random number. As it considers each submitted bid during bid processing, the FCC auction bidding system would determine the extent to which there is excess demand in each PEA at that point in the processing in order to determine whether a bidder's request to reduce demand can be applied. Likewise, the auction bidding system would evaluate the activity associated with the bidder's most recently determined demands at that point in the processing to determine whether a request to increase demand can be applied.

72. Because in any given round some bidders may request to increase demands for licenses while others may request reductions, the price point at which a bid is considered by the auction bidding system can affect whether it is applied. In addition to proposing that bids be considered by the system in increasing order of price point, the Commission further proposes that bids not applied because of insufficient aggregate demand or insufficient eligibility be held in a queue and considered, again in order, if there should be excess demand or sufficient eligibility later in the processing after other bids are processed.

73. Therefore, under the Commission's proposed procedures, once a round closes, the auction system would process bids to change demand by first considering the bid submitted at the lowest price point and determining the maximum extent to which that bid can be applied given bidders' demands as determined at that point in the bid processing. If the bid can be applied (either in full or partially), the number of licenses the bidder holds at that point in the processing would be adjusted, and aggregate demand would be recalculated accordingly. If the bid cannot be applied in full, the unfulfilled bid, or portion thereof, would be held in a queue to be considered later during bid processing for that round. The FCC auction bidding system would then consider the bid submitted at the next highest price point, applying it in full, in part, or not at all, given the most recently determined demands of bidders. Any unfulfilled requests would again be held in the queue, and aggregate demand would again be recalculated. Every time a bid or part of a bid is applied, the unfulfilled bids held in the queue would be reconsidered, in the order of the original price points of the bids (and by pseudo-random number, in the case of tied price points). The auction bidding system would not carry over unfulfilled bid requests to the next round, however. The bidding system would advise bidders of the status of their bids when round results are released.

e. Price Determination

74. The Commission further proposes bid processing procedures that would determine, based on aggregate demand, the posted price for each product for the

round that will serve as the start-of-round price for the next round. Under the Commission's proposal, the uniform price for all of the blocks in a product would increase from round to round as long as there is excess demand for blocks in the product but would not increase if aggregate demand does not exceed the available supply of blocks.

75. The Commission proposes that if, at the end of a round, the aggregate demand for blocks in the product exceeds the supply of blocks, the posted price would equal the clock price for the round. If a reduction in demand was applied during the round and caused demand in the product to equal supply, the posted price would be the price at which the reduction was applied. If aggregate demand is less than or equal to supply and no bid to reduce demand was applied for the product, then the posted price would equal the start-of-round price for the round. The range of acceptable bid amounts for the next round would be set by adding the percentage increment to the posted price.

76. When a bid to reduce demand can be applied only partially, the uniform price for the product would stop increasing at that point, since the partial application of the bid would result in demand falling to equal supply. Hence, a bidder that makes a bid to reduce demand that cannot be fully applied would not face a price for the remaining demand that is higher than its bid price.

77. After the bids of the round have been processed, if the stopping rule has not been met, the FCC auction bidding system would announce clock prices to indicate a range of acceptable bids for the next round. Each bidder would be informed of its processed demand and the extent of excess demand for blocks in each product.

78. The Commission seeks comment on its proposals regarding bid processing for Auction 107.

9. Winning Bids in the Clock Phase

79. Under the Commission's proposed clock auction format for Auction 107, bidders with processed demand for a product at the time the stopping rule is met will become the winning bidders of licenses corresponding to that number of blocks and will be assigned specific frequencies in the assignment phase. The final clock phase price for a generic block in a product would be the posted price for the final round. This and other Auction 107 bid processing details are addressed in the *Clock Phase Technical Guide.*

B. Assignment Phase

80. Following the conclusion of the clock phase, the Commission proposes to conduct an assignment phase using a series of single-round sealed-bid bidding rounds, where each clock phase winning bidder will have the opportunity to indicate its preferences for specific frequency licenses corresponding to the generic blocks it won in the clock phase. A bidder will be assigned contiguous frequencies for blocks it wins within each category and PEA regardless of whether it chose to bid in the assignment phase.

1. Sequencing and Grouping of PEAs

81. The Commission proposes to sequence assignment rounds to make it easier for bidders to incorporate frequency assignments from previously assigned areas into their bid preferences for other areas, recognizing that bidders winning multiple blocks of licenses generally will prefer contiguous blocks across adjacent PEAs. To that end, the Commission proposes to conduct rounds for the largest markets first to enable bidders to establish a ''footprint'' from which to work.

82. Specifically, the Commission proposes to conduct a separate assignment round for each of the top 20 PEAs and to conduct these assignment rounds sequentially, beginning with the largest PEAs. Once the top 20 PEAs have been assigned, the Commission proposes to conduct, for each Regional Economic Area Grouping (REAG), a series of assignment rounds for the remaining PEAs within that region. In Auction 1002, the Commission conducted sequential rounds for the top 40 PEAs and for Auction 102, it did the same. The Commission altered its proposal for Auction 103, in order to further speed up the assignment phase by including PEAs 21–40 in the simultaneous REAG assignment rounds. The Commission's experience in Auction 1002 and Auction 102 suggests that this proposed change will not adversely affect bidders. The Commission will consider the results of Auction 103, as well as any commenter input, before determining its final procedures. The six REAGs are: Northeast, Southeast, Great Lakes, Mississippi Valley, Central, and West.

83. The Commission further proposes, where feasible, to group into a single market for assignment any non-top 20 PEAs within a region in which the same winning bidders need to be assigned the same number of blocks in each category, and all are subject to the small markets bidding cap or all are not subject to the cap, which will also help maximize contiguity across PEAs. The Commission proposes to sequence the assignment rounds within a REAG in descending order of population for a PEA group or individual PEA. The Commission further proposes to conduct the bidding for the different REAGs in parallel in order to reduce the total amount of time required to complete the assignment phase.

84. The Commission seeks comment on these proposals for sequencing assignment rounds, including conducting separate rounds for the top 20 PEAs, and on our proposal to group PEAs for bidding under some circumstances within REAGs.

2. Acceptable Bids and Bid Processing

85. Under the Commission's proposal, in each assignment round, a bidder will be asked to assign a price to one or more possible frequency assignments for which it wishes to express a preference, consistent with its winnings for generic blocks in the clock phase. The price will represent a maximum payment that the bidder is willing to pay, in addition to the base price established in the clock phase for the generic blocks, for the frequency-specific license or licenses in its bid. If there are two categories, the Commission proposes that a bidder will submit its preferences for blocks it won in the 3.7–3.8 GHz and 3.8–3.98 GHz bands separately, rather than submitting bids for preferences that include blocks in both categories. That is, if a bidder won one block in Category A and two blocks in Category BC, it would not be able to submit a single bid amount for an assignment that included both categories. Instead, it would submit its bid or bids for assignments in Category A separately from its bid or bids for assignments in Category BC.

86. The Commission proposes to use an optimization approach to determine the winning frequency assignment for each category in each PEA or PEA group. The Commission proposes that the auction system will select the assignment that maximizes the sum of bid amounts among all assignments that satisfy the contiguity requirements. Furthermore, if multiple blocks in a category in a PEA remain unsold, the unsold licenses will be contiguous. The Commission proposes that the additional price a bidder will pay for a specific frequency assignment (above the base price) will be calculated consistent with a generalized ''second price'' approach—that is, the winner will pay a price that would be just sufficient to result in the bidder receiving that same winning frequency assignment while ensuring that no group of bidders is willing to pay more

for an alternative assignment that satisfies the contiguity restrictions. The *Assignment Phase Technical Guide* provides mathematical details of this proposal. This price will be less than or equal to the price the bidder indicated it was willing to pay for the assignment. The Commission proposes to determine prices in this way because it facilitates bidding strategy for the bidders, encouraging them to bid their full value for the assignment, knowing that if the assignment is selected, they will pay no more than would be necessary to ensure that the outcome is competitive. The Commission proposes to determine prices using the Vickrey-nearest approach, which is described in the *Assignment Phase Technical Guide.*

87. The Commission seeks comment on these proposed procedures.

V. Post-Auction Process

A. Deficiency Payments and Additional Default Payment Percentage

88. Any winning bidder that defaults or is disqualified after the close of an auction (*i.e.,* fails to remit the required down payment by the specified deadline, fails to submit a timely long-form application, fails to make full and timely final payment, or is otherwise disqualified) is liable for a default payment under section 1.2104(g)(2) of the Commission's rules. This payment consists of a deficiency payment, equal to the difference between the amount of the bidder's winning bid and the amount of the winning bid the next time a license covering the same spectrum is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

89. The Commission's rules provide that, in advance of each auction, it will establish a percentage between 3% and 20% of the applicable winning bid to be assessed as an additional default payment. As the Commission has indicated, the level of this additional payment in each auction will be based on the nature of the service and the licenses being offered.

90. For Auction 107, the Commission proposes to establish an additional default payment of 15%, which is consistent with that adopted for Auctions 101, 102, and 103. As noted in the *CSEA/Part 1 Report and Order,* 71 FR 6214, February 7, 2006, defaults weaken the integrity of the auction process and may impede the deployment of service to the public, and an additional default payment of up to 20% will be more effective in deterring defaults than the 3% used in some earlier auctions. At the same time, the Commission does not believe the detrimental effects of any defaults in Auction 107 are likely to be unusually great. In light of these considerations, the Commission proposes for Auction 107 an additional default payment of 15% of the relevant bid. The Commission seeks comment on this proposal.

91. In case they are needed for post-auction administrative purposes, the bidding system will calculate individual per-license prices that are separate from final auction payments, which are calculated on an aggregate basis. The bidding system will apportion to individual licenses any assignment phase payments and any capped bidding credit discounts, since in both cases, a single amount may apply to multiple licenses.

VI. Tutorials and Additional Information for Applicants

92. The Commission intends to provide additional information on the bidding system and to offer demonstrations and other educational opportunities for applicants in Auction 107 to familiarize themselves with the FCC auction application system and the auction bidding system. For example, the Commission intends to release online tutorials that will help applicants understand the procedures to be followed in the filing of their auction short-form applications (FCC Form 175) and on the bidding procedures for Auction 107.

VII. Procedural Matters

93. *Supplemental Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in the *Auction 107 Comment Public Notice* to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the *3.7 GHz NPRM* and *3.7 GHz Report and Order,* and other Commission orders pursuant to which Auction 107 will be conducted. Written public comments are requested on the Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments specified on the first page of the *Auction 107 Comment Public Notice.* The Commission will send a copy of the *Auction 107 Comment Public Notice,* including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Auction 107 Comment Public Notice* and Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

94. *Need for, and Objectives of, the Proposed Rules.* The *Auction 107 Comment Public Notice* sets forth the proposed auction procedures for those entities that seek to bid to acquire licenses in Auction 107. The *Auction 107 Comment Public Notice* seeks comment on proposed procedural rules to govern Auction 107, which will auction flexible-use overlay licenses for the 3.7 GHz Service in the 3.7–3.98 GHz band. This process is intended to provide notice of and adequate time for potential applicants to comment on proposed auction procedures. To promote the efficient and fair administration of the competitive bidding process for all Auction 107 participants, the Commission seeks comment on the following proposed procedures:

- Use of anonymous bidding/limited information procedures which will not make public: (1) The license areas that an applicant selects for bidding in its auction application (FCC Form 175); (2) the amount of any upfront payment made by or on behalf of an applicant for Auction 107; (3) an applicant's bidding eligibility; and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid, until after bidding has closed;
- Establishment of bidding credit caps for eligible small businesses and rural service providers in Auction 107;
- Retention by OEA of discretion to adjust the bidding schedule in order to manage the pace of Auction 107;
- Use of a simultaneous stopping rule for Auction 107, under which all blocks in both categories in all PEAs would remain available for bidding until the bidding stops in every PEA;
- Provision of discretionary authority to OEA, in conjunction with WTB, to delay, suspend, or cancel bidding in Auction 107 for any reason that affects the ability of the competitive bidding process to be conducted fairly and efficiently;
- Use of a clock auction format for Auction 107 under which each qualified bidder will indicate in successive clock bidding rounds its demands for categories of generic blocks in specific geographic areas;
- Use of an activity rule that would require bidders to be active on between 90% and 100% of their bidding eligibility in all regular clock rounds;
- Use of an activity rule that does not include a waiver of the rule to preserve a bidder's eligibility;

• A specific minimum opening bid amount for products available in Auction 107;

• A specific upfront payment amount for products available in Auction 107;

• Establishment of a bidder's initial bidding eligibility in bidding units based on that bidder's upfront payment through assignment of a specific number of bidding units for each generic block;

• Establishment of acceptable bid amounts, including clock price increments and intra-round bids, along with a proposed methodology for calculating such amounts;

• A proposed methodology for processing bids and requests to reduce and increase demand;

• Establishment of an assignment phase that will determine which frequency-specific licenses will be won by the winning bidders of generic blocks during the clock phase; and

• Establishment of an additional default payment of 15% under section 1.2104(g)(2) of the Commission's rules in the event that a winning bidder defaults or is disqualified after the auction.

95. The proposed procedures for the conduct of Auction 107 constitute the more specific implementation of the competitive bidding rules contemplated by Parts 1 and 30 of the Commission's rules, the *3.7 GHz Report and Order,* and relevant competitive bidding orders, and are fully consistent therewith.

96. *Legal Basis.* The Commission's statutory obligations to small businesses under the Communications Act of 1934, as amended, are found in sections 309(j)(3)(B) and 309(j)(4)(D). The statutory basis for the Commission's competitive bidding rules is found in various provisions of the Communications Act of 1934, as amended, including 47 U.S.C. 154(i), 301, 302, 303(e), 303(f), 303(r), 304, 307, and 309(j). The Commission has established a framework of competitive bidding rules, updated most recently in 2015, pursuant to which it has conducted auctions since the inception of the auctions program in 1994 and would conduct Auction 107. In promulgating those rules, the Commission conducted numerous RFA analyses to consider the possible impact of those rules on small businesses that might seek to participate in Commission auctions. In addition, a Final Regulatory Flexibility Analysis (FRFA) is included in the concurrent rulemaking order that adopts rule provisions relevant to the *Auction 107 Comment Public Notice.*

97. *Description and Estimate of the Number of Small Entities to Which the Proposed 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 and policies, if adopted. 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. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

98. Regulatory Flexibility Analyses were incorporated into the *3.7 GHz NPRM* and the *3.7 GHz Report and Order.* In those analyses, the Commission describes in detail the small entities that might be significantly affected. In the *Auction 107 Comment Public Notice,* the Commission incorporated by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *3.7 GHz NPRM* and the *3.7 GHz Report and Order.*

99. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants. In the first part of the Commission's two-phased auction application process, parties desiring to participate in an auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on an applicant's short-form application and certifications, as well as its upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application. Thus, an applicant which fails to become a winning bidder does not need to file a long-form application and provide the additional showings and more detailed demonstrations required of a winning bidder.

100. The Commission does not expect the processes and procedures proposed in the *Auction 107 Comment Public Notice* will require small entities to hire attorneys, engineers, consultants, or other professionals to participate in Auction 107 and comply with the procedures the Commission ultimately adopts because of the information, resources, and guidance the Commission makes available to potential and actual participants. For example, the Commission intends to release an online tutorial that will help applicants understand the procedures for filing of the auction short-form application (FCC Form 175). The Commission also intends to make information on the bidding system available and offer demonstrations and other educational opportunities for applicants in Auction 107 to familiarize themselves with the FCC auction application system and the auction bidding system. By providing these resources as well as the resources discussed in the *Auction 107 Comment Public Notice,* the Commission expects small business entities who use the available resources to experience lower participation and compliance costs. Nevertheless, while the Commission cannot quantify the cost of compliance with the proposed procedures, it does not believe that the costs of compliance will unduly burden small entities that choose to participate in the auction because the proposals for Auction 107 are similar in many respects to the procedures in recent auctions conducted by the Commission.

101. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (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 and reporting requirements under the rule for such 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 such small entities.

102. The Commission has taken steps to minimize any economic impact of its auction procedures on small businesses through, among other things, the many resources the Commission provides potential auction participants. Small entities and other auction participants

may seek clarification of or guidance on complying with competitive bidding rules and procedures, reporting requirements, and the FCC's auction bidding system. An FCC Auctions Hotline provides access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource which provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the FCC's auction bidding system. Small entities may also use the web-based, interactive online tutorial produced by Commission staff to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to an auction.

103. The Commission also makes various databases and other sources of information, including the Auctions program websites and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small entities to conduct research prior to and throughout the auction. Prior to and at the close of Auction 107, the Commission will post public notices on the Auctions website, which articulate the procedures and deadlines for the auction. The Commission makes this information easily accessible and without charge to benefit all Auction 107 applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

104. Prior to the start of bidding, eligible bidders are given an opportunity to become familiar with auction procedures and the bidding system by participating in a mock auction. Further, the Commission intends to conduct Auction 107 electronically over the internet using its web-based auction system that eliminates the need for bidders to be physically present in a specific location. Qualified bidders also have the option to place bids by telephone. These mechanisms are made available to facilitate participation in Auction 107 by all eligible bidders and may result in significant cost savings for small business entities that use these alternatives. Moreover, the adoption of bidding procedures in advance of the auction, consistent with statutory directive, is designed to ensure that the auction will be administered predictably and fairly for all participants, including small entities.

105. For Auction 107, the Commission proposes a $25 million cap on the total amount of bidding credits that may be awarded to an eligible small business and a $10 million cap on the total amount of bidding credits that may be awarded to a rural service provider. In addition, the Commission propose a $10 million cap on the overall amount of bidding credits that any winning small business bidder may apply to winning licenses in markets with a population of 500,000 or less. Based on the technical characteristics of the 3.7–3.98 band and the Commission's analysis of past auction data, the Commission anticipates that its proposed caps will allow the majority of small businesses to take full advantage of the bidding credit program, thereby lowering the relative costs of participation for small businesses.

106. The proposed procedures for the conduct of Auction 107 constitute the more specific implementation of the competitive bidding rules contemplated by Parts 1 and 30 of the Commission's rules, the *3.7 GHz Report and Order,* and relevant competitive bidding orders, and are fully consistent therewith.

107. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules.* None.

108. *Ex Parte Rules.* This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations must file a copy of any written presentations or memoranda summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine Period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to the Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with Commission rule 1.1206(b). In proceedings governed by Commission rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Cecilia Sigmund,

Federal Register Liaison Officer.

[FR Doc. 2020–06451 Filed 4–24–20; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5 and 7

[FAR Case 2019–003; Docket No. FAR–2019–0029, Sequence No. 1]

RIN 9000–AN86

Federal Acquisition Regulation: Consolidation and Substantial Bundling

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, which requires providing public notices of determinations for substantial bundling and consolidation of contract requirements.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before June 26, 2020 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2019–003 by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by

entering ''FAR Case 2019–003''. Select the link ''Comment Now'' that corresponds with FAR Case 2019–003. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2019–003'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Lois Mandell, 1800 F Street NW, 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2019–003 in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Procurement Analyst, at 202–357–5805 or via email at *kevin.funk@gsa.gov* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite ''FAR Case 2019–003''.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to amend the FAR to implement section 863 of the NDAA for FY 2016 (Pub. L. 114–92, codified at 15 U.S.C. 644(e)(3) and 15 U.S.C. 657q(c)(2)) and SBA's implementing regulations. Section 863 requires public notification of an agency's determination to substantially bundle or consolidate contract requirements.

Specifically, publication of a notice is required when the head of a contracting agency determines that an acquisition plan for a procurement involves substantial bundling of contract requirements. The head of the contracting agency must publish a notice on a public website that such determination has been made not later than 7 days after making the determination. Any solicitation for a procurement related to the acquisition plan may not be published earlier than 7 days after such notice is published. A justification for the determination must be published with the solicitation. The justification must address the specific benefits anticipated, any alternative approaches, impediments to participation by small business concerns as prime contractors, and actions designed to maximize participation of small business concerns as subcontractors. See 15 U.S.C. 644(e)(3)(A) through (C) for a list of the requirements.

Section 863 also requires publication of a notice when the senior procurement executive (SPE) or chief acquisition officer (CAO) makes a determination that an acquisition strategy involving consolidation of contract requirements is necessary and justified under 15 U.S.C. 657q(c)(2)(A). The SPE or CAO must publish a notice on a public website that such determination has been made not later than 7 days after making the determination. Any solicitation for a procurement related to the acquisition strategy may not be published earlier than 7 days after such notice is published. A justification for the determination must be published with the solicitation. The justification must include the information in 15 U.S.C. 657q(c)(1)(A) through (E).

SBA published a rule to implement section 863 on November 29, 2019, at 84 FR 65647. SBA's implementation is very similar to the statutory language.

II. Discussion and Analysis

The proposed changes to the FAR are summarized in the following paragraphs.

A. Notification of Substantial Bundling

At FAR 7.107–5, Notifications, a requirement is added for publication of a notification of substantial bundling on the Governmentwide point of entry (GPE). Any solicitation for a procurement may not be published earlier than 7 days after a notice is published concerning a determination that the procurement involves substantial bundling of contract requirements. The head of the agency must also publish in the GPE the rationale for substantial bundling with the publication of the solicitation. The rationale must address the information required at 7.107–4(b), such as the specific benefits anticipated, any alternative approaches, impediments to participation by small business concerns as prime contractors, and actions designed to maximize participation of small business concerns as subcontractors. A reference to the notification requirement at FAR 7.107–5 is added to FAR 5.205, Special situations.

B. Notification of Consolidation

At 7.107–5, Notifications, a requirement is added for the SPE or CAO to publish a notice on the GPE that a determination has been made that a consolidation of contract requirements is necessary and justified. The SPE or CAO must also publish the determination that consolidation is necessary and justified with the publication of the solicitation. A reference to the notification requirement at FAR 7.107–5 is added to FAR 5.205, Special situations.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule proposes to implement a statutory requirement for Federal agencies to provide notifications to the public on consolidation and substantial bundling of contract requirements. No solicitation provisions or contract clauses are being created or revised in this proposed rule.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This proposed rule is not expected to be subject to E.O. 13771, Reducing Regulation and controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 863 of the National Defense Authorization Act for 2016 (Pub. L. 114–92, codified at 15 U.S.C. 644(e)(3) and 15 U.S.C. 657q(c)(2)) and the

Small Business Administration (SBA) implementing regulations. Section 863 requires that, if the head of a contracting agency determines that an acquisition plan involves a substantial bundling of contract requirements, the head of the agency shall publish a notice of such determination on a public website within 7 days of making such determination. Additionally, section 863 requires, upon determining that a consolidation of contract requirements is necessary and justified, the senior procurement executive (SPE) or chief acquisition officer (CAO) shall publish a notice on a public website that such determination has been made and that an agency may not issue the solicitation any earlier than 7 days after publication of such notice. The SPE or CAO must also publish the justification along with the solicitation.

The objective of this rule is to implement section 863 of the NDAA for FY 2016 and SBA's implementing regulations. The legal basis for the rule is section 863 of the NDAA for FY 2016.

This rule may have a positive economic impact on any small entity that is interested in participating in Federal procurement. By posting justifications and notices of upcoming procurements which are planned to be substantially bundled or consolidated, small business concerns are made aware of potential subcontracting opportunities and possibilities for participating in joint ventures or small business teaming arrangements, which will help small businesses increase their competitiveness. The System for Award Management (SAM) shows 315,655 entities which are small business concerns under at least one North American Industry Classification System code.

This proposed rule does not include any new reporting, recordkeeping, or other compliance requirements for small entities.

This proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches that would accomplish the stated objectives of the applicable statute.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the SBA. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit comments separately and should cite 5 U.S.C. 610 (FAR case 2019–003) in correspondence.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 5 and 7

Government procurement.

William F. Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR part(s) 5 and 7, as set forth below:

■ 1. The authority citation for 48 CFR part(s) 5 and 7 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 5—PUBLICIZING CONTRACT ACTIONS

■ 2. Amend section 5.205 by revising paragraph (g) to read as follows:

5.205 Special Situations.

* * * * *

(g) *Notifications to the public regarding consolidation, bundling, or substantial bundling.* (1) For the requirement to publish a notification of consolidation or substantial bundling of contract requirements, see 7.107–5(c) and (d).

(2) The agency is encouraged to provide notification of the rationale for any bundled requirement to the GPE before issuing the solicitation of any bundled requirement (see 7.107–5(b)).

PART 7—ACQUISITION PLANNING

7.105 [Amended]

■ 3. Amend section 7.105 by removing from paragraph (b)(16) ''GPE'' and adding ''Governmentwide point of entry (GPE)'' in its place.

7.107–1 [Amended]

■ 4. Amend section 7.107–1 by removing from paragraph (a) ''7.107–3 and 7.107–4'' and adding ''7.107–3, 7.107–4, and 7.107–5'' in its place.

7.107–2 [Amended]

■ 5. Amend section 7.107–2 by:

■ a. In paragraph (a) introductory text removing the words ''procurement executive'' and ''acquisition officer'' and adding in their place ''procurement executive (SPE)'' and ''acquisition officer (CAO)'', respectively;

■ b. In from paragraph (b) removing the words ''senior procurement executive or chief acquisition officer'' and ''subsection'' and adding in their place ''SPE or CAO'' and ''section'', respectively;

■ c. In from paragraph (d)(3) removing the words ''senior procurement executive or chief acquisition officer'' and adding in their place ''SPE or CAO'';

■ d. In paragraph (e)(1) introductory text removing the word ''subsection'' wherever it appears and adding in its place ''section'';

■ e. In paragraph (e)(1)(i) removing the word ''subsection'' and adding in its place the word ''section''; and

■ f. In paragraph (e)(2)(i) removing the words ''senior procurement executive'' and adding in their place ''SPE''.

■ 6. Amend section 7.107–5 by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraphs (c) and (d) as paragraphs (e) and (g), and adding new paragraphs (c), (d), and (f); and

■ c. In newly redesignated paragraph (g) removing the words ''*Public notification*'' and adding in their place ''*Notification to public*''.

The revision and additions read as follows:

7.107–5 Notifications.

* * * * *

(b) *Notification to public of rationale for bundled requirement.* The agency is encouraged to provide notification of the rationale for any bundled requirement to the GPE, before issuance of the solicitation (see 5.201).

(c) *Notification to public of consolidation of contract requirements.* The SPE or CAO shall publish in the GPE—

(1) A notice that the agency has determined a consolidation of contract requirements is necessary and justified (see 7.107–2) no later than 7 days after making the determination; the solicitation may not be publicized prior to 7 days after publication of the notice of the determination; and

(2) The determination that consolidation is necessary and justified with the publication of the solicitation. See 7.107–2 for the required content of the determination.

(d) *Notification to public of substantial bundling of contract requirements.* The head of the agency shall publish in the GPE—

(1) A notice that the agency has determined that a procurement involves substantial bundling (see 7.107–4) no later than 7 days after such determination has been made; the solicitation may not be publicized prior to 7 days after publication of the notice of the determination; and

(2) The rationale for substantial bundling with the publication of the solicitation. The rationale is the

information required for inclusion in the acquisition strategy at 7.107–4(b).

* * * * *

(f) *Annual notification to public of rationale for bundled requirements.* The agency shall publish on its website a list and rationale for any bundled requirement for which the agency solicited offers or issued an award. The notification shall be made annually within 30 days of the agency's data certification regarding the validity and verification of data entered in the Federal Procurement Data System to the Office of Federal Procurement Policy (see 4.604).

* * * * *

[FR Doc. 2020–08005 Filed 4–24–20; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2019–0080; FXES11130900000C2–189–FF09E42000]

RIN 1018–BD82

Endangered and Threatened Wildlife and Plants; Removing Arenaria cumberlandensis (Cumberland Sandwort) From the Federal List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to remove Cumberland sandwort (*Arenaria cumberlandensis*) from the Federal List of Endangered and Threatened Plants (List). We also announce the availability of a draft post-delisting monitoring (PDM) plan for the Cumberland sandwort. We seek information, data, and comments from the public on this proposed rule and on the associated draft PDM plan. If this proposal is finalized, the Cumberland sandwort will be removed from the List.

DATES: We will accept comments received or postmarked on or before June 26, 2020. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by June 11, 2020.

ADDRESSES: You may submit comments on this proposed rule and draft PDM plan by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2019–0080, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R4–ES–2019–0080; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

Document availability: The proposed rule, draft PDM plan, and supporting documents are available at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2019–0080.

FOR FURTHER INFORMATION CONTACT: Lee Andrews, Field Supervisor, U.S. Fish and Wildlife Service, Tennessee Ecological Services Field Office, 446 Neal Street, Cookeville, Tennessee, 38501; telephone (931) 528–6481. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act of 1973, as amended (Act), we are required to conduct a review of all listed species at least once every 5 years (5-year review) to review their status and determine whether they should be classified differently or removed from listed status. In our 2013 5-year review for the Cumberland sandwort, we recommended reclassifying the species from endangered to threatened. We initiated another 5-year review for the species on May 7, 2018 (83 FR 20093), and determined the species met the criteria for delisting. Therefore, we are publishing this proposed rule to delist the species.

What this document does. This document proposes to remove the Cumberland sandwort from the List. It also announces the availability of a draft PDM plan for the Cumberland sandwort. This determination is based on a thorough review of the best available scientific and commercial data, which indicate that the Cumberland sandwort has recovered and no longer meets the definition of an endangered or a threatened species under the Act. Our review shows that threats to the species identified at the time of listing (*i.e.,* timber harvesting, trampling from recreational uses, and digging for archaeological artifacts) have been reduced to the point that they no longer threaten the species, and the Cumberland sandwort has increased in abundance and range. Our review also indicates that potential effects of projected climate change are not expected to cause the species to become endangered in the foreseeable future.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of one or more of the five factors described in section 4(a)(1) of the Act. We must consider the same factors in removing a species from the List (delisting) in determining whether a species meets the definition of an endangered species or a threatened species.

Here, we have determined that the Cumberland sandwort may be considered for delisting based on recovery. In the rule listing the Cumberland sandwort (53 FR 23745, June 23, 1988), the primary threats identified for the species were the destruction and modification of habitat (Factor A) due to trampling by recreational users of the rockhouse and bluff habitats where the species occurs, trampling and soil disturbance from looting of archeological artifacts (*i.e.,* relic digging), and timber harvesting in or adjacent to occupied sites. While some habitats occupied by Cumberland sandwort are exposed to these potential stressors, many are protected from these activities, and available data support the determination that the species is more resilient to these threats than was assumed at the time of listing. The listing rule also discussed limited distribution and small population size (Factor E), along with inadequate regulatory mechanisms for preventing habitat destruction (Factor D), as factors contributing to the species' endangerment. However, our review of the status of and listing factors for the Cumberland sandwort indicated: (1) An increase in the number of occurrences of the species within its geographically restricted range and increased abundance in some occurrences; (2) resiliency to existing and potential threats; (3) the protection of 66 extant occurrences located on Federal and State conservation lands by regulations

or management plans to prevent habitat destruction or removal of plants; and (4) the implementation of beneficial management practices. Accordingly, the Cumberland sandwort no longer meets the definition of an endangered or threatened species under the Act.

Peer review. We are requesting comments from independent specialists to ensure that we base our determination on scientifically sound data, assumptions, and analyses.

Information Requested

Public Comments

We want any final rule resulting from this proposal to be as accurate and effective as possible. Therefore, we invite tribal and governmental agencies, the scientific community, industry, and other interested parties to submit data, comments, and new information concerning this proposed rule. The comments that will be most useful and likely to influence our decision are those that are supported by data or peer-reviewed studies and those that include citations to, and analyses of, applicable laws and regulations. Please make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide. In particular, we are seeking comments on:

(1) Biological data regarding the Cumberland sandwort, including the locations of any additional occurrences, survey data, or other relevant information;

(2) Relevant data concerning any threats (or lack thereof) to the Cumberland sandwort;

(3) Additional information regarding the range, distribution, life history, ecology, and habitat of the Cumberland sandwort;

(4) Current or planned activities within the geographic range of the Cumberland sandwort that may negatively impact or benefit the Cumberland sandwort; and

(5) The draft PDM plan and the methods and approach detailed in it.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

In developing a final determination on this proposed action, we will take into consideration all comments and any additional information we receive. Such information may lead to a final rule that differs from this proposal. All comments and recommendations, including names and addresses, will become part of the administrative record.

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

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov.*

Public Hearing

Section 4(b)(5)(E) of the Act provides for one or more public hearings on this proposal, if requested. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by the date shown in **DATES**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the hearing.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we will solicit the expert opinions of at least three appropriate and independent specialists regarding the science in this proposed rule and the draft PDM plan. The purpose of such review is to ensure that we base our decisions on scientifically sound data, assumptions, and analyses. The peer reviewers will be selected based upon their expertise in the Cumberland sandwort's biology, habitat, and physical or biological factors that will inform our determination. We will send peer reviewers copies of this proposed rule and the draft PDM plan immediately following publication of this proposed rule in the **Federal Register**. We will invite them to comment, during the public comment period, on the specific assumptions and conclusions regarding this proposed delisting rule and the associated draft PDM plan. We will summarize the opinions of these reviewers in the final decision documents, and we will consider their input and any additional information we receive as part of our process of making a final decision on this proposal and draft PDM plan. Such communication may lead to a final decision that differs from this proposal.

Previous Federal Actions

On June 23, 1988, we listed the Cumberland sandwort as endangered, due to the threat of habitat destruction or modification resulting from unintended trampling by recreational users of public lands, unauthorized digging of Native American artifacts, and timber harvesting, combined with the low number of occurrences known to exist at the time of listing and low abundance at most occurrences (53 FR 23745). On June 20, 1996, we released a recovery plan for the Cumberland sandwort (Service 1996). We completed another 5-year review for the Cumberland sandwort on December 23, 2013. This 5-year review summarized all new information accumulated on the species since the publication of the species' recovery plan and recommended reclassification to threatened status. We initiated a third 5-year review for the species on May 7, 2018 (83 FR 20093), and, based on our review of available data we gathered during preparation of that 5-year review, and presented herein, we have determined that the recovery criteria for delisting the species have been met. This rule will, therefore, equate to our 5-year review. We are providing the 2013 5-year review as a supplemental document to the proposed rule at *https://www.regulations.gov* at (Docket No. FWS–R4–ES–2019–0080) or *https://www.fws.gov/southeast/endangered-species-act/five-year-reviews/.*

For additional details on previous Federal actions, including recovery actions, see discussion under the Recovery section of the preamble, below.

Species Information

Below, we present a thorough review of the taxonomy, life history, ecology, and overall status of this plant, referencing data from the 2013 5-year review (Service 2013) where appropriate.

Taxonomy

Cumberland sandwort (*Arenaria cumberlandensis*), a member of the Pink family (Caryophyllaceae), was first recognized and described as a species in 1979 (Wofford and Kral 1979, entire). This species, along with several other species of *Arenaria,* was transferred to the genus *Minuartia* while retaining the specific epithet (McNeill 1980, entire). The species is listed as *Minuartia cumberlandensis* (Wofford and Kral) McNeill in A Fifth Checklist of Tennessee Vascular Plants (Chester et al. 2009, p. 43), the Integrated Taxonomic Information System (ITIS) (2019), and Flora of North America (2019). However, an examination of the taxonomy of *Minuartia* using DNA sequences determined that all species in *Minuartia* section *Uninerviae* should be elevated to genus *Mononeuria,* along with *Geocarpon minimum* (Dillenberger and Kadereit 2014, p. 79). The Flora of the Southern and Mid-Atlantic States accepted this recommendation, assigning the name *Mononeuria cumberlandensis* (B.E. Wofford & Kral) Dillenberger & Kadereit to Cumberland sandwort (Weakley 2015, p. 820). Although there have been changes to the species' taxonomy since the time of listing, we are proposing to remove the species from the List of Endangered and Threatened Plants using the name by which it was initially listed, *Arenaria cumberlandensis* (=*Mononeuria cumberlandensis*).

Population Genetics

In a study of populations in Tennessee, Cumberland sandwort was found to possess ''fairly high'' levels of genetic variation (Winder 2004, pp. 16–19). Observed levels of heterozygosity were consistent with expected effects of frequent mating among closely related individuals, or inbreeding (Winder 2004, p. 19), a common phenomenon in small populations due to the greater likelihood that most or all individuals in the population will be closely related (Allendorf and Luikart 2007, p. 306). Greater genetic similarity was found among populations within about 4 kilometers (km) (2.5 miles (mi)) of one another, but a wide range of values were observed at distances of 4 to 25 kilometers (2.5 to 15.5 mi), beyond which populations were consistently dissimilar (Winder 2004, p. 27). Thus, Cumberland sandwort populations generally are genetically independent of one another and have been for a significant period of time, with possible exceptions where gene flow could occur among densely clustered populations in close geographic proximity to one another (Winder 2004, p. 28). The majority of the genetic variation found in the species is retained within a central cluster of populations located in Pickett County, Tennessee, and in Laurel Fork (Fentress County) (Winder 2004, p. 37). The genetic structure of the lone Kentucky population and its relation to sites sampled in Tennessee are unknown.

Species Description

The following description of Cumberland sandwort is modified from Wofford and Kral (1979, pp. 257–259) and Kral (1983, pp. 363–364). This species is a delicate perennial that occurs in small cushionlike clumps, with upright stems 10 to 15 centimeters (cm) (4 to 6 inches (in)) tall that are slender and triangular in shape. Leaves are opposite, 2 to 3 cm (0.8 to 1.2 in) long and 1 to 3 millimeters (mm) (0.04 to 0.12 in) wide, and are thin and bright green in color, with glassy margins. Basal leaves are longer and wider than those at the top of the stems. The flowers are symmetrical, five-parted, and usually solitary at the end of the stems. The sepals (a part of the flower that provides protection for the flower in bud and sometimes provides support for petals when in bloom) are green and inconspicuously three-veined, and the white petals usually have five green veins. The fruit is a 3- to 3.5-mm-long (0.12 to 0.14 in) ovoid capsule containing numerous reddish-brown reticulated (having the form or appearance of a net) seeds that are 0.5 to 0.7 mm (0.02 to 0.03 inches) long.

The mild conditions of the sheltered habitat where Cumberland sandwort occurs allow rosettes (circular arrangement of leaves) to persist through winter and produce abundant, leafy stems in the spring (Winder 2004, p. 5). The species flowers from May through August, with some flowers persisting as late as November (Wofford and Kral 1979, p. 259; Winder 2004, p. 5).

Habitat

Cumberland sandwort inhabits fine-grained, sandy soils that comprise the floors of the interior of ''rockhouses'' (cave-like recesses produced by differential weathering of sandstone). These habitats are typically behind the dripline of overlying cliffs, ledges, and solution pockets of cliffs, where these features are found in Pennsylvanian sandstones on the Cumberland Plateau in southern Kentucky and northern Tennessee (Horton 2017, entire). The species occupies sites that generally share characteristics of high levels of shade, moisture, and humidity, and relatively constant, cool temperatures (Wofford and Smith 1980, p. 7), although some smaller occurrences occupy drier and warmer sites. Few other species are directly associated with Cumberland sandwort microsites, but the following species are important indicators that suitable habitat conditions are present within a given rockhouse or bluff site: *Silene rotundifolia* (round-leaved catchfly), *Thalictrum clavatum* (mountain meadow-rue), *Heuchera parviflora* (little-flowered alumroot), *Ageratina lucae-braunae* (Lucy Braun's snakeroot), *Stenanthium diffusum* (diffuse reather-bells) and the bryophytes *Vittaria appalachiana* (Appalachian shoestring fern), *Bryoxiphium norvegicum* (Norway bryoxiphium moss), and *Scopelophila cataractae* (cataract scopelophila moss) (TDEC 2011b, p. 5).

Distribution

When Cumberland sandwort was listed as endangered, the species was known from 11 occurrences (Wofford and Smith 1980, pp. 9–18), which were treated as 5 populations (53 FR 23745, June 23, 1988). Of these occurrences, 1 was in McCreary County, Kentucky, and 10 were distributed among four Tennessee counties (Fentress, Morgan, Pickett, and Scott). The species recovery plan (Service 1996, pp. 6–8) reported that 28 occurrences were extant, including the 11 from the listing rule, 27 of which were partly or entirely located on publicly owned conservation lands. One of these 28 occurrences was in McCreary County, Kentucky, and the remaining 27 were distributed among the 4 Tennessee counties reported in the listing rule. All occurrences reported in the listing rule and species recovery plan were located in the South Fork Cumberland River drainage. Of these 28 occurrences, all but 3 were extant as of 2017 (TNHID 2018).

As explained below, documentation to verify past or present existence is lacking for two of the three occurrences we did not determine to be extant as of 2017, raising questions regarding their validity. The ''Middle Creek 2'' occurrence reported in the recovery plan was apparently based on an observation reported by a National Park Service (NPS) archaeologist, but staff of the TDEC Division of Natural Areas (TDNA) were unable to confirm the presence of Cumberland sandwort at the mapped location, which they attribute to a mapping error when the occurrence was reported. The Morgan County occurrence reported in the recovery plan, with only the site name ''Sunbright'' given for location information, also cannot be verified. No

citation was provided in the recovery plan for this record, and no record existed for this site in the Tennessee Natural Heritage Inventory Database (TNHID) (2018), maintained by the Natural Heritage Program at TDNA. A search of herbarium records for Cumberland sandwort from Morgan County, Tennessee, produced no specimens from the vicinity of Sunbright (SERNEC Data Portal 2018). However, a new extant occurrence record was documented in TNHID for Scott County, based on the label for a specimen collected in 2002 from a site not previously known to be occupied by Cumberland sandwort.

The Big Branch occurrence reported in the recovery plan was not recorded in the TNHID (2018), so no attempts have been made to relocate this occurrence. Staff from NPS reported the occurrence in comments provided after reviewing the draft recovery plan (NPS 1995). We provided information to TDNA on the Big Branch occurrence reported by NPS, and there is now a historical record for this occurrence in the TNHID.

In order to evaluate the current status of Cumberland sandwort, we used data from Natural Heritage Programs in Kentucky (KNHP 2018) and Tennessee (TNHID 2018) to determine the location and condition of mapped element occurrences. An element occurrence (E.O.) is a fundamental unit of information in the NatureServe Natural Heritage methodology, and is defined as ''an area of land and/or water in which a species . . . is, or was present'' (NatureServe 2004). There were 64 extant occurrences of Cumberland sandwort reported in the 2013 5-year review. As of 2018, there were 71 extant occurrences, distributed among the 5 counties where the species was reported to be extant when the recovery plan was published: 1 in McCreary County, Kentucky (Kentucky Natural Heritage Program (KNHP) 2018); 1 in Morgan, 26 in Fentress, 38 in Pickett, and 5 in Scott Counties, Tennessee (TNHID 2018). Of these occurrences, 12 occur within the Obey River drainage in Tennessee; 11 of these occurrences have been discovered since 2005 on recently acquired, State-owned conservation lands, and 1 on privately owned lands in 2016. The remaining 59 occurrences lie within the South Fork Cumberland River drainage, and all but 1 in Tennessee. Four of the occurrences in the South Fork Cumberland River drainage are located on privately owned lands in Tennessee; the remainder are located on state or federal conservation lands. In addition to these 71 natural occurrences of Cumberland sandwort, one introduced occurrence has been established in McCreary County, Kentucky, on the Daniel Boone National Forest (DBNF) (Pence *et al.* 2011, entire).

Framework for Monitoring and Evaluating Trends

The TDEC Natural Heritage Program began monitoring Cumberland sandwort in Tennessee during 2000, estimating abundance in 34 sites as part of a project to conduct surveys for new locations and update records for previously known occurrences of the species (TDEC 2000, entire). The number of occurrences monitored has increased to 55, and TDEC has categorized sites into three tiers of differing priority, with highest priority sites to be most frequently monitored (TDEC 2007, p. 5):

- Tier 1 sites have a history of site disturbance related to recreational use or illicit digging of Native American artifacts.
- Tier 2 sites face fewer immediate threats in the less frequently visited sites they occupy.
- Tier 3 sites faced no imminent threats at the time of categorization.

Designating tiers provides for more frequent monitoring of sites with a greater likelihood of being adversely affected by known threats that could warrant management intervention. Tier 1 sites are monitored every 1 to 3 years, Tier 2 sites every 3 to 6 years, and Tier 3 sites every 6 to 10 years (TDEC 2007, p. 5). In addition to monitoring during 2000 and 2006 (before the tier system was developed), TDEC monitored Tier 1 sites during 2010 and 2011 (TDEC 2011a, entire), 2014 (TDEC 2014, entire), and 2017 (TDEC unpublished data). Tier 2 sites were monitored during 2011 through 2012 (TDEC 2012, entire), and Tier 3 sites were monitored during 2016 and 2017 (TDEC unpublished data).

The Service receives monitoring data in the form of written reports and occurrence-level summary data provided in the TNHID (2018). We used these summary data to determine which sites in each tier had been monitored in two or more years, making it possible to assess whether Cumberland sandwort had declined, remained stable, or increased either in estimated abundance or area occupied. Based on data provided in the TNHID, 18 occurrences are in Tier 1, 24 in Tier 2, and 13 in Tier 3 for which such data were available. Tier 1 occurrences have been monitored an average of 4.7 times, with time between initial and the most recent monitoring events averaging 15.8 years. Tier 2 occurrences have been monitored an average of 2.4 times over an average timespan of 8.4 years. Tier 3 occurrences have been monitored an average of 2.4 times over an average timespan of 12.1 years. Fifteen occurrences in Tennessee have been monitored only once or have not, as yet, been assigned to a monitoring tier.

After reviewing all available monitoring data, TDEC assessed whether individual occurrences had declined, remained stable, or increased over the time that they have been monitored (McCoy 2018, pers. comm.). However, statistical trend analysis of Cumberland sandwort monitoring data from Tennessee is not feasible for two reasons: First, estimates of abundance generated in 2000 and in later monitoring events lack adequate precision for statistically analyzing change in abundance over time, and second, visual estimates of area occupied by the species can introduce potential for observer bias because these areas are not precisely measured. However, the preparation of hand-drawn maps by TDEC botanists, beginning with the initial monitoring effort in 2000, allows tracking persistence and stability of individual patches within occupied sites and detecting substantial changes in their estimated size. Based on the best available data, of the 18 Tier 1 occurrences, 2 demonstrate evidence of decline, 13 are stable, and 3 have increased. Of the 24 Tier 2 occurrences that have been monitored on two or more occassions, 5 demonstrate evidence of decline, 18 are stable, and 1 has increased. Of the 13 Tier 3 occurrences, 2 have declined, 10 are stable, and 1 has increased (McCoy 2018, pers. comm.).

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of threatened and endangered species unless we determine that such a plan will not promote the conservation of the species. Recovery plans are not regulatory documents and are instead intended to: (1) Establish goals for long-term conservation of a listed species; (2) define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act; and (3) provide guidance to our Federal, State, and other governmental and non-governmental partners on methods to minimize threats to listed species. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may have been exceeded while other criteria may not

have been accomplished, yet the Service may judge that, overall, the threats have been minimized sufficiently, and the species is robust enough, to reclassify the species from endangered to threatened or perhaps delist the species. In other cases, recovery opportunities may have been recognized that were not known at the time the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan.

Likewise, information on the species may be learned that was not known at the time the recovery plan was finalized. The new information may change the extent that criteria need to be met for recognizing recovery of the species. In short, recovery of species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The Cumberland Sandwort Recovery Plan (see Previous Federal Actions, above) included recovery criteria to indicate when threats to the species have been adequately addressed and prescribed actions that were thought to be necessary for achieving those criteria. Below we discuss our analysis of available data and our determination as to whether recovery criteria for Cumberland sandwort have been achieved.

Recovery Criteria

The objective of the recovery plan is to delist the Cumberland sandwort. Recovery criteria in the plan state that *Arenaria cumberlandensis* (Cumberland sandwort) will be considered for reclassification from endangered to threatened status when 30 geographically distinct, self-sustaining occurrences are protected in four counties in Tennessee and Kentucky and have maintained stable or increasing numbers for 5 consecutive years. The species will be considered for delisting when 40 geographically distinct, self-sustaining occurrences are protected and have maintained statistically stable or increasing numbers for 5 consecutive years. At least 12 of these occurrences must be in counties other than Pickett County, Tennessee.

Methods were chosen for monitoring that minimize trampling of Cumberland sandwort and disturbance of the sandy soil substrate the species occupies. The tradeoff of using this method to minimize disturbance is the inability to statistically analyze trends for individual occurrences or Cumberland sandwort as a species. To address this limitation, we developed a framework for using available distribution and monitoring data, aerial photography, and qualitative assessment of trends for each occurrence to evaluate whether recovery criteria for Cumberland sandwort have been achieved.

Using this framework we assessed the species' viability based on the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, entire). Resiliency is the ability to sustain populations in the face of environmental variation and transient perturbations. To be resilient, a species must have healthy populations that are able to sustain themselves through good and bad years. The greater the number of healthier populations, the more resiliency a species possesses. Representation is the range of variation or adaptive diversity found in a species, and is the source of a species' ability to adapt to near- and long-term changes in the environment. Maintaining adaptive diversity requires conserving both ecological and genetic diversity, which enable a species to be more responsive and adaptive to change and, therefore, more viable. Finally, redundancy protects species against the unpredictable and highly consequential events for which adaptation is unlikely, allowing them to withstand catastrophic events. Redundancy spreads risk and is best achieved by having multiple populations widely distributed across a species' range.

We characterized the resiliency of 69 of the 71 extant Cumberland sandwort occurrences using available data on three factors (complete data were not available for two of the extant occurrences): Occurrence size expressed as estimated abundance or areal coverage, recorded observations of threats causing disturbance to plants or the substrates in which they were rooted, and assessment of general forest conditions from recorded observations or evaluation of aerial photography, for the reasons that follow. Smaller populations are at greater risk of (1) losing genetic variation due to drift (change in the frequency of alleles in a population due to random, stochastic events), and (2) inbreeding, which decreases the likelihood that an individual will receive pollen from a compatible mate and produce viable offspring (Allendorf and Luikart 2007, pp. 122–123). Small populations also may face higher risks of extinction due to diminished resilience to demographic and environmental stochasticity (Münzbergová 2006, p. 143). Demographic stochasticity is the variation in vital rates (*i.e.,* probabilities of survival and reproduction) among individuals of a given age or life-cycle stage, at a given point in time, while environmental stochasticity is variation in vital rates over time, affecting all individuals of a given age or stage similarly (Lande 1988, p. 1457). Undisturbed substrates contribute to Cumberland sandwort resiliency by providing suitable sites for germination, growth, and reproduction to occur. Also, the presence of contiguous forest vegetation in the vicinity of Cumberland sandwort occurrences helps to maintain suitable hydrology and microclimate, potentially buffering severity of stress resulting from environmental perturbations, such as drought. We evaluated representation by considering the distribution of resilient occurrences among the counties and watersheds from which the species is known. Finally, we evaluated redundancy based on the overall number of resilient occurrences distributed throughout its range.

In evaluating resiliency, we used estimates of abundance, where available, combined with estimates of areal coverage to provide a basis for categorizing occurrences into groups of low, medium, or high abundance. Occurrences with fewer than 100 individuals (Heschel and Page 1995, pp. 128–131; Münzbergová 2006, p. 148) or with areal coverage less than 1 m^2 were ranked ''low''; occurrences with 100–1,000 individuals or with areal coverage ranging from 1 to 5 m^2 were ranked ''medium''; and occurrences with more than 1,000 individuals or areal coverage greater than 5 m^2 were ranked ''high''. We ranked substrate conditions at each occurrence based on recorded observations of threats (TDEC 2011b, pp. 37–44). Substrate conditions were ranked ''high'' for sites with no record of disturbance; ''medium'' for sites with moderate risk of exposure to the threat based on limited historical evidence of digging for archeological artifacts (*i.e.,* relic digging) or trampling by humans or wildlife in limited areas within available habitat; and ''low'' for sites with high risk of exposure as indicated by recent evidence of relic digging or trampling throughout available habitat. We used aerial imagery available through Google Earth Pro™ to determine whether forests in the general vicinity of Cumberland sandwort occurrences exhibited signs of timber harvest, as indicated by substantially reduced tree densities, presence of logging equipment trails, or conversion to non-native, evergreen forest types. Forest conditions were ranked ''high'' in locations where late seral forest was present upslope and downslope of occupied sites and in adjacent areas;

''medium'' in locations where risk of exposure to the threat was moderate based on evidence of logging having occurred within the prior 15 years in the vicinity of, but not immediately upslope, downslope, or adjacent to, occurrences; and ''low'' in sites where risk of exposure was high based on evidence of logging within the prior 15 years in the forest immediately surrounding the occupied habitat.

Of the 69 occurrences that we could evaluate for all 3 resiliency factors, 12 were ranked as low in abundance, 27 ranked medium, and 30 occurrences ranked high. Substrate conditions ranked low at 12, medium at 25, and high at 32 occurrences. We were able to evaluate forest conditions at all 71 extant occurrences, with the following results: 8 occurrences ranked low, 3 ranked medium, and 60 ranked high.

Using the ranks for the 3 resiliency factors (abundance, substrate condition, and forest condition), we calculated an overall resiliency index for 68 of the 70 Tennessee occurrences (table 1) and the lone Kentucky occurrence. We assigned numerical scores of one for factor ranks of ''low,'' two for ''medium'' ranks, and three for ''high'' ranks. Using these scores, we calculated a weighted average, wherein factor ranks for abundance were given twice the weight of factor ranks for substrate and forest condition, due to the importance of population size in maintaining genetic variation and determining resilience to demographic and environmental stochasticity (Sgrò *et al.* 2011, p. 329). The resulting resiliency index for an occurrence ranges from one to three and is categorized as follows:

- Low rank for scores of 1.5 or less;
- Low-medium rank for scores greater than 1.5 and less than 2.0;
- Medium rank for scores ranging from 2.0 to 2.5;
- Medium-high rank for scores greater than 2.5 and less than 3.0;
- High rank for scores of 3.0.

Available data for the Kentucky occurrence indicate that the species abundance rank is medium at that location and that the occurrence is not exposed to threats from trampling or relic digging. This location, in BSF, is protected from timber harvesting, and available data indicate that surrounding forests are undisturbed. These factors produced an overall resiliency rank of medium for this occurrence.

In Tennessee, 56 occurrences had overall resiliency ranks of medium or higher. Table 1 shows the resiliency ranks for all Tennessee occurrences. All of the stable and increasing trends in the medium, medium-high, and high resiliency ranks represent counts of occurrences considered self-sustaining, as required by recovery criteria.

TABLE 1—RESILIENCY INDEX RANKS FOR CUMBERLAND SANDWORT OCCURRENCES IN TENNESSEE

Monitoring tier	Trend	Low	Low-medium	Medium	Medium-high	High
One	Decline	2				
	Stable	1	1	7	4	
	Increase				2	1
Two	Decline	3		2		
	Stable	2		10	3	2
	Increase				1	
Three	Decline	1		1		
	Stable			4	3	3
	Increase			1		
Other	n/a	1	1	7		5
Total		10	2	32	13	11

For the purpose of evaluating Cumberland sandwort's status with respect to recovery criteria, we define self-sustaining to include those populations that had an overall resiliency index rank of medium or higher and that TDEC determined were stable or increasing (Table 1) based on available monitoring data, as described above in Species Information. For the Kentucky occurrence, available data indicate that the occurrence is stable. We consider 66 occurrences on Federal or State conservation lands (Table 2), as well as 2 occurrences located on private lands where land use is restricted by conservation easements, to be protected. Using these definitions, 42 protected occurrences (including the 1 in Kentucky) are self-sustaining (table 1 presents data for Tennessee). These occurrences have been known to exist for an average of 21 years, with a range of 7 to 44 years spanning the first and most recent observations recorded for the species in these sites. This exceeds one criterion for removing Cumberland sandwort from the List—*i.e.,* that there be at least 40 geographically distinct, protected, and self-sustaining occurrences that have been stable or increasing for at least 5 years.

TABLE 2—LAND OWNERSHIP FOR 66 CUMBERLAND SANDWORT OCCURRENCES ON FEDERAL AND STATE CONSERVATION LANDS

[Note: Number of occurrences in table sums to 70, but 4 occurrences occupy habitats spanning adjacent lands owned by TDF and TSP and are counted only once for total]

Agency	Land unit	Number of occurrences
National Park Service	Big South Fork National Scenic River and Recreation Area (BSF).	27.
Tennessee Division of Forestry (TDF)	Pickett State Forest (PSF)	29 (4 partially on TSP lands).
Tennessee Division of Natural Areas	Pogue Creek Canyon State Natural Area (PCNA)	7.
Tennessee State Parks (TSP)	Pickett CCC Memorial State Park (PSP)	7 (4 partially on TDF lands).

The recovery criteria in the recovery plan also require that at least 12 of the protected, self-sustaining occurrences be located outside of Pickett County, Tennessee, presumably for the purpose of increasing representation and redundancy within the species' geographic range. Of the 42 occurrences meeting the criterion of being protected and self-sustaining, 28 are located in Pickett County, Tennessee, 13 are located elsewhere in Tennessee (9 in Fentress County, 4 in Scott County), and 1 is located in McCreary County, Kentucky. Thus, this delisting criterion is also exceeded.

Another measure of representation for the species is its distribution among major watersheds in which it is found. The recovery plan reported in 1996 that the species was known only from the South Fork Cumberland watershed, but it is now also known from 12 occurrences in the Obey River watershed in Tennessee. Of the 42 occurrences meeting the recovery criterion that there be at least 40 geographically distinct, protected, and self-sustaining occurrences, 2 are located in the Obey River watershed. The low number of occurrences in this watershed meeting this criterion is primarily due to the recent discovery of any occurrences in this watershed and consequent lack of repeat observations. In addition to the two occurrences in the Obey River watershed meeting the recovery criterion above, nine occurrences on protected lands have resiliency indices of medium or higher, and we expect that they will be self-sustaining and contribute to the species representation of resilient occurrences into the foreseeable future.

Our assessment of the viability of Cumberland sandwort supports the determination that the recovery criteria for delisting the species have been satisfied. The discussion above demonstrates that there are more than 40 protected and self-sustaining occurrences of the species, distributed among 4 counties in Tennessee and 1 in Kentucky.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. We may determine that a species is an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

A recovered species is one that no longer meets the Act's definition of endangered or threatened. Determining whether the status of a species has improved to the point that it can be delisted or downlisted requires consideration of the same five factors identified above for listing a species. When Cumberland sandwort was listed as endangered in 1988, the identified threats (factors) influencing its status were the modification and loss of habitat and curtailment of range (Factor A), the inadequacy of State or Federal mechanisms to protect its habitat at that time (Factor D), and its limited distribution and low abundance in some populations (Factor E). The following analysis evaluates these previously identified threats, any other threats currently facing the species, as well as any other threats that are reasonably likely to affect the species in the foreseeable future following the delisting and the removal of the Act's protections.

The Act does not define the term ''foreseeable future.'' However, our implementing regulations at 50 CFR 424.11(d) (84 FR 45020) codify that the term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that the conditions potentially posing a danger of extinction in the foreseeable future are probable. The Service will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat-projection timeframes, and environmental variability. The Service need not identify the foreseeable future in terms of a specific period of time, but may instead explain the extent to which we can reasonably determine that both the future threats and the species' responses to those threats are probable. To establish the foreseeable future for the purpose of determining whether Cumberland sandwort meets the definition of a threatened or endangered species, we evaluated trends from historical data on distribution and abundance, ongoing conservation efforts, factors currently affecting the species, and predictions of future climate change. Structured monitoring of Cumberland sandwort populations began in 2000, but records of initial observations for occurrences range from 1973 to 2017, with an average of 18 years between the earliest and most recent recorded observations for a given occurrence. The period of observation is 30 or more years for 16 occurrences, which vary in population size and threat exposure. These historical data provide insight into Cumberland sandwort's exposure and response to potential threats under varying conditions. When combined with our knowledge of factors affecting the species, available data allow us to reasonably predict future conditions, albeit with diminishing precision over time. Given our understanding of the best available data, for the purposes of this rule we consider the foreseeable future for Cumberland sandwort to be approximately 30 years.

In assessing threats to Cumberland sandwort, we consider the exposure of individual occurrences to suspected stressors, available data on the species response to those stressors where they have been observed, and efforts undertaken to reduce exposure into the future. As noted above in *Recovery Criteria,* available data indicate that the lone Kentucky occurrence is not exposed to threats that would result in modification or destruction of habitat.

Habitat Loss and Curtailment of Range

In the rule listing the Cumberland sandwort (53 FR 23745, June 23, 1988), the primary threats identified for the species were the destruction and modification of habitat due to trampling by recreational users of the rockhouse and bluff habitats where the species occurs, trampling and soil disturbance from looting of archeological artifacts (*i.e.,* relic digging), and timber harvesting in or adjacent to occupied sites.

In Tennessee, the potential for trampling or soil disturbance from recreational use, wildlife, or relic digging has been noted at 38 sites where Cumberland sandwort occurs, with varying degrees of exposure and actual risk for adversely affecting the species (TDEC 2011b, pp. 40–44, TNHID 2018). In one of these sites (EO 78), signs of trampling and a fire pit were observed on the rockhouse floor in 2007 (TNHID 2018), but Cumberland sandwort plants are located on ledges and solution pockets on the bluff where they are not exposed to trampling. Additionally, no fire pit was observed during a site visit by the Service in February 2019. Of the other 37 sites where risk of trampling or soil disturbance has been recorded during monitoring or other site visits, available data indicate that Cumberland sandwort faces high risk of exposure in 12 of them and moderate risk in the other 25. Cumberland sandwort

abundance has declined at 6 of the 12 sites with high exposure risk, while 5 have remained stable. Trend data are not available for the twelfth site, which was discovered in 2014. Declines in abundance have been observed at only three of the sites with moderate risk of exposure, while increases have been observed at three others. The remaining 19 sites with moderate risk of exposure to the threat of trampling or soil disturbance have remained stable. Thus, while the potential threat of trampling or soil disturbance has been noted at many sites, Cumberland sandwort faces a high risk of actual exposure in less than 20 percent of occurrences. Under conditions of moderate exposure risk, the species has demonstrated low vulnerability to being adversely affected, having maintained stable populations in most instances.

Protective features, including fences, boardwalks, barricades, rerouted trails, and/or informational signs have been installed at 8 of the 37 occurrences discussed above, protecting specific habitats occupied by Cumberland sandwort. (Service 2013, pp. 13–14, TDEC 2016, p. 3). The seven occurrences at PCNA are protected from recreational activities by the State's efforts to survey proposed alignments for new trails and route them away from sites with Cumberland sandwort. Measures such as these reduce or preclude the species' exposure to the threat of trampling from recreationists using trails on public lands where the species occurs.

Timber harvest occurs at PSF, but does not occur at BSF, PSP, or PCNA, limiting the potential magnitude of this activity, assumed to be a threat to Cumberland sandwort, to less than half of the sites on conservation lands. During the course of evaluating forest conditions in the vicinity of Cumberland sandwort occurrences, we observed that timber harvests had been conducted in the general vicinity of 10 occurrences at PSF, during the period between approximately 2008 and 2017. Timber harvests occurred upslope or downslope of seven of these occurrences, creating a high risk for exposure to potential effects of this threat, and in the general vicinity of three occurrences, where exposure risk was moderate. Sometime prior to 1999, the forest was converted to pasture on the plateau top above an eleventh occurrence, located on privately owned lands. Based on these data, timber harvests or forest conversion to pasture have taken place near approximately 15 percent of Cumberland sandwort sites. Data were available to evaluate trends for 10 of these 11 occurrences—3 have declined and 7 have remained stable. Monitoring data collected by TDEC at three of these occurrences since 2016 revealed no adverse effects from logging activities. These data support the conclusion that timber harvests in the vicinity of Cumberland sandwort occurrences that do not directly impact the species or its habitat may pose little threat in terms of indirect effects. This conclusion is also supported by observations from visits we conducted in February 2019 to four occurrences with nearby timber harvests, in which no adverse effects from off-site timber removal were detectable. Based on these observations, we conclude that our estimates of forest condition ranks, discussed above in *Recovery Criteria,* likely underestimate the resiliency of occurrences in those instances where forest condition ranks were reduced due to evidence of nearby logging activities.

While some Cumberland sandwort occurrences are exposed to potential habitat-related stressors that might, in certain situations, adversely affect the species, available monitoring data indicate that the species is less vulnerable to these threats than was assumed at the time of listing. In the event Cumberland sandwort is removed from the List, our draft post-delisting monitoring plan (see Post-delisting Monitoring, below) identifies 50 occurrences to be monitored over a period of at least 5 years following delisting, including 27 occurrences where risks of exposure to soil disturbance or trampling, effects of nearby timber harvests, or the two combined have been moderate to high. Continuing to monitor sites where Cumberland sandwort is exposed to potential threats that were previously assumed to place the species at risk of extinction will provide an opportunity to work with land managers to avoid or minimize adverse effects should the threats increase in severity or extent.

In our analysis of Cumberland sandwort's resiliency, discussed above in *Recovery Criteria,* we incorporated available data regarding threats that could potentially modify habitat or curtail the species' range. We determined that 42 occurrences currently meet the criterion of being protected and self-sustaining. These occurrences have been known to exist for an average of 21 years, with a range of 7 to 44 years spanning the first and most recent observations recorded for the species in these sites. In addition to these 42 occurrences, 9 occurrences are protected in the Obey River watershed and 2 in the South Fork Cumberland watershed in Tennessee for which sufficient monitoring data for evaluating trends in abundance or threats is lacking. However, seven of these occurrences in the Obey River drainage have no evidence of substrate or forest disturbance, and are located in PCNA, where TDEC (no date, pp. 10–11) surveys potential trail routes to prevent new trail construction that would expose occurrences to threats from recreational uses. No other potential threats to the habitats at PCNA have been documented. The two occurrences in the South Fork Cumberland drainage are located in BSF and are not affected by any known threats because they are remotely located from trail access and protected from timber harvest.

Thus, available data indicate that the threat of habitat modification or curtailment of the species' range has been addressed.

Limited Distribution and Small Population Sizes

The listing rule for Cumberland sandwort identified the species' restricted distribution, limited to a small portion of the Cumberland Plateau in northern Tennessee and southern Kentucky, and the small size of many populations, as factors increasing the risks of population loss and potential extinction of the species. The species is still restricted to a small portion of the Cumberland Plateau, but the number of known occurrences has increased from 11 at the time of listing (Wofford and Smith 1980, pp. 9–18, 53 FR 23745) to 71 currently (TNHID 2018). Three projects have been funded to support searches for new Cumberland sandwort occurrences (KSNPC 1991, entire; TDEC 2000, entire; TDEC 2008, entire). The single search effort that occurred in Kentucky, only in McCreary County, did not expand the known range of Cumberland sandwort, but confirmed the known occurrence located in Big Spring Hollow and documented that thousands of plants were present at two sites mapped at the occurrence (KSNPC 1991, entire). Searches conducted in Tennessee in 2000 (TDEC 2000, entire) and 2006–2007 (TDEC 2008, entire) produced records for 30 new occurrences on conservation lands in Fentress, Pickett, and Scott counties, Tennessee. In addition to these three Cumberland sandwort survey projects, surveys at PCNA for prospective trail routes have produced records for six additional occurrences on conservation lands in Fentress County (TNHID 2018). These survey efforts, funded in part by the Service via Section 6 grants to state agencies for endangered species recovery, contributed greatly to increasing the species' distribution to the 71 extant occurrences known today.

Fourteen protected and self-sustaining occurrences are located outside of Pickett County, satisfying the recovery criterion concerning geographic distribution. And 12 of the 71 occurrences are located in the Obey River watershed in Tennessee, increasing the species' distribution beyond the South Fork Cumberland watershed, to which the species was thought to be restricted at the time of listing.

The listing rule discussed small population size as a threat to many occurrences, but did not include information on population sizes at the time or specify the number of individuals or the size of habitat area occupied that would be necessary to buffer against extinction risk. As discussed above in *Recovery Criteria,* we used available data to evaluate the species' abundance at known occurrences. We consider populations consisting of fewer than 100 individuals or occupying less than 1 m^2 of habitat to be at heightened risk of (1) losing genetic variation due to drift (change in the frequency of alleles in a population due to random, stochastic events), and (2) inbreeding, which decreases the likelihood that an individual will receive pollen from a compatible mate and produce viable offspring (Allendorf and Luikart 2007, pp. 122–123). However, we note that the risk of inbreeding depression due to unavailability of incompatible mates might be low for Cumberland sandwort, as self-compatibility apparently evolved twice in geographically distant populations of the closely related congener *Mononeuria* (=*Arenaria*) *glabra* at the edges of the species' range (Wyatt 1984, p. 815). Based on available data, 12 populations consist of fewer than 100 individuals or occupy less than 1 m^2 of habitat. Six of these 12 have been known to persist as small populations for lengths of time ranging from 24 to 41 years, indicating that even small poulations are likely to persist for the foreseeable future (TNHID 2018). The remaining six were discovered in 2000 or later. In contrast, 27 occurrences contain 100–1,000 individuals or occupy 1 to 5 m^2 of habitat, and 30 occurrences contain more than 1,000 individuals or occupy greater than 5 m^2 of habitat. Estimates of abundance available for 24 of the largest occurrences indicate that they collectively hold at least 67,000 Cumberland sandwort individuals. These data demonstrate that small population size is not a threat to the species, affecting less than 20 percent of the 71 extant Cumberland sandwort occurrences.

Techniques for micropropagating, cryopreserving, and outplanting Cumberland sandwort have been developed and successfully applied to establish an introduced population at DBNF (Pence *et al.* 2011, entire), which is not counted among the 71 extant occurrences discussed above. This introduced population has grown from an initial outplanting of 63 individuals to 255 individuals, representing multiple life stages, as of 2017 (Taylor 2018, pers. comm.). Eight years after initial outplanting, the genetic variation in this population, which was established in 2005 from seven genetic lines, was approaching levels of genetic diversity comparable to the source population (Philpott *et al.* 2014, entire). The Missouri Botanical Garden (MBG) has seeds in storage from BSF and PSP that were collected in 1991, 1994, 2005, and 2014 (Dell 2018, pers. comm.). Collections were made at multiple points in time to maintain seed viability in storage. While a cultivated source of plants is not currently maintained *ex situ,* the need for doing so is mitigated by the development of methods to micropropagate the species from cuttings and by availability of seeds in *ex situ* collections, providing two potential methods for propagating the species should it become necessary to do so.

Available data support the determination that Cumberland sandwort is not likely to become endangered in the foreseeable future due to limited distribution or small population sizes.

Effects of Climate Change

Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (*e.g.,* temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2014, pp. 119–120). A recent compilation of climate change and its effects is available from reports of the IPCC (IPCC 2014, entire).

The IPCC concluded that evidence of warming of the climate system is unequivocal (IPCC 2014, pp. 2, 40). Numerous long-term climate changes have been observed including changes in arctic temperatures and ice, widespread changes in precipitation amounts, changes in ocean salinity, and aspects of extreme weather including heavy precipitation and heat waves (IPCC 2014, pp. 40–44). Since 1970, the average annual temperature across the Southeast has increased by about 2 degrees Fahrenheit (°F), with the greatest increases occurring during winter months. The geographic extent of areas in the Southeast region affected by moderate to severe spring and summer drought has increased over the past three decades by 12 and 14 percent, respectively (Karl *et al.* 2009, p. 111). These trends are expected to increase. Rates of warming are predicted to more than double in comparison to what the Southeast has experienced since 1975, with the greatest increases projected for summer months. Depending on the emissions scenario used for modeling change (IPCC 2000, entire), average temperatures are expected to increase by 4.5 °F (scenario B1) to 9 °F (scenario A2) by the 2080s (Karl *et al.* 2009, p. 111). While there is considerable variability in rainfall predictions throughout the region, increases in evaporation of moisture from soils and loss of water by plants in response to warmer temperatures are expected to contribute to increased frequency, intensity, and duration of drought events (Karl *et al.* 2009, p. 112).

We used the National Climate Change Viewer (NCCV), a climate-visualization tool developed by the U.S. Geological Survey (USGS), to generate future climate projections across the range of Cumberland sandwort. The NCCV is a web-based tool for visualizing projected changes in climate and water balance at watershed, State, and county scales (USGS 2017). This tool uses air temperature and precipitation data from 30 downscaled climate models for two Representative Concentration Pathway (RCP) scenarios, RCP 4.5 and RCP 8.5, as input to a simple water-balance model to simulate changes in the surface water balance over historical and future time periods, providing insight into potential for climate-driven changes in water resources. To evaluate the maximum effects of climate change in the future, we used projections from RCP 8.5, which is the most aggressive emissions scenario wherein greenhouse gases (GHGs) rise unchecked through the end of the century, to characterize projected future changes in climate and water resources, averaged across the five counties encompassing the range of Cumberland sandwort. The projections estimate change in mean annual values, comparing the period 1981 through 2010 with 2050 through 2074, for maximum and minimum temperature,

monthly precipitation and runoff, snowfall, soil water storage, and evaporative deficit.

Within the range of Cumberland sandwort, the NCCV projects that, under the more extreme RCP 8.5 scenario, maximum temperature will increase by 3.2 degrees Celsius (°C) (5.7 degrees °F), minimum temperature will increase by 3.1 °C (5.6 °F), precipitation will increase by 5.36 mm (0.2 in) per month, soil water storage will decrease by 12.2 mm (0.5 in) annually, and evaporative deficit will increase by 4.6 mm (0.2 in) per month. Projected changes in snowfall are negligible. These estimates indicate that, despite projected minimal increases in annual precipitation, anticipated increases in maximum and minimum temperatures will offset those gains, leading to a net loss in projected runoff and soil water storage. The most notable change with respect to water balance between the two time periods is that soil storage projections are projected to be significantly reduced during the months of June through November for the period 2050 through 2074. Based on these projections, Cumberland sandwort will on average be exposed to increased temperatures across its range which, despite limited increases in precipitation, are expected to decrease soil water available during the growing season.

Assessments of vulnerability of federally listed plants in Tennessee to projected climate change have been conducted by two different groups (Glick *et al.* 2015, entire; Kwit 2018, pers. comm.) using version 2.1 of NatureServe's Climate Change Vulnerability Index (CCVI) (Young *et al.* 2015, entire). The CCVI is an assessment tool that combines results of downscaled climate predictions, characterizing direct exposure to projected climate change, with readily available information about a species' natural history, distribution, and landscape circumstances, which together influence sensitivity to change, to predict whether it will likely suffer a range contraction and/or population reductions due to the effects of climate change. For these assessments using the CCVI, climate change projections were based on ensemble climate predictions, representing a median of 16 major global circulation models, using a ''middle of the road'' scenario (*i.e.,* emission scenario A1B of the IPCC (IPCC 2000, entire)) for GHG emissions (Young *et al.* 2015, p. 14), in contrast to the more extreme scenario that we used in the NCCV to project climate and water balance changes reported above. From these two assessments, Cumberland sandwort was ranked as either ''presumed stable'' (Glick *et al.* 2015, p. 40) or ''moderately vulnerable'' (Kwit 2018, pers. comm.), the latter indicating the species' abundance and/or range extent within the geographical area assessed would likely decrease by 2050 (Young *et al.* 2015, p. 45).

The disparate results between these two assessments conducted using the same tool illustrate that there is some subjectivity involved in evaluating aspects of a species' biology and ecology as they relate to CCVI sensitivity factors used to model potential vulnerability to projected climate change. In the case of Cumberland sandwort, differing judgements of the species' physiological dependence on specific thermal and hydrological niches, restriction to uncommon geological features, and potential for phenological response to changing climate resulted in different outcomes with respect to predicted vulnerability to climate change. In the assessment that ranked Cumberland sandwort as moderately vulnerable, each of these factors were individually ranked as being more likely to increase the species' overall vulnerability than in the contrasting assessment that produced a rank of presumed stable.

Despite having produced different vulnerability ranks, both assessments ranked Cumberland sandwort among the least vulnerable to projected climate change of the Federally listed plant species evaluated in Tennessee (Glick *et al.* 2015, p. 40; Kwit 2018, pers. comm.). While the rank of moderately vulnerable indicates that Cumberland sandwort would likely decrease in abundance and/or range extent by 2050, neither assessment using the CCVI predicted that the species would become extinct within that timeframe or decrease significantly in abundance and/or range extent. Factors contributing to potential resilience of the species to projected climate change include the topographic complexity of the landscape it occupies, general lack of fragmentation among habitats where the species occurs, high abundance at some occurrences, and the fact that most occurrences are located on conservation lands where known threats can be monitored and managed.

Evidence of Cumberland sandwort's potential resilience to the threat of increased drought frequency and intensity is provided by examining available monitoring data in relation to drought records available from 2000 through present. We acquired data from the U.S. Drought Monitor (USDM) summarizing the number of weeks that the geographic area where Cumberland sandwort occurs experienced ''extreme'' or ''exceptional'' droughts for periods of more than 2 consecutive weeks (USDM 2019). The USDM is jointly produced by the National Drought Mitigation Center at the University of Nebraska-Lincoln, the United States Department of Agriculture, and the National Oceanic and Atmospheric Administration. Since 2000, the four Tennessee counties, where all but one Cumberland sandwort occurrence are located, have experienced periods of such drought during 2007, 2008, and 2016. Prolonged drought conditions began during the last half of June 2007 and extended into late winter or spring of 2008, depending on the county. ''Extreme'' or ''exceptional'' drought conditions in these counties started again sometime between August and October 2008, ending in early December. During June 2007 through the end of 2008, these counties experienced between 26 and 53 cumulative weeks of ''extreme'' or ''exceptional'' drought conditions for periods that lasted 2 or more consecutive weeks. These counties did not experience such drought conditions again until a 3-week period during November 2016.

To determine whether any population declines recorded through monitoring corresponded with documented periods of local drought, we examined available data (TNHID 2018) for all sites where monitoring has encompassed the two drought periods discussed above. There were 20 occurrences with data spanning this time range, only one (Tennessee EO 7) of which was judged to have declined. More than 450 plants were estimated to have been present at this site in November 2007, and 351 plants were counted at the site in September 2017. Cumberland sandwort was estimated to have occupied approximately 4 m^2 of habitat in both years. This site's medium rank for abundance did not change over this time period. The other 19 sites remained stable over the time period encompassing the drought conditions discussed above, with the exception of three that increased. Available monitoring data, when considered in conjunction with data documenting droughts of extreme or exceptional severity within the range of Cumberland sandwort, indicate that the species is resilient to this climate phenomenon. Small populations are likely the most vulnerable to reductions or loss due to climate change. Monitoring data spanning the time period of the droughts discussed above were available for 3 occurrences with fewer than 100 individuals or that were less than 1 m^2 in size, all of which remained stable. Thus, we conclude that climate change

will not threaten the viability of the species into the foreseeable future.

Cumulative Effects

The stressors discussed in the analysis above could work in concert with each other and result in a cumulative adverse effect to Cumberland sandwort, *e.g.,* one stressor may make the species more vulnerable to other threats. For example, stressors discussed under Factor A that individually do not rise to the level of a threat could together result in habitat degradation or loss. In instances where multiple habitat stressors act in concert with small population sizes, occurrences might lack resilience needed for population stability or growth. However, the potential stressors we identified either have not occurred to the extent originally anticipated at the time of listing, or appear to be either well-tolerated by the species or adequately managed as described in this proposal to delist the species. Our analysis has identified no range-wide threats or stressors with significant effects to all occurrences. We characterized the presence and relative severity of threats resulting from disturbances of substrates or altered forest conditions. Only 7 of the 71 extant occurrences were found to be potentially exposed to both substrate disturbance and altered forest condition. For reasons discussed below in *Inadequacy of Regulatory Mechanisms,* we do not anticipate stressors to increase on conservation lands where nearly all of the occurrences are located. Furthermore, the increases documented in the number and size of many occurrences since the species was listed do not indicate that cumulative effects of various activities and stressors are affecting the viability of the species at this time or into the future.

Inadequacy of Existing Regulatory Mechanisms

The Commonwealth of Kentucky and the State of Tennessee both list Cumberland sandwort as an endangered species. Conservation efforts are directed towards such species by KSNPC and TDEC, using funding and authorities provided through cooperative agreements with the Service under section 6 of the Act for endangered species recovery. Should Cumberland sandwort be delisted, these agencies would no longer receive such funding specifically for Cumberland sandwort conservation efforts, but could allocate a portion of overall funds they receive for post-delisting monitoring of the species.

The Kentucky Rare Plants Recognition Act, Kentucky Revised Statutes (KRS), chapter 146, section 600–619, directs the KSNPC to identify plants native to Kentucky that are in danger of extirpation within Kentucky and report every 4 years to the Governor and General Assembly on the conditions and needs of these endangered or threatened plants. The list of endangered or threatened plants in Kentucky is found in the Kentucky Administrative Regulations, title 400, chapter 3:040. The statute also recognizes the need to develop and maintain information regarding distribution, population, habitat needs, limiting factors, other biological data, and requirements for the survival of plants native to Kentucky. However, this statute does not include any regulatory prohibitions of activities or direct protections for any species included in the list. It is expressly stated in KRS 146.615 that this list of endangered or threatened plants shall not obstruct or hinder any development or use of public or private land. Furthermore, the intent of this statute is not to ameliorate the threats identified for the species, but to provide information on the species.

The Tennessee Rare Plant Protection and Conservation Act of 1985 (T.C.A. 11–26–201) authorizes the TDEC to, among other things, conduct investigations on species of rare plants throughout the State of Tennessee; maintain a listing of species of plants determined to be endangered, threatened, or of special concern within the State; and regulate the sale or export of endangered species via a licensing system. This statute forbids persons from knowingly uprooting, digging, taking, removing, damaging, destroying, possessing, or otherwise disturbing for any purpose, any endangered species from private or public lands without the written permission of the landowner, lessee, or other person entitled to possession and prescribes penalties for violations. The TDEC may use the list of threatened and special concern species when commenting on proposed public works projects in Tennessee, and the department shall encourage voluntary efforts to prevent the plants on this list from becoming endangered species. It may not, however, be used to interfere with, delay, or impede any public works project.

Cumberland sandwort listing under these State laws may continue following Federal delisting, although Federal delisting may prompt changes in status in Kentucky or Tennessee. However, we are unaware of any planned changes to State protections at this time.

Further, Cumberland sandwort habitats on both state and federal conservation lands would remain protected by rules, regulations, or plans governing the establishment or management of those lands, relevant sections of which are summarized below. As noted above in Table 1, 66 of the 71 extant Cumberland sandwort occurrences are located on Federal or State conservation lands at BSF, PSF, PCNA, and PSP.

Establishment of the BSF was authorized by section 108 of the Water Resources Act of 1974. The NPS manages the 125,000-acre (ac) BSF according to prescriptions established for eight management zones in Alternative D of the Final General Management Plan/Environmental Impact Statement for Big South Fork National River and Recreation Area, Kentucky and Tennessee (NPS 2005, entire). Under this management framework, habitats occupied by Cumberland sandwort and those that are potentially suitable for the species fall within the Sensitive Resource Protection Zone, which is managed to reflect natural processes and be carefully protected from unnatural degradation (NPS 2005, pp. 31–40).

The 20,887-ac PSF was established in 1935 on lands donated to the State of Tennessee by Stearns Coal and Lumber Company (retrieved March 13, 2019 from *https://www.tn.gov/agriculture/forests/state-forests/pickett.html*). The Rules of the Tennessee Department of Agriculture Division of Forestry, Chapter 0080–7–1 Protection of State Forests, prohibit destruction or damaging of any natural resource or collection of plants or botanical specimens, unless authorized by permit from the district forester. Pickett CCC Memorial State Park is situated within the PSF. The Rules of the Tennessee Department of Environment and Conservation, Chapter 0400–0202 Public Use and Recreation, prohibit users of State parks from destroying, digging, cutting, removing, or possessing any tree, shrub or other plant, except as permitted by the Assistant Commissioner of Parks and Recreation (Rule 0400–02–02–.18). Permits may only be issued for scientific or educational purposes (Rule 0400–02–02–.23). The 3,000-ac PCNA is contiguous to PSF and very near PSP, the latter of which provides local management of the natural area. The Tennessee Natural Areas Preservation Act of 1971 forbids the unauthorized removal or destruction of any rare, threatened, or endangered species of plants in any natural areas, with civil penalties of up to $10,000 per day for

each day during which the prohibited act occurs (T.C.A § 11–14–1115). Thus, we do not anticipate stressors to increase on conservation lands where nearly all of the occurrences are located. For the reasons discussed above, we conclude that inadequacy of regulatory mechanisms will not threaten the viability of the species into the foreseeable future.

Determination of Cumberland Sandwort's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we have found that since listing under the Act, Cumberland sandwort representation has increased with the discovery of occurrences in the Obey River watershed. Redundancy also has increased from 11 occurrences at the time of listing to 71 occurrences known to be extant, including 25 of the 28 occurrences that were included in the species recovery plan. An assessment of resiliency of these occurrences, taking into account estimated abundance, substrate condition, and forest condition, indicates that 57 ranked medium or higher, which we consider to be resilient. Of these resilient occurrences, 42 are counted towards meeting and exceeding recovery criteria because they are self-sustaining and located on protected land. Of the 15 resilient occurrences that are not counted towards meeting recovery criteria, 10 are located on protected lands but lack a sufficient number of observations over time to judge trends in their abundance and evaluate whether they are self-sustaining; thus, we expect they will also contribute to the species' overall resiliency and redundancy, ensuring its ability to withstand future catastrophic events (but we are not relying upon these 10 to make this proposed determination). Because Cumberland sandwort has increased in representation and redundancy, generally, and in particular with respect to numbers of resilient, self-sustaining and protected occurrences, we expect this species to persist into the future.

We have carefully assessed the best scientific and commercial information available regarding the threats faced by the Cumberland sandwort in developing this proposed rule. Threats reported at the time of listing related to habitat loss and curtailment of range (Factor A) have been managed in many locations, and available data indicate the species possesses greater resilience to effects of substrate disturbance from trampling and various activities and to effects of timber harvesting in nearby areas than was assumed at the time of listing.

We have analyzed or evaluated potential effects of climate change and low population size (Factor E) and determined that they are not significant threats to the species nor are likely to be in the foreseeable future as defined above. Although not all state and federal regulatory mechanisms (Factor D) will be in effect in the event that Cumberland sandwort is delisted, those remaining are likely to be adequate to protect the Cumberland sandwort from threats to its habitat, given the fact that 66 of the 71 extant occurrences are located on Federal or State conservation lands. The net effect of current and foreseeable future stressors to the species, after considering applicable conservation measures and the existing regulatory mechanisms, is not sufficient to cause the species to meet the definition of an endangered or threatened species. Thus, after assessing the best available information, we conclude that the Cumberland sandwort no longer meets the definition of endangered or threatened under the Act throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range.

Having determined that the Cumberland sandwort is not in danger of extinction or likely to become so in the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways, so we first screen the potential portions of the species' range to determine if there are any portions that warrant further consideration. To do the ''screening'' analysis, we ask whether there are portions of the species' range for which there is substantial information indicating that: (1) The portion may be significant; and, (2) the species may be, in that portion, either in danger of extinction or likely to become so in the foreseeable future. For a particular portion, if we cannot answer both questions in the affirmative, then that portion does not warrant further consideration and the species does not warrant listing because of its status in that portion of its range. Conversely, we emphasize that answering both of these questions in the affirmative is not a determination that the species is in danger of extinction or likely to become so in the foreseeable future throughout a significant portion of its range—rather, it is a step in determining whether a more-detailed analysis of the issue is required.

If we answer these questions in the affirmative, we then conduct a more thorough analysis to determine whether the portion does indeed meet both of the ''significant portion of its range'' prongs: (1) The portion is significant and (2) the species is, in that portion, either in danger of extinction or likely to become so in the foreseeable future. Confirmation that a portion does indeed meet one of these prongs does not create a presumption, prejudgment, or other determination as to whether the species is an endangered species or threatened species. Rather, we must then undertake a more detailed analysis of the other prong to make that determination. Only if the portion does indeed meet both prongs would the species warrant listing because of its status in a significant portion of its range.

At both stages in this process—the stage of screening potential portions to identify any portions that warrant further consideration and the stage of undertaking the more detailed analysis of any portions that do warrant further consideration—it might be more efficient for us to address the ''significance'' question or the ''status'' question first. Our selection of which question to address first for a particular

portion depends on the biology of the species, its range, and the threats it faces. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the second question for that portion of the species' range.

The range of Cumberland sandwort is restricted to a small geographic area in portions of five counties, with high similarity in geological and ecological conditions among occupied sites. Within this geographic area, the species is known from two watersheds, South Fork Cumberland and Obey River, where there are 59 and 12 extant occurrences, respectively. Therefore, applying the process described above, we first evaluated the status of Cumberland sandwort to determine if any threats or population declines were concentrated in any specific portion of the range. Threats related to habitat modification or curtailment of range primarily affect occurrences in the South Fork Cumberland drainage. Our analysis of the species resilience (see above, Recovery), which integrated information on abundance and threats, determined that 45 of the occurrences within the South Fork Cumberland and all of the occurrences within the Obey River drainages had resiliency indices of medium or higher. We have determined that 40 of these resilient occurrences in the South Fork Cumberland and 2 in the Obey River drainages are protected and contribute towards achieving the recovery criteria. The presence of 40 protected and self-sustaining occurrences in the South Fork Cumberland indicates that threats are not concentrated in this drainage so as to affect the representation, redundancy, or resiliency of the Cumberland sandwort. Nine protected occurrences in the Obey River watershed have resiliency indices of medium or higher, but lack sufficient monitoring data to evaluate trends in abundance and determine whether they are self-sustaining. Due to their locations on protected lands, primarily within PCNA where proposed trail routes are surveyed to minimize adverse effects to Cumberland sandwort (TDEC no date, p. 10–11), we expect that these nine occurrences will remain stable for the foreseeable future, adding to the resilience, representation, and redundancy afforded by the 42 occurrences currently considered to contribute to achieving recovery criteria. Based on the distribution of 42 protected and self-sustaining occurrences among the two watersheds, all located on conservation lands managed according to rules, regulations, or management plans (NPS 2005, pp. 31–39, TDEC no date, entire) that protect Cumberland sandwort, we have determined that threats related to habitat modification or curtailment of range are not concentrated in any portion of the species' range so as to affect its representation, redundancy, or resiliency.

We have reviewed other potential threats and conclude that none of them are concentrated in any portion of the species' range so as to affect the representation, redundancy, or resiliency of the species.

Therefore, we conclude, based on this screening analysis, that no portions of the Cumberland sandwort's range warrant further consideration to determine whether the species may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range. Thus, we conclude that the species is not an endangered species or threatened species based on its status in a significant portion of its range. Our approach to analyzing significant portions of the species' range in this determination is consistent with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* No. 16–cv–01165–JCS, 2018 WL 4053447 (N.D. Cal. Aug. 24, 2018); *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d, 946, 959 (D. Ariz. 2017); and *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020).

Determination of Status

Our review of the best available scientific and commercial information indicates that the Cumberland sandwort does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we propose to remove the Cumberland sandwort from the List of Endangered and Threatened Plants.

Effects of This Proposed Rule

This proposal, if made final, would revise 50 CFR 17.12 (h) to remove the Cumberland sandwort from the Federal List of Endangered and Threatened Plants. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, would no longer apply to Cumberland sandwort. Federal agencies would no longer be required to consult with us under section 7 of the Act to ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the Cumberland sandwort's continued existence.

This rule will not affect Cumberland sandwort's status as a threatened or endangered species under State laws or suspend any other legal protections provided by those laws. States may have more restrictive laws protecting wildlife, and these will not be affected by this Federal action. However, this proposed rule may prompt either Kentucky or Tennessee to remove protection for the Cumberland sandwort under their endangered species laws, although we are not aware of any such intention at this time.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us to monitor for not less than 5 years the status of all species that are delisted due to recovery. Post-delisting monitoring (PDM) refers to activities undertaken to verify that a species delisted due to recovery remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of PDM is to monitor the species to ensure that its status does not deteriorate, and if a decline is detected, to take measures to halt the decline so that proposing it as endangered or threatened is not again needed. If at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing. At the conclusion of the monitoring period, we will review all available information to determine if re-listing, the continuation of monitoring, or the termination of monitoring is appropriate.

Section 4(g) of the Act explicitly requires that we cooperate with the States in development and implementation of PDM programs. However, we remain ultimately responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of PDM. We also seek active participation of other entities that are expected to assume responsibilities for the species' conservation after delisting.

We have prepared a draft PDM Plan for Cumberland sandwort (Service 2018). The draft plan describes:

(1) The Cumberland sandwort's condition at the time of delisting;

(2) Thresholds or triggers for potential monitoring outcomes and conclusions;

(3) Frequency and duration of monitoring;

(4) Monitoring methods including sampling considerations; and

(5) Data compilation and reporting procedures and responsibilities.

The draft plan also proposes a PDM implementation schedule including timing and responsible parties.

Concurrent with this proposed delisting rule, we announce the draft plan's availability for public review at *http://www.regulations.gov* under Docket Number FWS–R4–ES–2019–0080. Copies can also be obtained from the Service's Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). We seek information, data, and comments from the public regarding the draft PDM plan.

Required Determinations

Clarity of the Proposed Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(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.

National Environmental Policy Act

We have determined that we do not need to prepare an environmental assessment or environmental impact statement, as defined in the National Environmental Policy Act (42 U.S.C 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands that may be affected by this proposal.

References Cited

A complete list of references cited is available at *http://www.regulations.gov* under Docket Number FWS–R4–ES–2019–0080, or upon request from the Field Supervisor, Tennessee Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

§ 17.12 [Amended]

■ 2. Amend § 17.12(h) by removing the entry for ''*Arenaria cumberlandensis*'' under ''FLOWERING PLANTS'' from the List of Endangered and Threatened Plants.

Aurelia Skipwith,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2020–08398 Filed 4–24–20; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 200415–0113]

RIN 0648–BI09

Atlantic Highly Migratory Species; Proposed Rule To Modify North Atlantic Swordfish and Shark Retention Limits for Certain Permit Holders and Add Inseason Adjustment Authorization Criteria

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to adjust the current regulations for North Atlantic swordfish and shark retention limits for certain permit holders in U.S. Atlantic and Caribbean waters. This action considers modifying swordfish retention limits for highly migratory species (HMS) Commercial Caribbean Small Boat permit holders, Swordfish General Commercial permit holders, and HMS Charter/Headboat permit holders with a commercial endorsement on a non-for hire (*i.e.,* commercial) trip and modifying shark retention limits for HMS Commercial Caribbean Small Boat permit holders. The action also considers adding regulatory criteria for inseason adjustment of swordfish and shark retention limits for the HMS Commercial Caribbean Small Boat permit. This proposed action would better align swordfish management measures established for HMS Commercial Caribbean Small Boat permit holders under Amendment 4 with those established in Amendment 8 to the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) for Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement on a commercial trip. A commercial trip in this document is defined as HMS Charter/Headboat permit holders with a commercial sale endorsement on a non-for hire trip catching swordfish with the intent to sell their catch.

DATES: Written comments must be received by June 26, 2020. NMFS will hold 3 public hearings via conference calls and webinars for this proposed rule on May 19, 2020, May 27, 2020 and June 10, 2020, from 1:00 p.m. to 3:00 p.m. For specific locations, dates and times, see the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0057, by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0057,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be

considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

NMFS will hold three public hearings via conference call/webinars on this proposed rule. For specific locations, dates and times, see the **SUPPLEMENTARY INFORMATION** section of this document.

Copies of the supporting documents, including the draft Environmental Assessment (EA), Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), and the 2006 Consolidated Atlantic HMS FMP and amendments are available from the HMS website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Nicolas Alvarado 727–824–5399.

FOR FURTHER INFORMATION CONTACT: Nicolas Alvarado or Rick Pearson by phone at 727–824–5399, or Delisse Ortiz at 240–681–9037.

SUPPLEMENTARY INFORMATION: Atlantic HMS are managed under the dual authorities of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). NMFS published in the **Federal Register** (71 FR 59058, October 2, 2006) final regulations, effective November 1, 2006, implementing the 2006 Consolidated Atlantic HMS FMP, which details management measures for Atlantic HMS fisheries. The implementing regulations for the 2006 Consolidated Atlantic HMS FMP and its amendments are at 50 CFR part 635. This proposed rule considers management actions that would streamline the regulations to align the retention limits for commercial swordfish permits established for HMS Commercial Caribbean Small Boat permit holders under Amendment 4 with those established in Amendment 8 to the 2006 Consolidated Atlantic HMS FMP for Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement on a non-for hire commercial trip.

Background

A brief summary of the background of this proposed action is provided below. Additional information regarding Atlantic HMS management can be found in the Draft EA for this proposed action and the 2006 Consolidated Atlantic HMS FMP and its amendments, found online (see **ADDRESSES**).

Sharks have been managed by NMFS as delegated by the Secretary of Commerce since 1993 under the authority of the Magnuson-Stevens Act. NMFS implemented the FMP for Sharks of the Atlantic Ocean, which established three management complexes: Large coastal sharks, small coastal sharks, and pelagic sharks (NMFS, 1993). This 1993 FMP implemented commercial quotas for large coastal sharks and pelagic sharks and established recreational retention limits for all sharks, consistent with the large coastal sharks rebuilding program. As a result of the 1996 amendments to the Magnuson-Stevens Act, NMFS implemented an FMP in 1999 that revised much of the management of Atlantic sharks, including establishing new commercial quotas, a commercial size limit, a new rebuilding plan for large coastal sharks, and a limited access fishing permit program for the commercial fishery. Between 1999 and 2008, NMFS changed many of the shark management measures, which included revising quotas, eliminating the commercial minimum size, adjusting the recreational retention and size limits, establishing a time/area closure off the coast of North Carolina, establishing a mechanism for changing the species on the prohibited species list, requiring shark dealers to attend shark identification workshops, and requiring gillnet, bottom longline, and pelagic longline fishermen to attend workshops on the safe handling and release of protected resources and prohibited sharks.

The final rule for Amendment 2 to the 2006 Consolidated Atlantic HMS FMP (Amendment 2) (73 FR 35778, June 24, 2008; corrected 73 FR 40657, July 15, 2008) implemented management measures that included, but were not limited to, establishing rebuilding plans for porbeagle, dusky, and sandbar sharks consistent with stock assessments; implementing commercial quotas and retention limits consistent with stock assessment recommendations to prevent overfishing and rebuild overfished stocks; modifying recreational measures to reduce fishing mortality of overfished/overfishing stocks; modifying reporting requirements; requiring that all Atlantic sharks be offloaded with fins naturally attached; collecting shark life history information via the implementation of a shark research program; and implementing time/area closures recommended by the South Atlantic Fishery Management Council.

The final rule for Amendment 3 to the 2006 Consolidated Atlantic HMS FMP (Amendment 3) (75 FR 30483, June 1, 2010; corrected 75 FR 50715, August 17, 2010; updated effective date of Atlantic Smoothhound Shark Fishery Management Measures 76 FR 70064, November 10, 2011) implemented management measures that included, but were not limited to, rebuilding blacknose sharks and ending overfishing of blacknose and shortfin mako shark. This amendment also added smoothhound sharks (smooth dogfish (*Mustelus canis*) and Florida smoothhound (*Mustelus norrisi*)) under NMFS management; created an open access commercial smoothhound permit and commercial smoothhound quota (715.5 metric tons (mt) dressed weight (dw)); required smoothhound sharks to be landed with fins naturally attached; required commercial smoothhound permit holders to sell their catch to a federally-permitted shark dealer; and delayed the smoothhound shark management measures until such time as the agency could implement the new permit, incorporate provisions of the Shark Conservation Act, and implement the findings of the Biological Opinion.

The final rule for Amendment 4 to the 2006 Consolidated Atlantic HMS FMP (Amendment 4) (77 FR 59842, October 1, 2012) implemented management measures that included, but were not limited to, creating the HMS Commercial Caribbean Small Boat permit for the traditional small-scale commercial handgear fishing fleet in the U.S. Caribbean region. This permit currently has a swordfish retention limit of two swordfish per trip (50 CFR 635.24(b)(3)). Current regulations do not allow for inseason modifications to this retention limit. In addition to implementing a swordfish retention limit, a shark retention limit was set at zero sharks per vessel per trip. Similar to the swordfish retention limit, the shark retention limit established by Amendment 4 can only be modified through framework regulatory procedures, see 50 CFR 635.34(b), which requires carrying out a rulemaking for a framework adjustment to adjust the limit.

The final rule for Amendment 6 to the 2006 Consolidated Atlantic HMS FMP (Amendment 6) (80 FR 50073, August 18, 2015) implemented management measures that included, but were not limited to, establishing regional and sub-regional quotas for large coastal and small coastal sharks in the Atlantic and Gulf of Mexico, removing vessel upgrading restrictions for shark limited

access permit holders, and increasing the large coastal shark retention limit for shark directed limited access permit holders to a maximum of 55 large coastal sharks other than sandbar sharks per trip with a default of 45 large coastal sharks other than sandbar sharks per trip.

The final rule for Amendment 8 to the 2006 Consolidated Atlantic HMS FMP (Amendment 8) (78 FR 52011, August 21, 2013) implemented management measures that included, but were not limited to, establishing additional opportunities for U.S. fishermen to harvest swordfish. Specifically, Amendment 8 established an open access Swordfish General Commercial permit with default retention limits set at two swordfish per vessel per trip for the U.S. Caribbean region, three swordfish per vessel per trip for the Northwest Atlantic and Gulf of Mexico regions, and zero swordfish per vessel per trip in the Florida Swordfish Management Area. These retention limits also apply to permit holders who hold an HMS Charter/Headboat permit with a commercial sale endorsement (and only when on a non-for-hire trip). Amendment 8 also implemented regulations allowing NMFS to adjust these retention limits on an inseason basis between zero and six swordfish per vessel per trip (50 CFR 635.24(b)(4)(iv)). These retention limits also apply to permit holders who hold an HMS Charter/Headboat permit with a commercial sale endorsement (and only when on a non for-hire trip). In order to provide additional opportunities for fishermen to catch the U.S. North Atlantic swordfish quota, and after considering the specified regulatory criteria, NMFS has consistently adjusted the retention limits for the Swordfish General Commercial permit and the HMS Charter/Headboat permit when on a commercial trip upward from the default limits (two or three fish) to the maximum of six fish per vessel per trip in each of the past five years that the permit has been in existence in all areas except the Florida Swordfish Management Area, where the retention limit has remained at zero fish per vessel per trip.

The final rule for Amendment 9 to the 2006 Consolidated Atlantic HMS FMP (Amendment 9) (80 FR 73128, November 24, 2015) implemented management measures that included, but were not limited to, establishing an effective date for previously-adopted smoothhound shark management measures finalized in Amendment 3; adjusting the commercial quota for the smoothhound shark fishery based on recent stock assessments; implementing the smooth dogfish-specific provisions of the Shark Conservation Act (*i.e.,* all sharks landed from Federal waters in the United States must be landed with their fins naturally attached to the carcass, with limited exception for smooth dogfish); implementing the 2012 Shark Biological Opinion; and implementing Atlantic shark gillnet vessel monitoring system requirements. In March 2015, the Southeast Data, Assessment, and Review (SEDAR) 39 stock assessments for smoothhound sharks were completed. Notice of stock status determinations of no overfishing and not overfished for Atlantic smooth dogfish and Gulf of Mexico smoothhound sharks published on June 29, 2015 (80 FR 36974). These stock assessments provided information that could allow NMFS to establish scientifically-based quotas, and the final rule for Amendment 9 considered that new information and resulting quotas. Amendment 9 implemented a commercial quota for the smoothhound shark fishery in the Atlantic Region, and in the Gulf of Mexico region, with no size or retention limit restrictions for smoothhound sharks.

In 2017, International Commission for the Conservation of Atlantic Tunas (ICCAT) Standing Committee on Research and Statistics (SCRS) reassessed North Atlantic swordfish and found that the stock remained not overfished and that overfishing was not occurring. SCRS also indicated that the North Atlantic swordfish stock has been rebuilt since at least 2013 (78 FR 12273, February 2, 2013). The United States has not fully harvested its swordfish quota in several years; therefore, there is a need to continue to provide additional opportunities for fishermen to catch the U.S. quota. NMFS has received comments from HMS Advisory Panel (AP) members at three HMS AP meetings (September 2017, March 2018, and September 2019) requesting that NMFS increase the current swordfish and shark retention limits for the HMS Commercial Caribbean Small Boat permit. Specifically, AP members have requested that NMFS increase the retention limit of the HMS Commercial Caribbean Small Boat permit from two to six swordfish per vessel per trip, similar to the current upper swordfish retention limit for the Swordfish General Commercial permit and HMS Charter/Headboat permit with a commercial sale endorsement, and allow for an increase in the shark retention limit of the HMS Commercial Caribbean Small Boat permit from zero to three sharks per vessel per trip, in order to retain sharks for personal consumption or to sell at the local market or restaurant. Furthermore, additional outreach with the Caribbean Fishery Management Council, the territorial governments, and general discussions with commercial and recreational fishermen have shown interest in increasing the current shark retention limits for the HMS Commercial Caribbean Small Boat permit from zero to three sharks per vessel per trip.

As described above, based on the rebuilt status of North Atlantic swordfish and shark stocks, increased interest in participating in the swordfish and shark fisheries, and the need to more fully utilize the U.S. ICCAT-recommended swordfish quota allocation, NMFS is proposing management changes to the swordfish retention limits of the HMS Commercial Caribbean Small Boat, Swordfish General Commercial, and HMS Charter/Headboat commercial permits, and to the shark retention limits of the HMS Commercial Caribbean Small Boat permit. This rule proposes to update and revise existing HMS regulations to increase the flexibility of, and provide consistency between, the North Atlantic swordfish and shark retention limits for vessel owners issued the HMS Commercial Caribbean Small Boat permit, the Swordfish General Commercial permit, and the HMS Charter/Headboat permit with a commercial sale endorsement, all of whom fish with similar handgears within U.S. Atlantic and Caribbean waters. Furthermore, this proposed action would increase administrative efficiencies by managing these permits similarly (*i.e.,* using inseason adjustment authority) with the goal of more fully utilizing the available U.S. swordfish quota, while also avoiding quota overharvests.

NMFS prepared a draft EA, RIR, and an IRFA, which present and analyze the anticipated environmental, social, and economic impacts of each alternative considered for this proposed rule. The complete list of alternatives and related analyses are provided in the draft EA/RIR/IRFA and are not repeated here in its entirety. A copy of the draft EA/RIR/IRFA prepared for this proposed rulemaking is available from NMFS (see **ADDRESSES**).

NMFS considered three alternatives (Alternatives A1–A3) to modify the mechanism to adjust swordfish and shark retention limits for vessels issued the HMS Commercial Caribbean Small Boat permit. NMFS considered four alternatives (Alternatives B1–B4) for modifying the swordfish retention limits

for the Swordfish General Commercial permit, the HMS Commercial Caribbean Small Boat permit, and for HMS Charter/Headboat permit holders with a commercial sale endorsement on a non-for hire (*i.e.,* commercial) trip. NMFS also considered three alternatives (Alternatives C1–C3) for modifying the shark retention limits for the HMS Commercial Caribbean Small Boat permit.

Currently, adjusting the swordfish and shark retention limit for the HMS Commercial Caribbean Small Boat permit requires conducting a rulemaking to make a framework adjustment, while the retention limits for the Swordfish General Commercial and HMS Charter/Headboat permit holders with a commercial sale endorsement can be changed through an inseason adjustment. This means that NMFS currently has to take two separate regulatory actions to adjust the swordfish retention limits for the three swordfish commercial permits. Specifically, in the U.S. Caribbean region, adjusting swordfish retention limits through two different regulatory procedures with different time frames has caused confusion among fishermen.

Under Alternative A1 (No Action), NMFS would maintain the current ability to adjust the regional swordfish retention limit for vessels issued the HMS Commercial Caribbean Small Boat permit only through framework adjustment procedures (see 50 CFR 635.34(b)).

Under Alternative A2 (Preferred Alternative), NMFS would implement the Swordfish General Commercial Permit inseason adjustment authorization criteria codified at 50 CFR 635.24(b)(4)(iv) to adjust the regional swordfish retention limit for the HMS Commercial Caribbean Small Boat permit. Before making any inseason adjustments to the Commercial Caribbean Small Boat permit retention limit, NMFS would consider the following criteria and other relevant factors:

A. The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock;

B. The estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year;

C. The estimated amounts by which quotas for other categories of the fishery might be exceeded;

D. Effects of the adjustment on accomplishing the objectives of the FMP and its amendments;

E. Variations in seasonal distribution, abundance, or migration patterns of swordfish;

F. Effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and;

G. Review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

Under Alternative A3 (Preferred Alternative), NMFS would implement the shark inseason trip limit adjustment authorization criteria codified at 50 CFR 635.24(a)(8) to adjust the regional shark retention limit for the HMS Commercial Caribbean Small Boat permit. Before making any inseason adjustments to the Commercial Caribbean Small Boat permit retention limit, NMFS would consider the following criteria and other relevant factors:

A. The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports;

B. The catch rates of the relevant shark species/complexes in the region, to date, based on dealer reports;

C. Estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates;

D. Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments;

E. Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge, and/or;

F. Effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

Regarding the alternatives considered to adjust the retention limits, Alternative B1 (No Action) would maintain the existing range of zero to six swordfish per vessel per trip within all regions for Swordfish General Commercial permit holders and for HMS Charter/Headboat permit holders with a commercial sale endorsement. The default retention limits established for these permits would remain at: (1) Northwest Atlantic region—three swordfish per vessel per trip; (2) Gulf of Mexico region—three swordfish per vessel per trip; (3) U.S. Caribbean region—two swordfish per vessel per trip; and, (4) Florida Swordfish Management Area—zero swordfish per vessel per trip. NMFS would also maintain the current retention limit of two swordfish per vessel per trip for vessels issued an HMS Commercial Caribbean Small Boat permit.

Alternative B2 (Preferred Alternative) would maintain the default swordfish retention limit of zero swordfish per vessel per trip for the Florida Swordfish Management Area and establish a default swordfish retention limit of six swordfish per vessel per trip for all other regions and for HMS Commercial Caribbean Small Boat and Swordfish General Commercial permit holders, and HMS Charter/Headboat permit holders with a commercial sale endorsement. Additionally, for the HMS Commercial Caribbean Small Boat permit, NMFS would establish a retention limit range of zero to six swordfish per vessel per trip, with a default retention limit of six swordfish per vessel per trip.

Similar to Alternative B2, Alternative B3 would change the retention limit range for all three permits and the default retention limits for all three permits in all areas, except the Florida Swordfish Management Area, which would remain with a default limit of zero swordfish per vessel per trip. Specifically, the retention limit range would change to zero to 18 swordfish per vessel per trip for all permits. The default retention limits established for these permits would be changed to 18 swordfish per vessel per trip in the Northwest Atlantic and Gulf of Mexico regions and to six swordfish per vessel per trip in the U.S. Caribbean.

Alternative B4 is similar to Alternative B3, except it would change the default retention limit for all permits and all areas to 18 swordfish per vessel per trip, except for the Florida Swordfish Management Area, which would remain with a default limit of zero swordfish per vessel per trip. Accordingly, the retention limit range would change to zero to 18 swordfish per vessel per trip for all permits.

Alternative C1 (No Action) would maintain the current shark retention limit for HMS Commercial Caribbean Small Boat permit holders of zero sharks per vessel per trip.

Alternative C2 (Preferred Alternative) would establish a default retention limit of three smoothhound and/or tiger sharks (combined) per vessel per trip for HMS Commercial Caribbean Small Boat permit holders. The retention limit range would be zero to three smoothhounds and/or tiger sharks (combined) per vessel per trip. The retention of any other shark species would not be allowed under this alternative.

Alternative C3 would establish a default retention limit of six non-prohibited large coastal, small coastal,

pelagic, and/or smoothhound sharks (combined) per vessel per trip for HMS Commercial Caribbean Small Boat permit holders. The retention limit range would be zero to six non-prohibited large coastal, small coastal, pelagic, and/or smoothhound sharks (combined) per vessel per trip.

Preferred Alternatives

Preferred Alternatives A2 and A3, in combination with Preferred Alternatives B2 and C2 would establish inseason adjustment authority for the swordfish and shark retention limits under the HMS Commercial Caribbean Small Boat permit in the U.S. Caribbean. The ability to adjust the retention limit between zero and six for all three permits and all regions for swordfish, and adjust the retention limit between zero and three smoothhound and/or tiger sharks (combined) for the HMS Commercial Caribbean Small Boat permit holders would result in NMFS being more flexible and able to respond in a more timely manner when adjusting the swordfish and shark retention limits. This flexibility would also provide consistency for swordfish management across the permits and regions. This flexibility could allow NMFS to lower the retention limit throughout the year, if necessary, to prevent exceeding the North Atlantic swordfish quota. Thus, Alternatives A2 and A3 would likely have neutral direct and indirect, short- and long-term, ecological impacts. Because these alternatives would increase flexibility in managing the swordfish and shark fisheries as needed, while still preventing overharvest of the North Atlantic swordfish and shark quotas, NMFS prefers these alternatives at this time.

Under Alternative B2 (Preferred Alternative), the default retention limit for all three permits in all regions (other than the Florida Swordfish Management Area which would remain at zero fish per vessel per trip) would change to six swordfish per vessel per trip. Currently, the maximum swordfish retention limit for Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement is six swordfish per vessel per trip with a default limit of three swordfish per vessel per trip in the Northwest Atlantic and Gulf of Mexico regions and two swordfish per vessel per trip in the U.S. Caribbean region. NMFS has increased these swordfish retention limits to six every year for each of the past six years that the Swordfish General Commercial permit has been in existence, in order to provide additional fishing opportunities to harvest the U.S. swordfish quota, which is currently underharvested. Because the fishermen with a Swordfish General Commercial permit and the HMS Charter/Headboat permit with a commercial sale endorsement already fish under the default retention limit preferred here, NMFS does not anticipate any changes to current fishing practices or bycatch mortality rates not previously analyzed in Amendment 8. Thus, Alternative B2, would have neutral direct and indirect ecological impacts on the U.S. swordfish stock in the short- and long-term for Swordfish General Commercial permit holders and the HMS Charter/Headboat permit holders with a commercial sale endorsement. Because the per trip and annual revenue for these permit holders would essentially remain the same as under Alternative B1, this alternative would also result in neutral direct socioeconomic impacts to Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement in the short- and long-term. The current HMS Commercial Caribbean Small Boat permit swordfish retention limit is two swordfish per vessel per trip. If NMFS were to increase the retention limit to six swordfish per vessel per trip, it is likely that this alternative will have neutral direct ecological impacts on the U.S. swordfish stock in the short-and long-term as this action would not affect or alter the science-based quotas for the North Atlantic swordfish, and the swordfish stock can support higher removal levels within established quotas without jeopardizing the sustainability of the stock. In addition, because authorized gear under the HMS Commercial Caribbean Small Boat permit has low bycatch and bycatch mortality, NMFS anticipates Alternative B2 to have neutral indirect ecological impact in the short- and long- term. Affected fishermen could realize higher trip revenues since they would have more swordfish to sell, assuming a vessel is able to retain the maximum trip limit. This minor increase in per trip, and annual, revenue would result in neutral direct socioeconomic impacts in the short- and long-term to HMS Commercial Caribbean Small Boat permit holders as any increase in annual ex-vessel revenue would be relatively minor.

Under Alternative C2 (Preferred Alternative), the default shark retention limit would change to three smoothhound and/or tiger sharks (combined) for HMS Commercial Caribbean Small Boat permit holders, with a retention limit range of zero to three smoothhounds and/or tiger sharks (combined) per vessel per trip. The retention of any other shark species would not be allowed under this alternative. Currently, the default shark retention limit for HMS Commercial Caribbean Small boat permit holders is zero sharks per vessel per trip. Preferred Alternative C2 would not likely adversely affect shark populations for several reasons. First, this range is a conservative limit that is analogous to the lowest retention limit of the existing HMS permits. Second, the smoothhound shark stock is healthy, not overfished, and with no overfishing occurring. And while the non-prohibited large coastal shark stock status is unknown (the tiger shark stock is part of the non-prohibited aggregated large coastal shark stocks), tiger shark landings have been below the allocated shark quotas for the non-prohibited large coastal shark management group. Moreover, the non-prohibited large coastal shark quotas have not been fully harvested in recent years and NMFS is not expecting increased landings of tiger sharks to adversely affect the stocks. Third, both of these shark species can withstand higher removals within the established quotas and the proposed retention limits without jeopardizing the sustainability of the stocks. Fourth, the quotas for smoothhound and non-prohibited large coastal sharks are not being modified in this rulemaking and fishermen would continue to be limited to the total amount of sharks that can be harvested, as well as by seasonal closures when the shark quotas have reached or are projected to reach 80 percent of the relevant quota or are projected to reach 100 percent of the relevant quota by the end of the fishing season (*see* § 635.28(b)(2)). Fifth, both of these species have unique physical features that make them easy to distinguish from other shark species. Thus, alternative C2 is anticipated to have neutral direct ecological impacts to shark stocks in the short- and long-term. This alternative would also have neutral indirect ecological impacts. While other bycatch species may be caught during fishing activities targeting smoothhounds and/or tiger sharks, the use of handgears in the small-scale fishery as authorized by the HMS Commercial Caribbean Small Boat permit would allow for a quick release of bycatch species, maximizing their post-release survival rate. It is anticipated that fishermen using handgear would have no adverse impacts on ESA-listed species, including marine mammals and sea turtles, beyond the impacts analyzed in the 2004 and 2012 Biological Opinions

which concluded that the HMS handgear fishery will not jeopardize any ESA-listed species, including the Central and Southwest Distinct Population Segment of the scalloped hammerhead shark. Under alternative C2, permitted HMS Commercial Caribbean Small Boat permit holders would be able to land and sell smoothhound and tiger sharks. If NMFS increases the retention limit to three sharks per vessel per trip, fishermen would potentially realize higher per trip and annual revenues since they would have sharks to sell. This minor increase in per trip and annual revenue would result in neutral direct socioeconomic impacts in the short- and long-term to the HMS Commercial Caribbean Small Boat permit holders because any potential increase would be relatively minor.

As described above, NMFS also considered five other alternatives on retention limits—three other alternatives regarding the swordfish retention limits (Alternatives B1, B3, and B4) and two other alternatives regarding shark retention limits (Alternatives C1, and C3)—and one other alternative regarding the mechanism to adjust retention limits for the HMS Commercial Caribbean Small Boat permit (Alternative A1). At this time, NMFS does not prefer Alternatives A1 (No Action), B1 (No Action), and C1 (No Action) because these alternatives do not meet the objectives of the rule: Providing additional fishing opportunities to fishermen when other factors, such as availability of fish on the grounds and available quota, support such an increase. NMFS does not prefer Alternative B3, B4, or C3 at this time. With regard to Alternatives B3 and B4, it is not yet clear that Swordfish General Commercial permit holders or HMS Commercial Caribbean Small Boat permit holders would achieve the full benefits of, a retention limit of up to 18 swordfish from a retention limit range of zero to 18 swordfish per vessel per trip or if a default retention limit of six to 18 swordfish per trip is most appropriate for the U.S. Caribbean region, given prior landings and the current make-up of the HMS Commercial Caribbean Small Boat fleet. With regard to Alternative C3, it is also not clear if HMS Commercial Caribbean Small Boat permit holders would achieve the full benefits of a retention limit of up to six shark per vessel per trip (non-prohibited large coastal, small coastal, pelagic, and smoothhound sharks, combined) or if a default retention limit of six sharks per vessel per trip is most appropriate for the U.S. Caribbean region, given prior landings and the current make-up of the HMS Commercial Caribbean Small Boat fleet. NMFS specifically requests comments on the HMS Commercial Caribbean Small Boat permit, Swordfish General Commercial permit, and HMS Charter/Headboat permit swordfish and shark retention limits.

Specific Requests for Comments: NMFS requests comments from the public on the proposed action and this document. In particular, NMFS would like the following questions considered and is specifically requesting comments from the public.

1. NMFS specifically requests comments on whether vessels, having a Swordfish General Commercial permit, can support the extra weight of additional swordfish.
2. NMFS specifically requests comments on whether vessels, having an HMS Commercial Caribbean Small Boat permit, can support the extra weight of additional swordfish.
3. NMFS specifically requests comments on the ability of the small-scale fleet to hold and market the proposed, increased retention limit for sharks.
4. NMFS specifically requests comments on the six-shark retention limit alternative, and the ability for the fleet to hold six sharks, and to transport them safely back to their homeport.
5. NMFS specifically requests comments on the swordfish retention limits of the HMS Commercial Caribbean Small Boat permit, Swordfish General Commercial permit, and HMS Charter/Headboat permit when a vessel is on a commercial trip, and the shark retention limits of the HMS Commercial Caribbean Small Boat permit.
6. NMFS specifically requests comments on price data for swordfish and non-prohibited large coastal, small coastal, pelagic, and smoothhound sharks in the U.S. Caribbean.

Public Hearing

Comments on this proposed rule may be submitted via *http://www.regulations.gov* or at a public conference call/webinar. NMFS solicits comments on this proposed rule through [*insert date 60 days after the date of publication in the* ***Federal Register***]. During the comment period, NMFS will hold three conference calls/webinars for this proposed rule. Requests for sign language interpretation or other auxiliary aids should be directed to Nicolas Alvarado or Delisse Ortiz at 727–824–5399/240–681–9037, at least 7 days prior to the meeting.

The webinar/conference calls will take place on May 19, 2020, May 27, 2020, and June 10, 2020. Information for registering and accessing the webinars can be found at *https://www.fisheries.noaa.gov/action/modifications-some-north-atlantic-swordfish-and-shark-retention-limits-and-inseason.*

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of the conference call, the moderator will explain how the conference call will be conducted and how and when attendees can provide comments. The NMFS representative will attempt to structure the meeting so that all the attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do they may not be allowed to speak during the conference call.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated Atlantic HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 Regulatory Planning and Review.

This proposed rule is expected to be an Executive Order 13771 deregulatory action. The proposed rule would increase flexibility for, and reduce the burden to, fishermen by modifying the North Atlantic swordfish and shark retention limit in U.S. Atlantic and Caribbean waters and allowing those retention limits to be increased within a certain range if warranted, which would result in the ability for fishermen to catch and retain more fish. This proposed action would also streamline the regulations by aligning the different swordfish retention limits between different commercial swordfish permits that use similar gears.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule would have on small entities if adopted. A description of the action, why it is being considered, and the legal basis for this action are contained below. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

Section 603(b)(1) of the Regulatory Flexibility Act requires Agencies to describe reasons why the action is being considered. The purpose of this proposed action is to consider modifications to the swordfish retention limits for vessels issued HMS Commercial Caribbean Small Boat permits, Swordfish General Commercial permits, and HMS Charter/Headboat permits with a commercial endorsement (applicable only when on a non-for hire trip), and shark retention limits for vessels issued an HMS Commercial Caribbean Small Boat permit, and adding regulatory criteria for inseason adjustment to the retention limits of the HMS Commercial Caribbean Small Boat permit retention limits while avoiding under- and overharvest.

Section 603(b)(2) requires Agencies to describe the objectives of the proposed rule. NMFS has identified the following objectives, which are consistent with existing statutes such as the Magnuson-Stevens Act and its objectives, with regard to this proposed action:

- Maintain optimum yield for the swordfish fishery;
- Management measures shall, where practicable, minimize costs and avoid unnecessary duplication; and
- Take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities.

Section 603(b)(3) of the RFA requires Agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under the SBA's regulations for an agency to develop its own industry-specific size standards after consultation with Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194). In that final rule effective on July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS permit holders to be small entities because they all had average annual receipts of less than $11 million for commercial fishing.

The proposed rule would apply to the approximately 35 HMS Commercial Caribbean Small Boat permits, 667 Swordfish General Commercial permits, and 3,769 HMS Charter/Headboat permit holders, based on an analysis of permit holders as of December 2019. Of those 667 Swordfish General Commercial permit holders, 24, or 3.6 percent of permit holders, landed swordfish in 2019. Of the 35 HMS Commercial Caribbean Small Boat permit holders, 5, or 14.2 percent of permit holders, landed swordfish in 2019. Of the 3,769 HMS Charter/Headboat vessels only 23, or 0.6 percent of permit holders, landed swordfish in 2019. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions.

Section 603(b)(4) of the RFA requires Agencies to describe any new reporting, record-keeping and other compliance requirements. The action does not contain any new collection of information, reporting, or record-keeping requirements. The alternatives considered would review and potentially modify the swordfish retention limits for existing swordfish commercial permits, modify shark retention limits for HMS Commercial Caribbean Small Boat permits and add regulatory criteria for inseason adjustment of the HMS Commercial Caribbean Small Boat permit retention limits.

Under section 603(b)(5) of the RFA, agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed rule. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and fishery management measures. These include the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed rule has been determined not to duplicate, overlap, or conflict with any Federal rules.

One of the requirements of an IRFA is to describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impacts of the proposed rule on small entities. These impacts are discussed below. Additionally, the RFA (5 U.S.C. 603 (c)(1)–(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) Use of performance rather than design standards; and (4) Exemptions from coverage of the rule, or any part thereof, for small entities.

NMFS examined each of these categories of alternatives. Regarding the first, second, and fourth categories, NMFS cannot establish differing compliance requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act. As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides rationales for identifying the preferred alternatives to achieve the desired objectives.

The alternatives considered and analyzed are described below. The IRFA assumes that each vessel will have similar catch and gross revenues to show the relative impact of the proposed action on vessels.

Alternative A1 would maintain the current ability to adjust the regional swordfish retention limits for vessels possessing the HMS Commercial Caribbean Small Boat permit only through framework adjustment procedures (see 50 CFR 635.34(b)). Under this alternative, NMFS does not anticipate any change in economic impacts, as this would maintain NMFS' ability to modify swordfish retention limits using the existing current framework adjustment procedures. As such, this alternative would have neutral economic impacts on HMS permit holders. However, this alternative would have additional administrative burden and time costs associated with continuing to be required do a framework action to change the trip limit for the HMS Commercial Caribbean Small Boat permit.

Alternatives A2 and A3 would implement inseason adjustment authority for swordfish and sharks, similar to those codified at 50 CFR 635.24(b)(4)(iv) and 50 CFR 635.24(a)(8), respectively, in order to modify the retention limit for the HMS Commercial Caribbean Small Boat within a range, as described in Alternatives B2 to B4 and Alternatives C2 to C3, respectively. NMFS already has the ability to adjust the swordfish retention limits under the Swordfish General Commercial and HMS Charter/Headboat permits, and the shark retention limits under the Shark Limited Access permits. Under these alternatives (A2 and A3), inseason adjustment authority would provide NMFS with more flexibility in the regulations to be more responsive to the changes needed in the swordfish and shark fisheries within the fishing season. The alternatives would provide for a new regulatory process that would not change the actual retention limits. Therefore, the alternatives would have neutral socioeconomic impacts to HMS permit holders.

Alternative B1, the No Action alternative, would maintain the zero to six swordfish per vessel per trip retention limit range within all Swordfish General Commercial permit management regions, and maintain the existing default swordfish retention trip limit of two swordfish per vessel per trip for Swordfish General Commercial permit holders in the U.S. Caribbean and three swordfish per vessel per trip for Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement within the Gulf of Mexico and Northwest Atlantic regions. The default swordfish retention trip limit for the Florida Swordfish Management Area would remain at zero. For the HMS Commercial Caribbean Small Boat permit, the swordfish retention trip limit of two swordfish per vessel per trip would be maintained.

A single swordfish is estimated to be worth $331 (ex-vessel), on average, whereas six swordfish are estimated to be worth $1,987 (ex-vessel). Under the No Action alternative, the potential gross revenue per trip for each HMS Commercial Caribbean Small Boat vessel landing the trip limit would remain at approximately $662 based on the average ex-vessel price of swordfish, with gross revenue from swordfish ranging from $662 under a two fish limit to $1,987 under a six swordfish limit. Similarly, the potential gross revenue per trip for vessels possessing a Swordfish General Commercial permit or a HMS Charter/Headboat permit with a commercial sale endorsement fishing in either the U.S. Caribbean, Northwest Atlantic or Gulf of Mexico and landing the full trip limit would remain at $1,987, with gross revenue from swordfish ranging from either $662 under a two fish limit or $993 under a three swordfish limit to $1,987 under a six swordfish limit. Alternative B1 would likely result in neutral economic impacts since there would be no change in the management structure of the swordfish fishery.

Alternative B2 (Preferred Alternative), would maintain the zero to six swordfish retention limit range, but would increase the default limit to the highest swordfish retention limit of six swordfish per vessel per trip for most of the swordfish management regions (NW Atlantic, Gulf of Mexico, U.S. Caribbean) for vessels possessing an HMS Commercial Caribbean Small Boat permit, a Swordfish General Commercial permit, or vessels with an HMS Charter/Headboat permit with a commercial sale endorsement. The default swordfish retention trip limit for the Florida Swordfish Management Area would remain at zero. Under this alternative, the potential gross revenue per trip for each vessel that has landed the maximum allowed trip limit under either of the three swordfish commercial swordfish permits and within the U.S. Caribbean, Northwest Atlantic, and Gulf of Mexico would be $1,987 per vessel per trip. For example, for a vessel making ten trips per year and retaining the maximum allowable limit each trip, annual gross revenue derived from swordfish would generate up to $19,870 under a six swordfish limit. *See* Table 4.2 in draft EA/IRFA (summarizing average number of trips per year under the different permits). By having a higher default trip limit for swordfish, this alternative would continue to provide a seasonal, or secondary, fishery for most participants as well as provide new socioeconomic benefits to some fishermen, fishing tackle manufacturers and suppliers, bait suppliers, fuel providers, and swordfish dealers. Alternative B2 would likely result in neutral economic impacts in the short- and long-term. Because NMFS has increased the swordfish retention limit in the Northwest Atlantic and Gulf of Mexico, and the U.S. Caribbean regions to six every year for each of the past six years since the implementation of the Swordfish General Commercial permit, any economic impact would be neutral for Swordfish General Commercial permit holders and HMS Charter/Headboat permit holders with a commercial sale endorsement. For the HMS Commercial Caribbean Small Boat permit, fishermen would realize higher trip revenues since they could sell up to four additional swordfish per trip than the current two swordfish per vessel per trip limit. However, this alternative would result in neutral direct socioeconomic impacts to the HMS Commercial Caribbean Small Boat permit holders in the short- and long-term as any increase in annual ex-vessel revenue would be relatively minor.

Alternative B3 would modify the existing swordfish retention limit range by increasing it from a zero to six swordfish per vessel per trip to zero to 18 swordfish per vessel per trip for all swordfish management regions. Similar to Alternative B2, this alternative would establish a default swordfish retention limit of six swordfish per vessel per trip for the HMS Commercial Caribbean Small Boat permit within the U.S. Caribbean region. However, unlike Alternative B2, this alternative would increase the default swordfish retention limit from six swordfish per vessel per trip to 18 swordfish per vessel per trip for vessels possessing a Swordfish General Commercial permit, or vessels with an HMS Charter/Headboat permit with a commercial sale endorsement within the Northwest Atlantic, Gulf of Mexico, and the U.S. Caribbean swordfish management regions. The default swordfish retention trip limit for the Florida Swordfish Management Area would remain at zero. Under this alternative, the potential gross revenue from swordfish for each vessel with an HMS Commercial Caribbean Small Boat permit within the U.S. Caribbean region would range from $1,987 per trip under a six swordfish limit to $5,961 per trip under an 18 swordfish limit. Fishermen would realize higher trip revenues since they would have more swordfish to sell, assuming a vessel is able to retain the maximum trip limit, and more fishermen may conduct a greater number of trips or longer trips. If all of the five active HMS Commercial Caribbean Small Boat vessels in 2019 landed the six-swordfish default trip limit and take an average of four trips per year they could realize an increase in annual revenue of up to $39,740. *See* Table 4.2 in draft EA/IRFA (summarizing average of trips per year under the different permits). Alternative B3 would likely result in minor beneficial direct impacts on HMS Commercial Caribbean Small Boat permit holders in the short- and long-term. Similarly, the potential gross revenue per trip for vessels possessing a Swordfish General Commercial permit or vessels with an HMS Charter/

Headboat permit and a commercial sale endorsement fishing in either the U.S. Caribbean, Northwest Atlantic or Gulf of Mexico swordfish management regions retaining the maximum 18-swordfish limit on each trip would be $5,961. For example, for a vessel making ten trips per year and retaining the maximum allowable limit each trip, annual gross revenue derived from swordfish would generate up to $59,616 under an 18 fish limit. Alternative B3 would likely result in minor beneficial direct economic impacts on Swordfish General Commercial permit holders or HMS Charter/Headboat permit holders with a commercial sale endorsement in the short- and long-term since the default retention limit would be set higher than the current default limit for all swordfish management region, resulting in fishermen potentially realizing higher trip revenues since fishermen would have more swordfish to sell.

Alternative B4 would modify the existing default swordfish retention limit range by increasing it from a zero to six swordfish per vessel per trip to a zero to 18 swordfish per vessel per trip for all swordfish management regions, with the default swordfish retention limit set at the maximum trip limit of 18 swordfish per vessel per trip everywhere except the Florida Swordfish Management Area, which would remain at zero. As noted above, Alternative B3 would make the same modifications, but with a lower (six swordfish) default retention limit for the HMS Commercial Caribbean Small Boat permit within the U.S. Caribbean region. Similar to Alternative B3, under Alternative B4, the potential gross revenue per trip for each vessel with an HMS Commercial Caribbean Small Boat permit, a Swordfish General Commercial permit, or a vessel with an HMS Charter/Headboat permit and commercial sale endorsement fishing in either the U.S. Caribbean, the Northwest Atlantic or the Gulf of Mexico swordfish management regions retaining the maximum allowed limit on each trip would be $5,961. For example, for a vessel making ten trips per year and retaining the maximum allowable limit (*i.e.,* an 18 swordfish retention limit) each trip, the annual gross revenue derived from swordfish would generate up to $59,616. In increasing the retention limit above the default limit for all swordfish management regions, fishermen would realize higher trip revenues since they would have more swordfish to sell. Consequently, the outcome of Alternative B4 would likely result in minor beneficial direct economic impacts on the HMS Commercial Caribbean Small Boat permit holders, Swordfish General Commercial permit holders, and HMS Charter/Headboat permit holders with a commercial sale endorsements in the short- and long-term.

Alternative C1, the No Action alternative, would maintain the current range of zero to three sharks per vessel per trip for the HMS Commercial Caribbean Small Boat permit, with a default shark retention limit of zero sharks per vessel per trip. Thus, if the retention limit remains the same there would likely be neutral direct economic impacts to HMS Commercial Caribbean Small Boat permit holders in the short- and long-term. However, the No Action alternative would not provide NMFS with flexibility to address multiple requests by commercial shark fishermen to land a limited number of sharks, when factors, such as availability of fish on the grounds and available quota, support such an increase.

Alternative C2 (Preferred Alternative) would establish a retention limit range of zero to three smoothhounds and/or tiger sharks (combined) per vessel per trip, with a default shark retention limit of three smoothhound and/or tiger sharks (combined) per vessel per trip. The retention of any other shark species would not be allowed under this alternative. The retention limit could be raised or lowered in the region in season within the zero to three shark per vessel per trip range. Under this alternative, the potential annual gross revenue for each vessel that has landed the maximum allowed trip limit of three smoothhounds and/or tiger sharks (combined) per vessel per trip would be as follow: (a) If only tiger sharks were caught, and the vessel takes two trips per month (24 trips per year), then the annual revenue per vessel associated with this activity would be $4,455; and (b) if only smoothhound sharks were caught, and the vessel conducted two trips per month (24 trips per year), then the annual revenue per vessel would be $733. *See* Table 3.9 in draft EA/IRFA (summarizing number of trips landing sharks per year under the different permits). Because NMFS would have the authority to adjust the shark retention limit from zero to three, the annual ex-vessel revenue estimates could vary from $0 (under a zero fish limit) to as much as $733 to $4,455, depending on the species composition of the catch. This minor increase in per trip, and annual revenue would result in neutral direct economic impacts in the short- and long-term to the HMS Commercial Caribbean Small Boat permit holders because any potential increase would be relatively minor.

Under Alternative C3, NMFS would establish a retention limit range of zero to six non-prohibited large coastal, small coastal, pelagic, and smoothhound sharks (combined) per vessel per trip, with a default retention limit of six non-prohibited large coastal, small coastal, pelagic, and smoothhound sharks (combined) per vessel per trip for HMS Commercial Caribbean Small Boat permit holders. Under this alternative, the potential annual gross revenue for each vessel that has landed the maximum allowed trip limit of six non-prohibited large coastal, small coastal, pelagic, and smoothhound sharks per vessel per trip would vary depending on the composition of the catch. If only large coastal sharks were caught, and the vessel takes two trips per month (24 trips per year), then the annual revenue per vessel associated with this activity would be $8,910. Assuming a successful trip and two trips per month, the annual revenue per vessel associated with a vessel landing the full trip limit of either small coastal, pelagic or smoothhound sharks would be $5,110, $11,269, and $1,468, respectively. Because NMFS would have the authority to adjust the shark retention limit from zero to six, the annual ex-vessel revenue estimates could vary from $0 (under a zero fish limit) to as much as $1,468 to $11,269, depending on the species composition of the catch. This minor increase in per trip, and annual, revenue would result in neutral economic impacts to the HMS Commercial Caribbean Small Boat permit holders in the short- and long-term because any potential increase would be relatively minor.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: April 16, 2020.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 2. Amend § 635.24 by:

■ a. Revising paragraph (a)(4)(iv);

■ b. Revising paragraph (b)(3);
■ c. Revising the introductory text of paragraph (b)(4);
■ d. Revising paragraph (b)(4)(iii);
■ e. Removing paragraph (b)(4)(iv); and
■ f. Adding paragraph (b)(5).

The revisions and addition read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

* * * * *

(a) * * *

(4) * * *

(iv) A person who owns or operates a vessel that has been issued an HMS Commercial Caribbean Small Boat permit may retain, possess, land, or sell only smoothhound sharks and tiger sharks, subject to the current shark trip limit. The shark trip limit for persons aboard a vessel issued an HMS Commercial Caribbean Small Boat permit will range between zero to three smoothhound and/or tiger sharks, combined, per vessel per trip. At the start of each fishing year, the default shark trip limit will apply. During the fishing year, NMFS may adjust the default shark trip limit per the inseason trip limit adjustment criteria listed in paragraph (a)(8) of this section. The default shark trip limit for the HMS Commercial Caribbean Small Boat permit is three smoothhound and/or tiger sharks, combined, per vessel per trip.

* * * * *

(b) * * *

(3) Persons aboard a vessel that has been issued an HMS Commercial Caribbean Small Boat permit are subject to the HMS Commercial Caribbean Small Boat permit retention limit. The swordfish retention limit for persons aboard a vessel issued an HMS Commercial Caribbean Small Boat permit will range between zero to six swordfish per vessel per trip. At the start of each fishing year, the default retention limit will apply. During the fishing year, NMFS may adjust the default retention limit per the inseason regional retention limit adjustment criteria listed in § 635.24(b)(5). The default retention limit for the HMS Commercial Caribbean Small Boat permit is six swordfish per vessel per trip.

(4) Persons aboard a vessel that has been issued a Swordfish General Commercial permit or an HMS Charter/Headboat permit with a commercial sale endorsement (and only when on a non for-hire trip) are subject to the regional swordfish retention limits specified at paragraph (b)(4)(iii) of this section, which may be adjusted during the fishing year based upon the inseason regional retention limit adjustment criteria listed in § 635.24(b)(5).

* * * * *

(iii) *Regional retention limits.* The swordfish regional retention limits for each region will range between zero to six swordfish per vessel per trip. At the start of each fishing year, the default regional retention limits will apply. During the fishing year, NMFS may adjust the default retention limits per the inseason regional retention limit adjustment criteria listed in § 635.24(b)(5). The default retention limits for the regions set forth under paragraph (b)(4)(i) of this section are:

(A) Zero swordfish per vessel per trip for the Florida Swordfish Management Area.

(B) Six swordfish per vessel per trip for the Caribbean region.

(C) Six swordfish per vessel per trip for the Northwest Atlantic region.

(D) Six swordfish per vessel per trip for the Gulf of Mexico region.

* * * * *

(5) NMFS will file with the Office of the Federal Register for publication notification of any inseason adjustments to the default swordfish retention limits specified at § 635.24(b)(3) and (b)(4)(iii). Before making any inseason adjustments to swordfish retention limits, NMFS will consider the following criteria and other relevant factors:

(i) The usefulness of information obtained from biological sampling and monitoring of the North Atlantic swordfish stock;

(ii) The estimated ability of vessels participating in the fishery to land the amount of swordfish quota available before the end of the fishing year;

(iii) The estimated amounts by which quotas for other categories of the fishery might be exceeded;

(iv) Effects of the adjustment on accomplishing the objectives of the fishery management plan and its amendments;

(v) Variations in seasonal distribution, abundance, or migration patterns of swordfish;

(vi) Effects of catch rates in one region precluding vessels in another region from having a reasonable opportunity to harvest a portion of the overall swordfish quota; and

(vii) Review of dealer reports, landing trends, and the availability of swordfish on the fishing grounds.

* * * * *

[FR Doc. 2020–08426 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 85, No. 81
Monday, April 27, 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

Agricultural Marketing Service

[Doc. No. AMS–CP–20–0040]

Notice of Funds Availability (NOFA); Purchase of Fruit, Vegetable, Dairy, and Meat Products Due to COVID–19 National Emergency—USDA Food Box Distribution Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces the availability of $3 billion in funds for the purchase and distribution of fresh produce and dairy and meat products for Americans facing challenges due to the COVID–19 national emergency. AMS is utilizing an existing commodity procurement infrastructure to streamline and expand delivery of fresh produce and dairy and meat products to non-profit and governmental organizations that can distribute the commodities to Americans in need. Interested entities may apply for program participation through AMS's solicitation process.

DATES: Invitations to submit proposals are expected to be issued within two weeks of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Christopher Purdy, Associate Deputy Administrator, 1400 Independence Ave. SW, Washington, DC 20250, telephone 202–720–3209 or email: *USDAFoodBoxDistributionProgram@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1101(g) of the Families First Coronavirus Response Act provides: ''During fiscal year 2020, the Secretary of Agriculture may purchase commodities for emergency distribution in any area of the United States during a public health emergency designation.'' Under this authority, the Secretary has determined to use AMS to procure commodities for such use until the current health emergency is terminated. Part 18 of the Federal Acquisition Regulation (FAR) provides latitude in the acquisition process under a federally declared emergency. *See* 48 CFR part 18. The Secretary is using this authority to purchase fresh produce and dairy and meat products for delivery to non-profit and governmental organizations that can assist with distributing that food to Americans during the COVID–19 pandemic national emergency.

Among other responsibilities, AMS facilitates the marketing of American agricultural products through the purchase and delivery of 100 percent American grown and processed foods to recipients participating in Federal food and nutrition programs. By taking advantage of an existing commodity procurement infrastructure, AMS can expand the universe of program recipients. Regionally located vendors awarded AMS contracts under this emergency effort will promptly purchase, assemble, and deliver an estimated $3 billion in fresh fruits and vegetables and a variety of dairy and meat products to food banks, food pantries, churches, schools, community groups, and other non-profit and governmental organizations for distribution to Americans who need food. As well, this effort provides alternative outlets for American farmers whose normal outlets, such as restaurants and schools, are currently restricted as a result of the COVID–19 pandemic. These purchases will be in addition to normal AMS procurements for USDA domestic food and nutrition programs, which will continue.

Program Participation

The program will involve two private sector entities, suppliers and recipient 501(c)(3) entities, who will distribute food to individuals. Governmental organizations may also receive and distribute food to individuals. Prospective vendors will be invited to submit their responses to an AMS Request for Proposals (RFP). Recipient entities which may submit requests for food products to suppliers are any entity that provides to the supplier proof of its 501(c)(3) tax exempt status and who can, if requested by the Department of Agriculture, demonstrate that they have the operational and financial capability to receive, store, and distribute requested food items. Governmental organizations that submit requests must have similar operational and financial capability. Details about the RFP process will be communicated through future notices to the industry and publicized at *www.ams.usda.gov/selling-food.* It is anticipated that invitations to submit proposals will be issued within two weeks of the publication of this notice. AMS will award contracts with regionally located distributors in seven U.S. regions with the goal of targeted coverage within the United States. Distributors will supply a pre-approved portfolio of fresh fruit and vegetables and dairy and meat products in a box to non-profit and governmental organizations with the capacity to distribute the boxes to individuals in need. Additional details on the content of the food boxes will be outlined in the RFP, but are expected generally to include fruits, vegetables, and dairy and meat products. Guidelines for each commodity category will be provided on AMS's website. Distributors will provide a description of what they are able to provide and pricing for their specific commodities.

RFP responses must include a pricing proposal, a vendor past performance evaluation (see 48 CFR 15.305(a)(2)), and a technical proposal addressing factors and relevant subfactors. The relative importance of cost or price and all other evaluation factors will be communicated in the RFP.

RFP responses will be evaluated on three equally important technical factors:

1. How the prospective contractor's participation supports American agriculture and AMS's mission of facilitating agricultural marketing;
2. How the prospective contractor's distribution plan effectively maximizes the number of recipients served in a geographic location, including existing non-profit relationships and distribution channels; and
3. How the prospective contractor plans to ensure payments to subcontractors, and how they will document and provide evidence of deliveries.

Contract awardees will be issued a purchase order (PO) for each region to be served. The PO will be for a set dollar amount. As product is delivered to designated locations, awardees will

submit invoices (including bills of lading) to AMS for review and approval. The vendor and contracting officer may negotiate potential extension of the contract and issuance of additional POs after the dollar amount of the original PO is reached.

Additional information about the COVID–19 national emergency food purchase effort and the application process is at: *https://www.ams.usda.gov/selling-food.*

Authority: Section 1101(g) of The Families First Coronavirus Response Act.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–08979 Filed 4–24–20; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0085]

General Conference Committee of the National Poultry Improvement Plan and 45th Biennial Conference

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the General Conference Committee (GCC or the Committee) of the National Poultry Improvement Plan (NPIP) and the NPIP's 45th Biennial Conference.

DATES: The General Conference Committee meeting will be held on August 25, 2020, from 1:30 p.m. to 5:30 p.m. The General Session of the Biennial Conference will be held on August 26, 2020, from 8 a.m. to 5 p.m. and August 27, 2020, from 8 a.m. to 12 p.m.

ADDRESSES: The meeting and conference will be held at the Omni Providence Hotel, One West Exchange Street, Providence, RI.

FOR FURTHER INFORMATION CONTACT: Dr. Elena Behnke, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP), representing cooperating State agencies and poultry industry members, serves an essential function by acting as liaison between the poultry industry and the Department in matters pertaining to poultry health.

Topics for discussion at the upcoming meeting include:

1. NPIP diagnostic tests seeking NPIP approval.
2. Salmonella update.
3. National Veterinary Services Laboratories avian influenza and Newcastle disease virus update.
4. Mycoplasma update.

The meeting will be open to the public; however, public participation in discussions during the sessions will only be allowed if time permits. Written statements may be filed at the meeting or filed with the Committee before or after the meeting by sending them to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. APHIS–2019–0085 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act (5 U.S.C. App. 2).

Done in Washington, DC, this 22nd day of April 2020.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–08881 Filed 4–24–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2019–0086]

General Conference Committee of the National Poultry Improvement Plan; Solicitation for Membership

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that the Secretary of Agriculture is soliciting nominations for the election of a member at-large and regional members and their alternates for the General Conference Committee of the National Poultry Improvement Plan.

DATES: Consideration will be given to nominations received on or before June 1, 2020.

ADDRESSES: Completed nomination forms should be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Dr. Elena Behnke, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094; phone (770) 922–3496; email: *elena.behnke@usda.gov.*

SUPPLEMENTARY INFORMATION:

The General Conference Committee (the Committee) of the National Poultry Improvement Plan (NPIP) is the Secretary's Advisory Committee on poultry health. The Committee serves as a forum for the study of problems relating to poultry health and, as necessary, makes specific recommendations to the Secretary concerning ways the U.S. Department of Agriculture may assist the industry in addressing these problems. The Committee assists the Department in planning, organizing, and conducting the Biennial Conference of the NPIP. The Committee recommends whether new proposals should be considered by the delegates to the Biennial Conference and serves as a direct liaison between the NPIP and the United States Animal Health Association.

The Committee consists of an elected member-at-large who is an NPIP participant and an elected member (and alternate) from each of the six U.S. regions represented on the Committee. Terms will expire for three current regional members of the Committee in August 2020. We are soliciting nominations from interested organizations and individuals to replace the members and alternates from the South Atlantic (Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, Virginia, and West Virginia), West North Central (Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota), and South Central (Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas).

Member selection is determined by a majority vote of the NPIP delegates from the respective regions. There must be at least two nominees for each position. Persons interested in serving on the Committee or nominating another individual to serve must complete Form AD–755, which is available on the internet at *https://www.ocio.usda.gov/document/ad-755* or may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

To ensure the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent underrepresented groups (minorities, women, and persons with disabilities). At least one nominee from each of the three regions must have demonstrated the ability to represent an underrepresented group. The voting will be by secret ballot of official delegates

from their respective region, and the results will be recorded.

Done in Washington, DC, this 22nd day of April 2020.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020–08882 Filed 4–24–20; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Agricultural Prices Surveys. Revision to burden hours will be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by June 26, 2020 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535–0003, by any of the following methods:

- *Email: ombofficer@nass.usda.gov.* Include docket number above in the subject line of the message.
- *E-fax:* (855) 838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

FOR FURTHER INFORMATION CONTACT: Kevin L. Barnes, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202)720–2707. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690–2388 or at *ombofficer@nass.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agricultural Prices.

OMB Control Number: 0535–0003.

Expiration Date of Approval: Oct 31, 2020.

Type of Request: Intent to Seek Approval to Revise and Extend an Information Collection for 3 years.

Abstract: The primary objective of the National Agricultural Statistics Service (NASS) is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition; as well as economic statistics, environmental statistics related to agriculture and also to conduct the Census of Agriculture.

The Agricultural Prices surveys provide data on the prices received by farmers and prices paid by them for production goods and services. NASS estimates based on these surveys are used as a Principle Economic Indicator of the United States. These price estimates are also used to compute Parity Prices in accordance with requirements of the Agricultural Adjustment Act of 1938 as amended (Title III, Subtitle A, Section 301(a)). In addition, price data are used by the Federal Crop Insurance Corporation to help determine payment rates, program option levels, and disaster programs.

Authority: These data will be collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985 as amended, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–113) and Office of Management and Budget regulations at 5 CFR part 1320.

NASS also complies with OMB Implementation Guidance, ''Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA),'' **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: Public reporting burden for this information collection is based on more than 30 individual surveys with expected responses of 5–20 minutes and frequency of 1–12 times per year. Estimated number of responses per respondent is approximately 2.6 times per year.

Respondents: Farmers and farm-related businesses.

Estimated Number of Respondents: 73,000.

Estimated Total Annual Burden on Respondents: 32,000 hours.

Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS Clearance Officer, at (202) 690–2388.

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

All responses to this notice will become a matter of public record and will be summarized in the request for OMB approval.

Signed at Washington, DC, April 20, 2020.

Kevin L. Barnes,

Associate Administrator.

[FR Doc. 2020–08850 Filed 4–24–20; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on May 13, 2020, at 11:30 a.m., Eastern Daylight Time, via teleconference. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to participants on a

first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than May 6, 2020.

A limited number of seats will be available during the public session of the meeting.

Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2020–08835 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by WesternGeco of South Carolina Objection

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice—closure of administrative appeal decision record.

SUMMARY: This announcement provides notice that the decision record has closed for an administrative appeal filed by WesternGeco (Appellant) under the Coastal Zone Management Act requesting that the Secretary of Commerce (Secretary) override an objection by the South Carolina Department of Health and Environmental Control to a consistency certification for a proposed project to conduct a marine Geological and Geophysical seismic survey in the Atlantic Ocean.

DATES: The decision record for WesternGeco's Federal Consistency Appeal of South Carolina's objection closed on April 27, 2020.

ADDRESSES: NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following website: *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2019-0118.*

FOR FURTHER INFORMATION CONTACT: For questions about this Notice, contact Jonelle Dilley, NOAA Office of General Counsel, Oceans and Coasts Section, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713–7383, *jonelle.dilley@noaa.gov.*

SUPPLEMENTARY INFORMATION: On September 20, 2019, the Secretary of Commerce (Secretary) received a ''Notice of Appeal'' filed by WesternGeco pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.,* and implementing regulations found at 15 CFR part 930, subpart H. The ''Notice of Appeal'' is taken from an objection by the South Carolina Department of Health and Environmental Control to a consistency certification for a proposed project to conduct a marine Geological and Geophysical seismic survey in the Atlantic Ocean. This matter constitutes an appeal of an ''energy project'' within the meaning of the CZMA regulations, *see* 15 CFR 930.123(c).

Under the CZMA, the Secretary may override South Carolina's objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or is necessary in the interest of national security. To make the determination that the proposed activity is ''consistent with the objectives or purposes of the CZMA,'' the Department must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity's adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the applicable coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is ''necessary in the interest of national security,'' the Secretary must find that a national defense or other national security interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

The Secretary must close the decision record in a federal consistency appeal 160 days after the Notice of Appeal is published in the **Federal Register**. 15 CFR 930.130(a)(1). However, the CZMA authorizes the Secretary to stay closing the decision record for up to 60 days when the Secretary determines it necessary to receive, on an expedited basis, any supplemental information specifically requested by the Secretary to complete a consistency review or any clarifying information submitted by a party to the proceeding related to information in the consolidated record compiled by the lead Federal permitting agency. 15 CFR 930.130(a)(2) and (3). In order to solicit supplemental and clarifying information from the Bureau of Ocean Energy Management pertaining to the withholding of certain information as proprietary, the Secretary stayed the closure of the decision record on two occasions for a total of 28 days. 85 FR 17538 (March 30, 2020); 85 FR 20475 (April 13, 2020).

Consistent with the above schedule, the decision record for WesternGeco's Federal consistency appeal of South Carolina's objection closed on April 27, 2020. No further information or briefs will be considered in deciding this appeal.

Public Availability of Appeal Documents

NOAA has provided access to publicly available materials and related documents comprising the appeal record on the following website: *http://www.regulations.gov/#!docketDetail;D=NOAA-HQ-2019-0118.*

(Authority: 15 CFR 930.130(a)(2), (3))

Adam Dilts,

Chief, Oceans and Coasts Section, NOAA Office of General Counsel.

[FR Doc. 2020–08849 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request; ''Pro Bono Survey''

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for a collection of information under the provisions of the Paperwork Reduction Act of 1995.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: Pro Bono Survey.

OMB Control Number: 0651–0082.

Form Number(s):

- Pro Bono Survey, PTO Form 450.
- Client Intake Form, PTO Form 451.

Type of Request: Revision of a currently approved information collection.

Number of Respondents: 1,048 respondents. The USPTO estimates that 22 regional hub administrators will report metrics once per quarter. The reminder of the 1,026 estimated

respondents will be completed by applicants to the Pro Bono regional programs.

Average Hours per Response: The USPTO estimates that it takes the regional hub administrators approximately 120 minutes (2 hours) to complete the pro bono survey, including time needed to gather the necessary information, enter it into the information collection instrument, and submit it. The USPTO estimates that it will take approximately 1 minute for applicants to complete the Client Intake Form.

Burden Hours: 193 hours.

Hourly Cost Burden: $13,676.

Annual (non-hour) Cost: $0.

Needs and Uses: The Leahy-Smith America Invents Act (AIA), Public Law 112–29 § 32 (2011) directs the USPTO to work with and support intellectual property law associations across the country in the establishment of pro bono programs (also referred to as ''hubs'') designed to assist financially under-resourced independent inventors and small businesses. To support this, the USPTO has worked with and supported various non-profit organizations to establish a series of autonomous regional hubs that endeavor to match low-income inventors with volunteer patent practitioners across the United States. The regional hubs comprise law school intellectual property clinics, bar associations, innovation/entrepreneurial organizations, and arts-focused lawyer referral services that are strategically located to provide access to patent pro bono services across all fifty states and the District of Columbia. Additionally, the Study of Underrepresented Classes Chasing Engineering and Science Success Act (SUCCESS Act), Public Law 115–273 (2018) directs the agency to provide recommendations on how to increase the number of women, minorities, and veterans who apply for and obtain patents.

To support the purposes described above, the Pro Bono Survey will continue to collect information regarding the activity of the regional hubs. The USPTO has worked with the Pro Bono Advisory Council (PBAC) to determine what information is necessary to determine the effectiveness of each regional pro bono hub's operations. The PBAC is a well-established group of patent practitioners and thought leaders in intellectual property who have committed to provide support and guidance to patent pro bono hubs across the country. The data previously gathered, and which continues to be gathered, provides the USPTO with valuable information, including the number of inventor inquiries, referral sources, number of pro bono applicants successfully matched with patent practitioners, and types of patent filings. The USPTO, PBAC, and the regional hubs, are responsible for the quarterly collection of this information. The information, at its highest level, will allow the PBAC and the USPTO to determine whether the regional hubs are matching qualified low-income inventors with volunteer patent practitioners and help estimate the total economic benefit derived by low-income inventors in the form of donated legal services. This information also helps the USPTO determine which regional hubs are effectively serving low-income inventors and which hubs need additional support.

The USPTO is proposing to revise the existing information collection to gather additional information regarding gender, ethnicity, race, and veteran status. Each regional hub will be voluntarily requesting demographic information from those seeking assistance that will be self-identified by the applicant. This requested standardized demographic information will be a voluntary part of the overall application materials that each independent inventor fills out when seeking pro bono assistance. This voluntary information will be kept confidential by the regional hubs and only aggregate information is shared with the USPTO. This aggregate information will also be used to help determine the extent to which women, minorities, and veterans engage the Patent Pro Bono Program.

Affected Public: Not-for-profit institutions; individuals and households.

Frequency: The Pro Bono Survey is completed quarterly; the Client Intake Form is completed on occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

Once submitted, the request will be publically available in electronic format through *reginfo.gov*. Follow the instructions to view the Department of Commerce information collections currently under review by OMB.

Further information can be obtained by:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0082 information request'' in the subject line of the message.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 27, 2020 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 to view Department of Commerce information collections currently under review by OMB.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2020–08893 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2020–0017]

National Medal of Technology and Innovation Nomination Evaluation Committee Charter Renewal

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Chief Financial Officer/Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee on February 12, 2020.

DATES: The Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee was renewed on February 12, 2020.

FOR FURTHER INFORMATION CONTACT: John Palafoutas, Program Manager, National Medal of Technology and Innovation Program, United States Patent and Trademark Office, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9821 or by electronic mail at *nmti@uspto.gov.* Information is also available at *http://www.uspto.gov/about/nmti/index.jsp.*

SUPPLEMENTARY INFORMATION: The Chief Financial Officer/Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the National Medal of Technology and Innovation Nomination Evaluation Committee (NMTI Committee) on February 12, 2020. The NMTI Committee was established in accordance with the Federal Advisory Committee Act and provides advice to the Secretary of Commerce regarding recommendations of nominees for the National Medal of Technology and

Innovation (Medal). The duties of the NMTI Committee are solely advisory in nature. Nominations for this Medal are solicited through an open, competitive, and nationwide call for nominations, and the NMTI Committee members are responsible for reviewing the nominations received. The NMTI Committee members are distinguished experts from the private and public sectors with experience in and an understanding of technology and technological innovation, and/or the development of technological manpower. The NMTI Committee evaluates the nominees and forwards its recommendations through the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to the Secretary of Commerce who, in turn, forwards his recommendations for the Medal to the President.

Dated: April 22, 2020.

Andrei Iancu,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2020–08896 Filed 4–24–20; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m. EDT, Monday, May 4, 2020.

PLACE: This meeting will be convened on a telephone conference call.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: April 23, 2020.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2020–09015 Filed 4–23–20; 4:15 pm]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before May 27, 2020.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0101, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Duane C. Andresen, Associate Director, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5492; email: *dandresen@cftc.gov,* and refer to OMB Control No. 3038–0101.

SUPPLEMENTARY INFORMATION:

Title: Registration of Foreign Boards of Trade (OMB Control No. 3038–0101). This is a request for extension of a currently approved information collection.

Abstract: Section 738 of the Dodd-Frank Act amended section 4(b) of the Commodity Exchange Act to provide that the Commission may adopt rules and regulations requiring foreign boards of trade (FBOT) that wish to provide their members or other participants located in the United States with direct access to the FBOT's electronic trading and order matching system to register with the Commission. Pursuant to this authorization, the CFTC adopted a final rule requiring FBOTs that wish to permit trading by direct access to provide certain information to the Commission in applications for registration and, once registered, to provide certain information to meet quarterly and annual reporting requirements. Currently, Part 48 of the Commission's regulations sets forth reporting and/or recordkeeping requirements to ensure registered FBOTs providing for trading by direct access meet statutory and regulatory requirements on an initial and ongoing basis.

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. On February 14, 2020, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 85

[1] 17 CFR 145.9.

FR 8577 (''60-Day Notice''). The Commission did not receive any comments on the 60-Day Notice.

Burden Statement: The Commission is revising its estimate of the burden for this collection for registered FBOTs, by reducing the number of FBOTs to which the burden applies. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 23.

Estimated Average Burden Hours per Respondent: 374.4.

Estimated Total Annual Burden Hours: 8612.

Frequency of Collection: When a reportable event occurs and quarterly and annually for required reports.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 21, 2020.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–08799 Filed 4–24–20; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Revise Collection 3038–0090

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the recordkeeping obligations set forth in certain aspects of certain of the Commission's recordkeeping regulations.

DATES: Comments must be submitted on or before June 26, 2020.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0090'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Lauren Bennett, Special Counsel, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418–5290, email: *lbennett@cftc.gov.*

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

Title: Adaptation of Regulations to Incorporate Swaps-Records of Transactions; Exclusion of Utility Operations Related Swaps with Utility Special Entities From De minimis Threshold for Swaps With Special Entities (OMB Control No. 3038–0090). This is a request for extension of a currently approved information collection.

Abstract: Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Pub L. No. 111–203, 124 Stat. 1376 (2010)) amended the Commodity Exchange Act (CEA) to establish a comprehensive new statutory framework for swaps. These amendments required the Commodity Futures Trading Commission (''the Commission'') to amend several of its regulations to implement the new framework.

The information collection obligations imposed by the ''Adaptation of Regulations to Incorporate Swaps'' final regulations [1] are necessary to implement section 721 of the Dodd-Frank Act, which amended the definitions of futures commission merchant (''FCM'') and introducing broker (''IB'') to permit these intermediaries to trade swaps on behalf of customers. They also are necessary to implement section 733 of the Dodd-Frank Act which introduced swap execution facilities (''SEFs'') as a new trading platform for swaps. As a result of the enactment of sections 721 and 733, the Commission needed to amend certain recordkeeping regulations (1.31, 1.33, 1.35, 1.37, and 1.39) so that records of swap transactions are maintained analogously to how futures transactions are maintained.

Further, the ''Exclusion of Utility Operations-Related Swaps With Utility Special Entities From De Minimis Threshold for Swaps With Special Entities'' [2] regulation amended the Commission's swap dealer definition to permit a person to exclude ''utility operations-related swaps'' with ''utility special entities'' in their de minimis threshold calculations. The regulation requires a person claiming the exclusion to maintain in accordance with Commission regulation 1.31 any written representations that the person receives form utility special entities related to this exclusion.

The information collection burdens associated with these regulations (collectively, the ''Swap Recordkeeping Requirements'') are restricted to the costs associated with the recordkeeping and reporting requirements that these regulations impose upon affected registrants, registered entities, those registered entities' members, and other respondents covered by the final rules.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the

[1] Adaptation of Regulations to Incorporate Swaps, 77 FR 66288 (Nov. 2, 2012).

[2] Exclusion of Utility Operations-Related Swaps With Utility Special Entities From De Minimis Threshold for Swaps With Special Entities, 79 FR 57767 (Sept. 26, 2014).

validity of the methodology and assumptions used;

• Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

• Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[3]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection for futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of designated contract markets and swap execution facilities. The respondent burden for this collection is estimated to be as follows:[4]

Estimated Number of Respondents: 13,664.

Estimated Annual Burden Hours per Respondent: 163.

Estimated Total Annual Burden Hours: 2,233,722.

Frequency of Collection: As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 21, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020–08837 Filed 4–24–20; 8:45 am]

BILLING CODE 6351–01–P

[3] 17 CFR 145.9.

[4] These estimates represent the aggregate burden for all data associated with the Swap Recordkeeping Requirements in the collection, namely Swap Recordkeeping (Regulation 1.35), Swap Confirmations (Regulation 1.33), and Utility Special Entities (Regulation 1.3). Please refer to the supporting statement for further explanation of burdens associated with each regulatory requirement.

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–10]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–10 with attached Policy Justification and Sensitivity of Technology.

Dated: April 21, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

APR 1 4 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-10 concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of Morocco for defense articles and services estimated to cost $62 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified document provided under separate cover)

Transmittal No. 20-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Morocco

(ii) *Total Estimated Value:*

Major Defense Equipment *	$25 million
Other	$37 million
Total	$62 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Ten (10) AGM-84L Harpoon Block II Air Launched Missiles

Non-MDE:

Also included are containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (MO-P-AAL)

(v) *Prior Related Cases, if any:* MO-D-SAH

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* April 14, 2020

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Morocco—AGM-84L Harpoon Air Launched Block II Missiles

The Government of Morocco has requested to buy ten (10) AGM-84L Harpoon Block II Air Launched missiles. Also included are containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor representatives' technical assistance, engineering and logistics support services, and other related elements of logistics support. The total estimated cost is $62 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a major non-NATO ally that continues to be an important force for political stability and economic progress in North Africa.

The proposed sale of the missiles and support will increase the Moroccan Air Force's maritime partnership potential and align its capabilities with existing regional baselines. Morocco intends to use the missiles on its F-16, multi-role fighter aircraft to enhance its capabilities in effective defense of critical sea-lanes. Morocco will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and services will not alter the basic military balance in the region.

The prime contractor will be The Boeing Company, St. Louis, Missouri. The purchaser typically requests offsets. Any offset agreement will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this proposed sale will require annual trips to Morocco involving U.S. Government and contractor representatives for technical reviews, support, and oversight for approximately five years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The AGM-84L Harpoon Air Launched Block II missile system is classified CONFIDENTIAL. The Harpoon missile is a non-nuclear tactical weapon system currently in service in the U.S. Navy and in 29 other foreign nations. It provides a day, night, and adverse weather, standoff air-to-surface capability and is an effective Anti-Surface Warfare missile. The AGM-84L incorporates components, software, and technical design information that are considered sensitive. These elements are essential to the ability of the Harpoon missile to selectively engage hostile targets under a wide range of operations, tactical and environmental conditions. The version being sold to Morocco is a Non-Coastal Target Suppression land attack weapon. The following components being conveyed by the proposed sale that are considered sensitive and are classified CONFIDENTIAL include:

a. The Radar Seeker

b. The GPS/INS System

c. Operational Flight Program Software

d. Missile operational characteristics and performance data

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that Morocco can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal are authorized for release and export to the Government of Morocco.

[FR Doc. 2020–08786 Filed 4–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–08]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–08 with attached Policy Justification and Sensitivity of Technology.

Dated: April 21, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 13, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-08, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of India for defense articles and services estimated to cost $63 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of India

(ii) *Total Estimated Value:*

Major Defense Equipment *	$30 million
Other	$33 million
Total	$63 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Sixteen (16) MK 54 All Up Round Lightweight Torpedoes (LWT)

Three (3) MK 54 Exercise Torpedoes (MK 54 LWT Kit procurement required)

Non-MDE:

Also included are MK 54 spare parts; torpedo containers; two (2) Recoverable Exercise Torpedoes (REXTORP) with containers; Fleet Exercise Section (FES) and fuel tanks built into MK 54 LWT Kits (above); air launch accessories for fixed wing; spare parts; training, publications; support and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics support.

(iv) *Military Department:* Navy (IN-P-ABH)

(v) *Prior Related Cases, if any:* IN-P-AAR

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* April 13, 2020

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

India—MK 54 Lightweight Torpedoes

The Government of India has requested to buy sixteen (16) MK 54 All Up Round Lightweight Torpedoes (LWT); and three (3) MK 54 Exercise Torpedoes (MK 54 LWT Kit procurement required). Also included are MK 54 spare parts; torpedo containers; two (2) Recoverable Exercise Torpedoes (REXTORP) with containers; Fleet Exercise Section (FES) and fuel tanks built into MK 54 LWT Kits (above); air launch accessories for fixed wing; spare parts; training, publications; support and test equipment; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics support. The estimated program cost is $63 million.

This proposed sale will support the foreign policy and national security of the United States by helping to strengthen the U.S.-Indian strategic relationship and to improve the security of a major defensive partner, which continues to be an important force for political stability, peace, and economic progress in the Indo-Pacific and South Asia region.

The proposed sale will improve India's capability to meet current and future threats from enemy weapon systems. The MK 54 Lightweight Torpedo will provide the capability to conduct anti-submarine warfare missions. India will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. India intends to utilize MK 54 Lightweight Torpedoes on its P-8I aircraft. India will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Integrated Defense System, Portsmouth, Rhode Island. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement required by India will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this proposed sale will not require the assignment of additional U.S. Government and/or contractor representatives to India; however, U.S. Government Engineering and Technical Services will be required on an interim basis for training and technical assistance.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-08

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The MK 54 Torpedo is a conventional torpedo that can be launched from surface ships, rotary and fixed wing aircrafts. The MK 54 is an upgrade to the MK 46 Torpedo. The upgrade to the MK 54 entails replacement of the torpedo's sonar and guidance and control systems with modem technology. The new guidance and control system uses a mixture of commercial-off-the-shelf and custom-built electronics. The warhead, fuel tank and propulsion system from the MK 46 torpedo are re-used in the MK 54 configuration with minor modifications. There is no sensitive technology in the MK 54 or its support and test equipment. The assembled MK 54 torpedo and several of its individual components are classified CONFIDENTIAL. The MK 54 operational software is classified as SECRET. The Government of India has not requested nor will it be provided with the source code for the MK 54 operational software.

2. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to further the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed on this transmittal have been authorized for release and export to the Government of India.

[FR Doc. 2020–08785 Filed 4–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–14]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–14 with attached Policy Justification and Sensitivity of Technology.

Dated: April 21, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 13, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-14, concerning the Navy's proposed Letter(s) of Offer and Acceptance to the Government of India for defense articles and services estimated to cost $92 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-14

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser*: Government of India

(ii) *Total Estimated Value:*

Major Defense Equipment *	$43 million
Other	$49 million
Total	$92 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

Major Defense Equipment (MDE):

Ten (10) AGM-84L Harpoon Block II Air Launched Missiles

Non-MDE:

Also included are containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, Specialized Assignment Airlift Missions (SAAM), U.S. Government and contractor representatives technical assistance, engineering, and logistics support services, and other related elements of logistics and program support.

(iv) *Military Department:* Navy (IN-P-ABM)

(v) *Prior Related Cases, if any:* IN-P-ABC

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex.

(viii) *Date Report Delivered to Congress:* April 13, 2020

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

India—AGM-84L Harpoon Air-Launched Block II Missiles

The Government of India has requested to buy ten (10) AGM-84L Harpoon Block II air launched missiles. Also included are containers, spare and repair parts, support and test equipment, publications and technical documentation, personnel training and training equipment, Specialized Assignment Airlift Missions (SAAM), U.S. Government and contractor representatives technical assistance, engineering, and logistics support services, and other related elements of logistics and program support. The estimated program cost is $92 million.

This proposed sale will support the foreign policy and national security of the United States by helping to strengthen the U.S.-Indian strategic relationship and to improve the security of a major defensive partner, which continues to be an important force for political stability, peace, and economic progress in the Indo-Pacific and South Asia region.

The proposed sale will improve India's capability to meet current and future threats from enemy weapon systems. The Harpoon missile system will be integrated into the P-8I aircraft to conduct anti-surface warfare missions in defense of critical sea lanes while enhancing interoperability with the United States and other allied forces. India will use the enhanced capability as a deterrent to regional threats and to strengthen its homeland defense. India will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be The Boeing Company, St. Louis, Missouri. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement required by India will be defined in negotiations between the purchaser and the contractor(s).

Implementation of this proposed sale will not require the assignment of additional U.S. Government and/or contractor representatives to India; however, U.S. Government or contractor personnel in-country visits will be required on a temporary basis in conjunction with program technical oversight and support requirements.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-14

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology*:

1. The AGM-84L Harpoon Air Launched Block II Missile System is classified CONFIDENTIAL. The Harpoon missile is a non-nuclear tactical weapon system currently in-service in the U.S. Navy and 29 other foreign nations. It provides a day, night, adverse weather, stand-off air-to-surface capability and is an effective Anti-Surface Warfare missile. The AGM-84L incorporates components that are considered sensitive. These elements are essential to the ability of the Harpoon missile to selectively engage hostile targets under a wide range of operations, tactical and environmental conditions. The version being sold to the Government of India is a Coastal Target Suppression land attack weapon. The following components being conveyed by the proposed sale are considered sensitive and are classified CONFIDENTIAL:

a. The Radar Seeker

b. The GPS/INS System

c. Operational Flight Program Software

d. Missile operational characteristics and performance data

2. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that India can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary to further the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed on this transmittal have been authorized for release and export to the Government of India.

[FR Doc. 2020–08790 Filed 4–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–22]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–22 with attached Policy Justification and Sensitivity of Technology.

Dated: April 21, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 10, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-22 concerning the Army's proposed Letter(s) of Offer and Acceptance to the Government of the Netherlands for defense articles and services estimated to cost $40.55 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 20-22

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of the Netherlands

(ii) *Total Estimated Value:*

Major Defense Equipment*	$33.70 million
Other	$ 6.85 million
Total	$40.55 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

One hundred ninety-nine (199) Excalibur Increment IB M982Al Tactical Projectiles

Non-MDE:

Also included is U.S. Government technical assistance, training, associated support equipment, and other related elements of logistics and program support.

(iv) *Military Department:* Army (NE-B-YAD; NE-B-YAE)

(v) *Prior Related Cases, if any:* NE-B-WGT

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: See Annex Attached

(viii) *Date Report Delivered to Congress:* April 10, 2020

*As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

The Netherlands—Excalibur Projectiles

The Government of the Netherlands has requested to buy one hundred ninety-nine (199) Excalibur Increment IB M982Al tactical projectiles. Also included with this request is U.S. Government technical assistance, training, associated support equipment, and other related elements of logistics and program support. The total estimated program cost is $40.55 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve security of a NATO ally which is an important force for political stability and economic progress in Northern Europe.

The Netherlands will integrate these munitions with conventional artillery units equipped with the PzH2000NL self-propelled howitzer (SPH) to provide precision fires capability in order to reduce collateral damage and increase effectiveness in various areas of operation. The Netherlands will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this weapon system will not alter the basic military balance in the region.

The prime contractor will be the Raytheon Company, Tucson, AZ. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 20-22

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex

Item No. vii

(vii) *Sensitivity of Technology:*

1. The Excalibur M982A1 Increment IB projectile is a Global Positioning System (GPS) Precise Positioning Service (PPS) guided precision munition that uses deployable fins and canards to guide the projectile to the target. The Excalibur is designed for use on digitized 155mm howitzers, including: the M109A6 Paladin, the M109A5 Self-Propelled Howitzer, the M198 Towed Howitzer, and the M777A2 Light Weight Howitzer. The highest classification of items included in this potential sale is up to and including SECRET.

2. If a technologically advanced adversary were to obtain knowledge of the hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the Netherlands can provide substantially the same degree of protection for the technology being released as the U.S. Government. This potential sale is necessary in furtherance of the U.S. foreign policy and national security objectives as outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Netherlands.

[FR Doc. 2020–08791 Filed 4–24–20; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 20–23]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Arms sales notice.

SUMMARY: The Department of Defense is publishing the unclassified text of an arms sales notification.

FOR FURTHER INFORMATION CONTACT: Karma Job at *karma.d.job.civ@mail.mil* or (703) 697–8976.

SUPPLEMENTARY INFORMATION: This 36(b)(1) arms sales notification is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996. The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 20–23 with attached Policy Justification.

Dated: April 21, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, SUITE 101
ARLINGTON, VA 22202-5408

April 10, 2020

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
H-209, The Capitol
Washington, DC 20515

Dear Madam Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 20-23 concerning the Air Force's proposed Letter(s) of Offer and Acceptance to the Republic of Korea for defense articles and services estimated to cost $675 million. After this letter is delivered to your office, we plan to issue a news release to notify the public of this proposed sale.

Sincerely,

Charles W. Hooper
Lieutenant General, USA
Director

Enclosures:
1. Transmittal
2. Policy Justification

Transmittal No. 20-23

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Korea

(ii) *Total Estimated Value:*

Major Defense Equipment*	$ 0 million
Other	$675 million
Total	$675 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): None

Non-MDE:

Follow-on support and services for Republic of Korea's F-35 aircraft, engines, and weapons; publications and technical documentation; support equipment; spare and repair parts; repair and return; test equipment; software delivery and support; pilot flight equipment; personnel training equipment; U.S. Government and contractor technical and logistics support services; and other related elements of program support.

(iv) *Military Department:* Air Force (KS-D-QGC)

(v) *Prior Related Cases, if any:* KS-D-SAC

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) *Date Report Delivered to Congress:* April 10, 2020

* As defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea—F-35 Follow-On Support

The Republic of Korea has requested follow-on support and services for its F-35 aircraft, engines, and weapons; publications and technical documentation; support equipment; spare and repair parts; repair and return; test equipment; software delivery and support; pilot flight equipment; personnel training equipment; U.S. Government and contractor technical and logistics support services; and other related elements of program support. The estimated total program cost is $675 million.

This proposed sale will support the foreign policy and national security objectives of the United States by meeting legitimate security and defense needs of one of its closest allies in the INDOPACOM Theater. The Republic of Korea is one of the major political and economic powers in East Asia and the Western Pacific and a key partner of the United States in ensuring peace and stability in the region.

The proposed sale will sustain the Republic of Korea's flight and maintenance activity. It will improve sustainability and continue support for the F-35 fleet. The Republic of Korea will have no difficulty absorbing this support and services into its armed forces.

The proposed sale of this support and services will not alter the basic military balance in the region.

The principal contractor will be the Lockheed Martin Corporation, Bethesda, MD and Pratt and Whitney, East Hartford, CT. There are no known offset agreements proposed in connection with this potential sale. Any offset agreement will be defined in negotiations between the Purchaser and the prime contractor.

Implementation of this proposed sale will require the assignment of 14-26 additional U.S. contractor representatives to the Republic of Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2020–08792 Filed 4–24–20; 8:45 am]

BILLING CODE 5001–06–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 13, 2020 by telephone at 866–342–8588, passcode 3722. A business meeting will be held the following month on Wednesday, June 10, 2020. Because COVID–19 mitigation measures in effect in June may compel the Commission to conduct the business meeting remotely, please check the Commission's website, *www.drbc.gov,* on or after May 27, 2020 for details about the June meeting format. Whether in-person or remote, the hearing and business meeting are open to the public.

Public Hearing. The telephonic public hearing on May 13, 2020 will begin at 1:30 p.m. Hearing items will include draft dockets for withdrawals, discharges, and other projects that could have a substantial effect on the basin's water resources as well as resolutions to: (a) Adopt the Commission's current expense and capital budgets for the fiscal year ending June 30, 2021; and (b) apportion among the signatory parties the amounts required for the support of the current expense and capital budgets for the fiscal year ending June 30, 2021.

The list of projects scheduled for hearing, including project descriptions, and the text of the proposed resolution will be posted on the Commission's website, *www.drbc.gov,* in a long form of this notice at least ten days before the hearing date.

Written comments on matters scheduled for hearing on May 13, 2020 will be accepted through 5:00 p.m. on May 17.

The public is advised to check the Commission's website periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is needed to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that the details of projects may change during the Commission's review, which is ongoing.

Public Meeting. The public business meeting on May 13, 2020 will begin at 10:30 a.m. and will include: Adoption of the Minutes of the Commission's March 11, 2020 Business Meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, resolutions to: (a) Adopt the Commission's annual current expense and capital budgets for the fiscal year ending June 30, 2021; and (b) apportion among the signatory parties the amounts required for the support of the current expense and capital budgets for the fiscal year ending June 30, 2021; a resolution for the minutes providing for election of the Commission Chair, Vice Chair and Second Vice Chair for the year commencing July 1, 2020 and ending June 30, 2021, and consideration of any items for which a hearing has been completed or is not required.

After all scheduled business has been completed and as time allows, the Business Meeting will be followed by up to one hour of Open Public Comment, an opportunity to address the Commission on any topic concerning management of the basin's water resources outside the context of a duly noticed, on-the-record public hearing.

There will be no opportunity for additional public comment for the record at the June 10 Business Meeting on items for which a hearing was completed on May 13 or a previous date. Commission consideration on June 10 of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on May 13 or to address the Commissioners informally during the Open Public Comment portion of the meeting on June 10 as time allows, are asked to sign-up in advance through EventBrite. Links to EventBrite for the Public Hearing and the Business Meeting are available at *www.drbc.gov.* For assistance, please contact Ms. Patricia Hausler of the Commission staff, at *patricia.hausler@drbc.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be made through the Commission's web-based comment system, a link to which is provided at *www.drbc.gov.* Use of the web-based system ensures that all submissions are captured in a single location and their receipt is acknowledged. Exceptions to the use of this system are available

based on need, by writing to the attention of the Commission Secretary, DRBC, P.O. Box 7360, 25 Cosey Road, West Trenton, NJ 08628–0360. For assistance, please contact Patricia Hausler at *patricia.hausler@drbc.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the meeting or hearing should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Denise McHugh, 609–883–9500, ext. 240. For other questions concerning hearing items, please contact David Kovach, Project Review Section Manager at 609–883–9500, ext. 264.

Dated: April 21, 2020.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2020–08875 Filed 4–24–20; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0064]

Agency Information Collection Activities; Comment Request; Student Support Services Annual Performance Report

AGENCY: Department of Education (ED), Office of Postsecondary Education (OPE).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 26, 2020.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2020–SCC–0064. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W–208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Emory Morrison, 202–453–6963.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Support Services Annual Performance Report.

OMB Control Number: 1840–0525.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 1,069.

Total Estimated Number of Annual Burden Hours: 16,302.

Abstract: Student Support Services (SSS) program grantees must submit the Annual Performance Report (APR) annually. The reports are used to evaluate grantees' performance for substantial progress, respond to Government Performance and Results Act (GPRA) requirements, and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the SSS program on the academic progress of participating students.

The Department of Education (Department) is requesting approval of a revision of a collection that is currently active due to this APR no longer collects Social Security Numbers, so that field has been eliminated.

Dated: April 22, 2020.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2020–08876 Filed 4–24–20; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Expanding Access to Well-Rounded Courses Demonstration Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2020 for the Expanding Access to Well-Rounded Courses Demonstration Grants program, Catalog of Federal Domestic Assistance (CFDA) number 84.424D. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES: *Applications Available:* April 27, 2020.

Deadline for Transmittal of Applications: June 26, 2020.

Deadline for Intergovernmental Review: August 25, 2020.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Elyse Robertson, U.S. Department of Education, 400 Maryland Avenue SW,

Room 3E337, Washington, DC 20202–6450. Telephone: (202)260–0931. Email: *courseaccess@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.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Expanding Access to Well-Rounded Courses Demonstration Grants program provides competitive grants to State educational agencies (SEAs) to demonstrate models for providing well-rounded educational opportunities through course-access programs (as defined in this notice).

Background: This program is being established with funds from the two percent reservation for technical assistance and capacity building under section 4103(a)(3) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA), which is intended to support SEAs and local educational agencies (LEAs) in carrying out activities authorized under the Student Support and Academic Enrichment Grants program in title IV, part A of the ESEA. Specifically, this program is intended to help build the capacity of SEAs and LEAs to provide well-rounded educational opportunities, consistent with section 4107 of the ESEA, by demonstrating models for delivering such opportunities through programs that make courses broadly available to students, which could include specialized coursework, courses that are more rigorous than the regular curricula (*e.g.,* Advanced Placement or International Baccalaureate courses), career and technical education, remedial or credit recovery courses, or elective courses (*e.g.,* arts, world languages, or consumer sciences).

There is considerable evidence that students across the country lack access to a variety of course offerings, articularly those related to the arts, science, echnology, engineering, and mathematics, including Computer science; [1] career and technical education; and advanced level coursework. For example, based on analysis of Civil Rights Data Collection (CRDC) data from school year (SY) 2015–16 data, ExcelinED reported ''that across the country, nearly 1.4 million students attend public high schools that do not offer Algebra I or the subsequent progression of math courses expected by many colleges and universities for enrollment'' and ''according to the self-reported data in the CRDC, not a single state offers Algebra I or Biology in all high schools.'' [2] Furthermore, CRDC data from SY 2013–14 reported that only around 2.5 million public school students were enrolled in at least one advanced placement course.[3] Even when a student has access to advanced coursework, a school may lack an arts course or an enrichment activity that best aligns with the individual student's needs and interests.

The National Center for Education Statistics, in *The Condition of Education 2019,* found that in SY 2016–17, ''the adjusted cohort graduation rate (ACGR) for high school students was 85 percent, the highest it has been since the rate was first measured in 2010–11.'' [4] Even though high school graduation rates are increasing, there is debate as to whether students are graduating with the necessary skills and knowledge to be college and career ready. Well-rounded education has been found to benefit students' college and career readiness. According to the College and Career Readiness and Success Center at the American Institutes for Research, ''ESSA positions a well-rounded education as a primary policy lever to support states' efforts to fulfill the promise and need for more students who are ready for both college and career by calling on districts and schools to integrate goals and initiatives related to college and career readiness into curricula, improved conditions for learning, and other educational experiences that may constitute a well-rounded education.'' [5]

To promote access to well-rounded courses, including through a system supported by a grant under this program, States can leverage a combination of Federal, State, and local funds. States can include funds that support direct student services under section 1003A of the ESEA to support services under this program, as well as funds reserved for State-level activities under title IV, part A of the ESEA (ESEA section 4104(a)(3)). ESEA section 1003A permits a State to reserve funds to make awards to LEAs to support specific direct student services, including credit recovery and academic acceleration courses that lead to a regular high school diploma. Section 1003A requires that an LEA receiving section 1003A funds prioritize certain students in certain schools in paying for direct student services. For more information on requirements for using those funds, see section 1003A of the ESEA.

Districts can also leverage Federal, State, and local funds to support well-rounded education. The Department recently published a report about how States and districts are using their title IV, part A Student Support and Academic Enrichment Grants.[6] Career and technical education (CTE), multidisciplinary programs, American history, civics, economics, geography, government, and foreign languages were among less frequently reported district uses of funds. A program offered through this course access demonstration grant may increase student access to broad range of courses, including those not otherwise emphasized using district title IV, part A funds.

Priority: This notice contains one absolute priority. We are establishing this priority for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: This priority is an absolute priority.

Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Expanding Access to Well-Rounded Courses.

Under this priority, the Department considers only applicants that propose to (a) develop or expand, (b) implement, and (c) widely disseminate information on course-access programs (as defined in this notice) to other State or local education leaders and researchers. To meet this absolute priority, an SEA must describe how its course-access program as a whole would make a broad range of courses widely available for all students in the State, though a particular course need not be available to every student in the State (*i.e.,* in the case of an in-person course available in

[1] Lifelong access to high-quality STEM education is part of the vision of the Five Year Federal STEM Strategic Plan. Read more here: *The White House, National Science and Technology Council,* ''*Charting A Course For Success: America's Strategy For STEM Education,*'' *www.whitehouse.gov/wp-content/uploads/2018/12/STEM-Education-Strategic-Plan-2018.pdf (December 2018).*

[2] *www.excelined.org/wp-content/uploads/2018/10/ExcelinEd.Report.CollegeCareerPathways.CRDC Analysis.2018.pdf.*

[3] *https://ocrdata.ed.gov/StateNational Estimations/Estimations_2013_14.*

[4] *https://nces.ed.gov/pubs2019/2019144.pdf.*

[5] *https://ccrscenter.org/sites/default/files/AskCCRS_Well-Rounded_Education.pdf.*

[6] U.S. Department of Education, Office of Planning, Evaluation and Policy Development, *Student Support and Academic Enrichment Grants: A First Look at Activities Supported Under Title IV, Part A,* Washington, DC, 2020. *https://www2.ed.gov/rschstat/eval/esea/title-iv-first-look-2020.pdf.* Accessed March 10, 2020.

a particular location). The SEA must also specifically describe how, in addition to serving all students, its proposed program would meet the needs of rural students, disadvantaged students, or students with disabilities, and contribute to preparing students to be college and career ready.

Requirements: We are establishing these requirements for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

Application Requirements: An SEA must include the following in its application:

(1) A description of the SEA's approach to developing or expanding, and implementing, a course-access program using this grant. An SEA must—

(a) Describe its approach to developing or expanding, and implementing, a course-access program using this grant, including the types of courses it proposes to offer. The applicant should describe how the SEA will determine which courses to offer and how it will ensure the courses it offers are high-quality and contribute to preparing students for college and career. The description must include the learning formats of the courses (*e.g.,* distance learning, online courses, in-person courses), and the resulting course-access program must include more than one learning format among the course offerings, but a specific course need not be available in multiple formats. The description must also address how, in addition to meeting the needs of all students, the courses it proposes to offer to meet the needs of rural students, disadvantaged students, or students with disabilities;

(b) Describe how its approach will complement, rather than duplicate, existing efforts to provide students with access to courses that contribute to a well-rounded education, how project funds will supplement, and not supplant, non-Federal funds that would otherwise be available for activities funded under this program, and how the project will integrate existing funding streams from other programs, such as but not limited to the Student Support and Academic Enrichment program authorized by title IV, part A of the ESEA, to support the project;

(c) Describe how its approach will ensure that any student in the State has the opportunity to request access to courses and how the SEA will determine which students to serve if it receives more requests for services than available funds can support (*e.g.,* a lottery system, priority for students with the greatest need, first-come first-served, or other criteria that are fair and publicly available); and

(d) Describe how it will engage a broad range of stakeholders, which may include school administrators, teachers, and families from geographically and economically diverse school districts, to support the development and the continuous improvement of the course-access program.

(2) *A plan for promoting awareness of and participation in the SEA's course-access program using this grant.*

An SEA must describe how it will provide outreach to students, parents (as defined in this notice), and educators on the availability of courses in its course-access program and how students, or parents on behalf of students, will select and be enrolled in those courses. The plan should specifically address how the SEA will provide outreach to all students, including rural students, disadvantaged students, or students with disabilities, or students that have been traditionally underrepresented in the courses the applicant is proposing to offer. This plan must include an approach to receiving requests from parents to add course offerings not included in the SEA's course-access program, to which the SEA must respond to the parents in writing.

(3) *A description of the SEA's approach to paying for students' participation in course offerings funded under this grant.* An SEA must—

(a) Describe any criteria it will use to identify course providers;

(b) Describe the methods that it will use to pay for students to participate in courses.[7]

(c) Describe how the SEA will establish a written agreement between the SEA and each provider that must include—

(i) A nondiscrimination clause that requires the provider to abide by all applicable non-discrimination laws with regard to students to be served, *e.g.,* on the basis of race, color, national origin, sex, or disability;

(ii) A description of how the grantee will oversee the service provider and hold the provider accountable for—

(A) The terms of the written agreement; and

(B) The use of funds, including compliance with generally accepted accounting procedures and Federal cost principles; and

(iii) A provision for the termination of the agreement if the provider is unable to meet the terms of the agreement.

(4) *A project plan that includes a specific timeline for developing or expanding, and implementing a course-access program.*

An SEA must provide a detailed plan for developing or expanding, and implementing a course-access program and continuously improving grant activities. As necessary and appropriate, an SEA may include in its plan a period of up to 12 months during the first year of the project period for program development. SEAs that propose to use this option must provide sufficient justification for why this program planning time is necessary, provide the intended outcomes of program planning in Year 1, and include a description of the proposed strategies and activities to be supported, which may include, but are not limited to, performing outreach to communities in need of support and training schools, LEAs, and community members.

(5) *A description of how an SEA will document and disseminate the results of the funded project.* An SEA must describe how it will document and disseminate results of the project, consistent with the Family Educational Rights and Privacy Act (FERPA), to promote improved capacity to implement course-access programs in other States, communities and schools. At a minimum, the SEA must describe how it will document and disseminate information on course offerings, course enrollment rates, and changes in academic success for participating students. This description must include an explanation of the SEA's approach to contributing to the evidence base for course-access programs while protecting student privacy.

Definitions: The definitions of ''local educational agency,'' ''parent,'' ''State educational agency,'' and ''well-rounded education'' are from 20 U.S.C. 7801. The definition of ''career and technical education'' is from 20 U.S.C. 2302(5).

We establish the definition of ''course-access program'' for the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

These definitions are:

[7] A combination of Federal, State, and local funds, including funds that support direct student services under section 1003A of the ESEA, may be used to support services under this program. ESEA section 1003A permits a State to reserve funds to make awards to LEAs to support specific direct student services, including credit recovery and academic acceleration courses that lead to a regular high school diploma. Section 1003A requires that an LEA receiving section 1003A funds prioritize certain students in certain schools in paying for direct student services. For more information on requirements for using those funds, see section 1003A of the ESEA.

Career and technical education means organized educational activities that—

(A) Offer a sequence of courses that—

(i) Provides individuals with rigorous academic content and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions, which may include high-skill, high-wage, or in-demand industry sectors or occupations, which shall be, at the secondary level, aligned with the challenging State academic standards adopted by a State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965;

(ii) Provides technical skill proficiency or a recognized postsecondary credential, which may include an industry-recognized credential, a certificate, or an associate degree; and

(iii) May include prerequisite courses (other than a remedial course) that meet the requirements of this definition;

(B) Include competency-based, work-based, or other applied learning that supports the development of academic knowledge, higher-order reasoning and problem solving skills, work attitudes, employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual;

(C) To the extent practicable, coordinate between secondary and postsecondary education programs through programs of study, which may include coordination through articulation agreements, early college high school programs, dual or concurrent enrollment program opportunities, or other credit transfer agreements that provide postsecondary credit or advanced standing; and

(D) May include career exploration at the high school level or as early as the middle grades (as such term is defined in section 8101 of the ESEA).

Course-access program means a program that—

(1) Provides students the option to enroll in one or more courses that contribute to a well-rounded education, such as remedial or credit recovery courses, accelerated learning courses, career and technical education (as defined in this notice), or elective courses;

(2) Must include courses offered by multiple providers, from which students, or parents on behalf of students, may choose;

(3) Makes available courses in at least two learning formats, including, but not limited to, distance learning, online courses, and classroom-based options, except that, for the purpose of this definition, an individual course need not be available in more than one format;

(4) Ensures that coursework materials and the formats and technologies by which they are made available are accessible to students with disabilities; and

(5) Is available to all students in the State, including private school students on an equitable basis, in accordance with section 8501 of the ESEA.

Local educational agency (LEA) means—

(a) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(c) The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(d) The term includes educational service agencies and consortia of those agencies.

(e) The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

Parent—The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

State educational agency (SEA) means the agency primarily responsible for the State supervision of public elementary or secondary schools.

Well-rounded education means courses, activities, and programming in subjects such as English, reading or language arts, writing, science, technology, engineering, mathematics, foreign languages, civics and government, economics, arts, history, geography, computer science, music, career and technical education, health, physical education, and any other subject, as determined by the SEA or LEA, with the purpose of providing all students access to an enriched curriculum and educational experience.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, and requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under title IV, part A, subpart 1 of the ESEA (20 U.S.C. 7113(a)(3)) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priority, definition, and requirements under section 437(d)(1) of GEPA. The priority, definition, and requirements will apply to the FY 2020 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: Section 4103(a)(3) of title IV, part A of the ESEA (20 U.S.C. 7113).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $6,467,609.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2021 and subsequent years from the list

of unfunded applications from the competition announced in this notice.

Estimated Range of Awards: $1,000,000 to 3,000,000 per year.

Estimated Average Size of Awards: $2,000,000 per year.

Maximum Award: We will not make an award exceeding $3,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 2–4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Neither an SEA nor an LEA may reduce funding or services to a student as a result of the student taking a course supported by this program.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Equitable Services:* A grantee under this program is required to provide for the equitable participation of private school children, in accordance with section 8501 of the ESEA (20 U.S.C. 7881).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* Funds under this program may be used only for costs related to developing or expanding, implementing, and disseminating information on course-access programs, which may include instructional costs (*e.g.,* course materials and fees).

We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210. The maximum score for all selection criteria is 100 points. The points or weights assigned to each criterion are indicated in parentheses. Non-Federal peer reviewers will evaluate and score each application against the following selection criteria:

(a) *Significance* (10 points).

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(ii) The potential replicability of the proposed project or strategies, including, as appropriate, the potential for implementation in a variety of settings.

(b) *Quality of Project Design* (30 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(ii) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(iii) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(c) *Quality of Project Services* (40 points).

The Secretary considers the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(i) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(iii) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(iv) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(d) *Quality of Management Plan* (20 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in 34 CFR 77.1(c)), using existing funding streams from other programs or policies supported by community, State, and Federal resources.

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(iv) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs

or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200 subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:*

(a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* The Department has established the following Government Performance and Results Act of 1993 performance measures for the Expanding Access to Well-Rounded Courses Demonstration Grants program:

(a) The number of courses available through the course access program disaggregated by (1) subject matter and (2) delivery format (*e.g.,* distance learning, online courses, blended learning, or in-person classroom courses).

(b) The number of students who select and participate in course offerings supported by funds from this grant in comparison to the total number of students in the State.

(c) The course passage rate for course offerings supported by funds from this grant.

(d) The average cost per student participating in the course offerings disaggregated by (1) subject matter and (2) delivery format (*e.g.,* distance learning, online courses, blended learning, or in-person classroom courses).

(e) Parent and student satisfaction with the available course offerings in terms of variety, accessibility, and quality of the courses.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to carefully consider these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about its progress with respect to these measures. These data will be considered by the Department in making continuation awards.

Consistent with 34 CFR 75.591, grantees funded under this program must comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

The reviewers of each application will score related selection criteria on the basis of how well an applicant has considered these measures in conceptualizing the approach and evaluation of the project.

All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR

75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

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 search feature at this site, you can limit your search to documents published by the Department.

Frank T. Brogan,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2020–08848 Filed 4–24–20; 8:45 am]

BILLING CODE 4000–01–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: RP20–791–000.
Applicants: Centra Pipelines Minnesota Inc.
Description: § 4(d) Rate Filing: Updated Shipper Index June 2020 to be effective 6/1/2020.
Filed Date: 4/17/20.
Accession Number: 20200417–5044.
Comments Due: 5 p.m. ET 4/29/20.

Docket Numbers: RP20–792–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: § 4(d) Rate Filing: Fuel Tracker Filing 4/20/20 to be effective 6/1/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5021.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: RP20–793–000.
Applicants: Elba Express Company, L.L.C.
Description: § 4(d) Rate Filing: Fuel Tracker Filing—2020 to be effective 6/1/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5055.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: RP20–794–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Panda 624 to NextEra 52718) to be effective 4/17/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5067.
Comments Due: 5 p.m. ET 5/4/20.

Docket Numbers: RP20–795–000.
Applicants: Dominion Energy Cove Point LNG, LP.
Description: § 4(d) Rate Filing: DECP—Negotiated Rate Agreement Termination to be effective 5/20/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5168.
Comments Due: 5 p.m. ET 5/4/20.

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 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08868 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1604–000]

EF Oxnard 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 EF Oxnard 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 May 12, 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: April 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08871 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1620–000]

AES Solutions Management, 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 AES Solutions Management, 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 May 11, 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: April 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08870 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1610–000]

Lone Tree Wind, 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 Lone Tree Wind, 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 May 11, 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: April 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08873 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–1950–001.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2020–04–21 Filing to Comply with February 20, 2020 Order in Docket ER19–1950 to be effective 2/20/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5116.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1623–000.
Applicants: Silver State Solar Power North, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions Silver State (Docket ER12–1316–005) to be effective 4/22/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5108.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1624–000.
Applicants: Crowned Ridge Interconnection, LLC.
Description: § 205(d) Rate Filing: Crowned Ridge Interconnection, LLC, CR1 & CR2 Shared Facilities Agreement to be effective 7/1/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5110.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1625–000.
Applicants: Dynegy Oakland, LLC.
Description: § 205(d) Rate Filing: Request for Authorization of Payment Pursuant to Section 7.5 of RMR Agreement to be effective 6/20/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5152.
Comments Due: 5 p.m. ET 5/12/20.

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 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08867 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC20–53–000.
Applicants: Mountain Breeze Wind, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act, *et al.* of Mountain Breeze Wind, LLC.
Filed Date: 4/20/20.
Accession Number: 20200420–5282.
Comments Due: 5 p.m. ET 5/11/20.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20–128–000.
Applicants: Assembly Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Assembly Solar, LLC.
Filed Date: 4/20/20.
Accession Number: 20200420–5266.
Comments Due: 5 p.m. ET 5/11/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3115–006.
Applicants: Waterside Power, LLC.
Description: Triennial Market Power Update for the Northeast Region of Waterside Power, LLC.
Filed Date: 4/20/20.
Accession Number: 20200420–5278.
Comments Due: 5 p.m. ET 6/19/20.

Docket Numbers: ER10–3117–008.
Applicants: Lea Power Partners, LLC.
Description: Triennial Market Power Update for the Southwest Power Pool Region of Lea Power Partners, LLC.
Filed Date: 4/20/20.
Accession Number: 20200420–5280.
Comments Due: 5 p.m. ET 6/19/20.

Docket Numbers: ER13–445–009; ER11–4060–009; ER11–4061–009; ER14–2823–007; ER15–1170–005; ER15–1171–005; ER15–1172–005; ER15–1173–005.
Applicants: Badger Creek Limited, Bear Mountain Limited, Chalk Cliff Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, Live Oak Limited, McKittrick Limited.
Description: Triennial Market Power Update for the Southwest Power Pool Region of Badger Creek Limited, *et al.*
Filed Date: 4/20/20.
Accession Number: 20200420–5301.
Comments Due: 5 p.m. ET 6/19/20.

Docket Numbers: ER13–738–007; ER10–1186–010; ER10–1329–010; ER11–2731–003; ER11–3097–011; ER12–421–003.
Applicants: DTE Electric Company, DTE Energy Trading, Inc., DTE Energy Supply, Inc., DTE Garden Wind Farm, LLC, DTE Stoney Corners Wind Farm, LLC, St. Paul Cogeneration, LLC.
Description: Notice of Non-Material Change in Status of the DTE MBR Entities.
Filed Date: 4/20/20.
Accession Number: 20200420–5273.
Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: ER20–1613–000.
Applicants: The Potomac Edison Company, Monongahela Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Potomac Edison submits Interconnection Agreement, SA No. 4984 with Monongahela to be effective 6/19/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5215.
Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: ER20–1614–000.
Applicants: Cedar Point Wind, LLC.
Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions Cedar Point Wind (Docket ER11–2753–006) to be effective 4/21/2020.
Filed Date: 4/20/20.
Accession Number: 20200420–5224.
Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: ER20–1615–000.

Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–04–21_SA 3478 Dairyland Power-Fillmore County Solar GIA (J718) to be effective 4/7/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5013.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1616–000.
Applicants: Western Spirit Transmission, LLC.
Description: Baseline eTariff Filing: FERC Application—Facilities Use Agreement to be effective 4/21/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5016.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1617–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Tariff Revisions to Add Ramp Capability to be effective 12/31/9998.
Filed Date: 4/21/20.
Accession Number: 20200421–5054.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1618–000.
Applicants: Red Horse Wind 2, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 5/1/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5056.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1619–000.
Applicants: Red Horse III, LLC.
Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 5/1/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5058.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1620–000.
Applicants: AES Solutions Management, LLC.
Description: Baseline eTariff Filing: AES Solutions Management, LLC MBR Application to be effective 6/21/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5080.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1621–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX-Rayos Del Sol Solar Project Interconnection Agreement 2nd A&R to be effective 4/9/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5076.
Comments Due: 5 p.m. ET 5/12/20.

Docket Numbers: ER20–1622–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1605R1 Elk City Renewables II GIA Cancellation to be effective 4/8/2020.
Filed Date: 4/21/20.
Accession Number: 20200421–5100.
Comments Due: 5 p.m. ET 5/12/20.

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 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08872 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER20–1608–000]

Mountain Breeze Wind, 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 Mountain Breeze Wind, 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 May 11, 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: April 21, 2020.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2020–08869 Filed 4–24–20; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0090; FRL–10008–47]

Carbaryl and Methomyl Registration Review; Draft Endangered Species Act Biological Evaluations; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of March 17, 2020, opening a 60-day comment period on the draft nationwide biological evaluations (BEs) for the registration review of the pesticides carbaryl and methomyl relative to the potential effects on threatened and endangered species and their designated critical habitats. This document extends the comment period for 45 days, from May 18, 2020 to July 2, 2020.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2020–0090, must be received on or before July 2, 2020.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 17, 2020 (85 FR 15168) (FRL–10006–38).

FOR FURTHER INFORMATION CONTACT: Tracy Perry, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 308–0128; email address: *perry.tracy@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of March 17, 2020 (85 FR 15168) (FRL–10006–38), which opened a 60-day public comment period for the draft nationwide biological evaluations (BEs) for the registration review of the pesticides carbaryl and methomyl relative to the potential effects on threatened and endangered species and their designated critical habitats. As noted in that document, the schedule for conducting the carbaryl and methomyl BEs was negotiated as part of a partial settlement agreement pursuant to a joint stipulation filed on October 18, 2019 and entered by the court on October 22, 2019, in *Center for Biological Diversity* et al. v. *EPA et al.* (N.D. Ca) (3:11–cv–00293). EPA is hereby extending the public comment period, which was set to end on May 18, 2020 to July 2, 2020.

After considering a number of requests to extend the comment period received from various stakeholders, EPA is extending the comment period for the following reasons: (1) The draft BEs are complex and highly technical; (2) the need for some stakeholders to engage experts familiar with the subject matter to assist them with providing comments; (3) the large number of stakeholders potentially impacted by the draft BEs; (4) the importance of soliciting feedback from stakeholders who may be affected; (5) the stakeholders' need for additional time to review and develop constructive comments for these complex and lengthy Bes; and (6) the carbaryl and methomyl BEs are the first ones where EPA applied the Revised Method, which was updated to reflect input from public comments and released in March along with the draft carbaryl and methomyl BEs.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 17, 2020. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: April 22, 2020.

Alexandra Dapolito Dunn,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2020–08877 Filed 4–24–20; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sending Case Issuances Through Electronic Mail

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: On a temporary basis, the Federal Mine Safety and Health Review Commission will be sending its issuances through electronic mail and will not be monitoring incoming physical mail or facsimile transmissions.

DATES: *Applicable:* April 27, 2020.

FOR FURTHER INFORMATION CONTACT: Sarah Stewart, Deputy General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, at (202) 434–9935; *sstewart@fmshrc.gov.*

SUPPLEMENTARY INFORMATION: Until May 15, 2020, case issuances of the Federal Mine Safety and Health Review Commission (FMSHRC), including inter alia notices, decisions, and orders, will be sent only through electronic mail. This includes notices, decisions, and orders described in 29 CFR 2700.4(b)(1), 2700.24(f)(1), 2700.45(e)(3), 2700.54, and 2700.66(a). Further, FMSHRC will not be monitoring incoming physical mail or facsimile described in 29 CFR 2700.5(c)(2). If possible, all filings should be e-filed as described in 29 CFR 2700.5(c)(1).

Authority: 30 U.S.C. 823.

Dated: April 21, 2020.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2020–08816 Filed 4–24–20; 8:45 am]

BILLING CODE 6735–01–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 27, 2020.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Bangor Bancorp, MHC, Bangor, Maine;* to acquire Damariscotta Bankshares, Inc., and thereby indirectly acquire Damariscotta Bank and Trust Company, both of Damariscotta, Maine.

Board of Governors of the Federal Reserve System, April 22, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020–08866 Filed 4–24–20; 8:45 am]

BILLING CODE P

FEDERAL TRADE COMMISSION

Postponement of Public Workshop Related to Proposed Changes to the Safeguards Rule

AGENCY: Federal Trade Commission.

ACTION: Postponement and change of format of public workshop; extension of deadlines for submission of comments and requests to participate.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') is rescheduling the public workshop relating to its April 4, 2019 Notice of Proposed Rulemaking (''NPRM'') announcing proposed changes to the Commission's Safeguards Rule. The workshop will take place via live webcast rather than in person. Additionally, the Commission is extending the deadlines for submission of requests to participate in the workshop and of public comments relating to the subject matter of the workshop.

DATES: The public workshop will be held on July 13, 2020, from 9:00 a.m. until 4:30 p.m. It will be freely accessible to the public via a live webcast on the FTC's website. Requests to participate as a panelist must be received by May 14, 2020. Any written comments related to agenda topics or the issues discussed by the panelists at the workshop must be received by August 12, 2020.

ADDRESSES: Interested parties may file a comment or a request to participate as a panelist online or on paper, by following the instructions in the Filing Comments and Requests to Participate as a Panelist part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Safeguards Rule, 16 CFR part 314, Project No. P145407,'' 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, write ''Safeguards Rule, 16 CFR part 314, Project No. P145407,'' 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 F), 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 F), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David Lincicum, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326–2773.

SUPPLEMENTARY INFORMATION:

I. Background

On April 4, 2019, the FTC issued an NPRM [1] announcing a number of proposed modifications to its Safeguards Rule,[2] which implements data security requirements in the Gramm-Leach-Bliley Act.[3] The Safeguards Rule requires that financial institutions under the FTC's jurisdiction develop, implement, and maintain written information security programs that are appropriate in light of the institutions' size and complexity and that take into account an assessment of relevant data security risks.[4] The proposed rule would, among other things, establish with greater specificity the types of security measures and controls that financial institutions must explicitly consider in developing their information security programs.[5] The Commission received 48 public comments in response to the NPRM.[6]

On March 2, 2020, the FTC announced that it would hold a public workshop to seek additional information relating to the costs and benefits of the changes proposed in the NPRM—specifically, that it would seek information on a number of topics from security professionals who have worked with financial services companies.[7] The workshop was scheduled for May 13, 2020 and the Commission announced that it would accept requests to participate in the workshop until March 12, 2020 and public comments on the subject matter of the workshop until June 13, 2020.[8]

The Commission recognizes that the COVID–19 pandemic is currently causing, and may continue to cause, significant disruptions to the lives and operations of people and organizations across the United States.[9] In light of these disruptions, and in the interest of facilitating broad public participation, the Commission is now postponing the GLB Safeguards Workshop until July 13, 2020. Additionally, the workshop will be conducted virtually rather than in person. It will be webcast to the public and will be viewable from the Commission's website. Further details about viewing the workshop will be released on the Commission's website prior to the workshop. The deadlines for submitting requests to participate in the workshop and public comments have been extended to May 14, 2020 and August 12, 2020, respectively.

II. Public Participation Information

A. Workshop Attendance

The workshop is free and open to the public. It will be webcast live on the FTC's website, with panelists participating remotely. No in-person attendance will be permitted.

This event may be videotaped, webcast, or otherwise recorded. By participating in this event, you are agreeing that your image—and anything you say or submit—may be posted indefinitely at *www.ftc.gov* or on one of the Commission's publicly available social media sites.

B. Requests To Participate as a Panelist

The workshop will be organized into panels, which will address the designated topics. Panelists will be selected by FTC staff. Viewers will have an opportunity to comment and ask questions. The Commission will place a transcript of the proceeding on the public record.

Requests to participate as a panelist must be received on or before May 14, 2020, as explained in Section IV below. Persons selected as panelists will be notified on or before May 29, 2020. Disclosing funding sources promotes transparency, ensures objectivity, and maintains the public's trust. If chosen, prospective panelists will be required to disclose the source of any support they received in connection with participation at the workshop. This information will be included in the published panelist bios as part of the workshop record.

C. Electronic and Paper Comments

The submission of comments is not required for participation in the workshop. If a person wishes to submit paper or electronic comments related to the agenda topics or the issues discussed by the panelists at the workshop, such comments should be filed as prescribed in Section III, and must be received on or before August 12, 2020.

III. Filing Comments and Requests To Participate as a Panelist

You can file a comment, or request to participate as a panelist, online or on

[1] 84 FR 13158 (April 4, 2019).

[2] 16 CFR 314.

[3] 15 U.S.C. 6801(b).

[4] 16 CFR 314.3, 314.4.

[5] 84 FR 13158 (April 4, 2019).

[6] The comments are available at *https://www.regulations.gov/document?D=FTC-2019-0019-0011.*

[7] 85 FR 13082 (Mar. 6, 2020).

[8] *Id.*

[9] *See* Statement from FTC Chairman Joe Simons Regarding Consumer Protection, Mar. 26, 2020, available at *https://www.ftc.gov/system/files/documents/public_statements/1569773/final_chairman_covid_statement_3262020.pdf.*

paper. For the Commission to consider your comment, we must receive it on or before August 12, 2020. For the Commission to consider your request to participate as a panelist, we must receive it by May 14, 2020. Write ''Safeguards Rule, 16 CFR 314, Comment, Project No. P145407'' on your comment and ''Safeguards Rule, 16 CFR 314, Request to Participate, Project No. P145407'' on your request to participate. 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 publicly available website, *https://www.regulations.gov.*

Postal mail addressed to the Commission is subject to delay because of the public health emergency in response to the COVID–19 outbreak and the agency's heightened security screening. We strongly encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://www.regulations.gov.*

Because your comment will be placed on a publicly accessible website, *https://www.regulations.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include 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 that your comment does not include any 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.[10] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the *https://www.regulations.gov* website, we cannot redact or remove your comment, 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.

Requests to participate as a panelist at the workshop should be submitted electronically to *safeguardsworkshop2020@ftc.gov,* or, if on paper, should be submitted in the manner detailed below. Parties are asked to include in their requests a brief statement setting forth their expertise in or knowledge of the issues on which the workshop will focus as well as their contact information, including a telephone number and email address (if available), to enable the FTC to notify them if they are selected.

If you file your comment or request to participate on paper, write ''Safeguards Rule, 16 CFR part 314, Comment, Project No. P145407'' on your comment and on the envelope and ''Safeguards Rule, 16 CFR part 314, Request to Participate, Project No. P145407,'' on your request and on the envelope. Mail your comment or request to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex F), Washington, DC 20580; or deliver your comment or request to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex F). If possible, submit your paper comment or request to the Commission by courier or overnight service.

Visit the Commission 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 August 12, 2020. The Commission will consider all timely requests to participate as a panelist in the workshop that it receives by May 14, 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.*

[10] *See* 16 CFR 4.9(c).

IV. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record.[11]

By direction of the Commission.

April J. Tabor,

Acting Secretary.

[FR Doc. 2020–08800 Filed 4–24–20; 8:45 am]

BILLING CODE 6750–01–P

[11] *See* 16 CFR 1.26(b)(5).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment as Members of the Community Preventive Services Task Force (CPSTF)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) is soliciting nominations for appointment of individuals qualified to serve as new members of the Community Preventive Services Task Force (CPSTF). New CPSTF members will serve a five-year term starting in 2021 or 2022. For efficiency and to reduce the burden on the public, the CPSTF nomination process seeks to fill vacancies anticipated for both calendar years 2021 and 2022.

DATES: Nomination packages must be received on or before 5:00 p.m. EDT, on Friday, June 26, 2020. Late nomination packages will not be considered.

ADDRESSES: Nomination packages should be submitted electronically to *cpstf@cdc.gov* or by U.S. mail to the address provided below in **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Sophia Minor, Community Guide Office, Office of the Associate Director for Policy and Strategy, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS V25–5, Atlanta, Georgia 30329. Phone (404) 498–3971, email: *cpstf@cdc.gov.*

SUPPLEMENTARY INFORMATION: The submission process, qualification requirements, selection process, and the

time commitment of CPSTF members are described below.

Submission of Nomination Packages

Nomination packages should include:

(1) The nominee's current curriculum vitae;

(2) A brief biographic sketch (less than 200 words) of the nominee;

(3) The nominee's contact information, including mailing address, email address, and telephone number; and

(4) A brief explanation of how the nominee meets the qualification requirements and how he/she would contribute to the CPSTF. The information provided should also attest to the nominee's willingness to serve as a member of the CPSTF and identify which year the nominee would be available to start (*i.e.,* calendar year 2021, 2022, or either).

After an initial review, CDC will ask persons under serious consideration for CPSTF membership to provide detailed information that will permit evaluation of possible significant conflicts of interest.

To obtain diverse perspectives, CDC encourages nominations of persons of all races, genders, ages, and persons living with disabilities. Interested individuals may self-nominate. Organizations and individuals may nominate one or more persons qualified for membership on the CPSTF. Federal employees are not eligible to be CPSTF members. Individuals nominated prior to this round, who continue to have interest in serving on the CPSTF, may be re-nominated; a new nomination package must be submitted in accordance with the requirements in this notice.

Qualification Requirements

To qualify as a member of the CPSTF and support its mission, a nominee must, at a minimum, demonstrate knowledge, experience, and national leadership in the following areas:

- The critical evaluation of research or policy, or in the methods of evidence review; and
- Research, evaluation, or implementation of community or health system-based programs, policies, or services to improve population health.

Strongest consideration will be given to individuals with expertise and experience:

- That are applied, with practical applications for public health action;
- That address broad public health considerations, or extends beyond one or two highly defined areas; and
- In state or local health departments.

In the current nomination period, the strongest consideration will also be given to people with expertise and experience in one or more of the following: Social determinants of health or health equity, mental health, substance use, maternal and child health, adolescent health, older adults/aging, digital health interventions, public health nursing, and state-of-the-art systematic review methods.

Nominators should highlight the relevant information in the nomination materials for candidates with experience and expertise in any of these areas.

All nominated individuals will be considered for CPSTF membership.

Applicants must have no substantial conflicts of interest, whether financial, professional, or intellectual, that would impair the scientific integrity of the work of the CPSTF and must be willing to complete regular conflict of interest disclosures.

Applicants must have the ability to work collaboratively with a team of diverse professionals who support the mission of the CPSTF. Applicants must have adequate time to contribute substantively to the work products of the CPSTF.

Nominee Selection

Appointments to the CPSTF will be made based on qualifications as outlined above (see Qualification Requirements) and the current expertise needs of the CPSTF.

Background of the CPSTF

The CPSTF was established in 1996 by HHS to identify population health interventions that are scientifically proven to save lives, increase lifespans, and improve quality of life. The CPSTF produces recommendations (and identifies evidence gaps) to help inform the decision making of federal, state, and local health departments, other government agencies, communities, healthcare providers and organizations, employers, schools and research organizations.

The CPSTF (*http://www.thecommunityguide.org/about/task-force-members.html*), is an independent, nonpartisan, non-Federal, unpaid panel of public health and prevention experts that is statutorily mandated to provide evidence-based findings and recommendations about community preventive services, programs, and policies to improve health (Public Health Service Act § 399U(a), 42 U.S.C. 280g–10(a)). Its members represent a broad range of research, practice, and policy expertise in community preventive services, public health, health promotion, and disease prevention. The CPSTF members are appointed by the CDC Director and serve five-year terms, with extensions possible in order to maintain a full scope of expertise, complete specific work, and ensure consistency of CPSTF methods and recommendations. CDC provides ''ongoing administrative, research, and technical support for the operations of the CPSTF'' as directed by the Public Health Service Act § 399U(c) (42 U.S.C. 280g–10(c)).

The CPSTF bases its recommendations on rigorous, replicable systematic reviews of the scientific literature, which:

- Evaluate the strength and limitations of published scientific studies about community-based health promotion and disease prevention programs, services, and policies;
- Assess whether the programs, services, and policies are effective in promoting health and preventing disease, injury, and disability;
- Examine the applicability of these programs, services, and policies to varied populations and settings; and
- Conduct economic analyses of recommended interventions when applicable.

These systematic reviews are conducted, with CPSTF oversight, by scientists and subject matter experts from the CDC in collaboration with a wide range of government, academic, policy, and practice-based partners. CPSTF findings and recommendations and the systematic reviews on which they are based are available at *http://www.thecommunityguide.org/index.html.*

Time Commitment

The CPSTF generally conducts three, two-day meetings each year that are open to the public. In addition, a significant portion of the CPSTF's work occurs between meetings during conference calls and via email discussions. Member duties include overseeing the process of prioritizing CPSTF work, participating in the development and refinement of systematic review methods, serving as members of individual review teams, and issuing recommendations and findings to help inform the decision-making process about policy, practice, research, and research funding in a wide range of U.S. settings. Members help raise awareness about CPSTF findings and recommendations and the resources available through the website. The estimated workload for CPSTF members is approximately 170 hours a year in addition to the three two-day meetings. The members are all volunteers and do not receive any compensation beyond support for travel to in-person meetings.

Dated: April 21, 2020.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2020–08804 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-20–1181]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Airline and Traveler Information Collection: Domestic Manifests and the Passenger Locator Form (42 CFR parts 70 and 71) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 4, 2019 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Airline and Traveler Information Collection: Domestic Manifests and the Passenger Locator Form (OMB Control No. 0920–1181, Exp. 05/31/2020)—Revision—Division of Global Migration and Quarantine (DGMQ), National Center for Emerging Zoonotic and Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Stopping a communicable disease outbreak—whether it is naturally occurring or intentionally caused—requires the use of the most rapid and effective public health tools available. Basic public health practices, such as collaborating with airlines in the identification and notification of potentially exposed contacts, are critical tools in the fight against the introduction, transmission, and spread of communicable diseases in the United States.

The collection of timely, accurate, and complete contact information enables Quarantine Public Health Officers in CDC's Division of Global Migration and Quarantine (DGMQ) to notify state and local health departments in order for them to make contact with individuals who may have been exposed to a contagious person during travel and identify appropriate next steps. In order to collect this contact information, aka a manifest, CDC is seeking approval for domestic airline and traveler information orders under current authorities in 42 Code of Federal Regulations (CFR) 70.10. This activity is already current practice.

CDC also requests continued approval to use the Passenger Locator Form (PLF) for the collection of traveler information from individuals on domestic flights and international flights under 42 CFR 70.10 and 42 CFR 71.20, respectively. The PLF, a formed developed by the International Civil Aviation Organization (ICAO) in concert with its international member states and other aviation organizations, is used when there is a confirmation or strong suspicion that an individual(s) aboard a flight is infected with or exposed to a communicable disease that is a threat to co-travelers, and CDC is made aware of the individual(s) prior to arrival in the United States. This prior awareness can provide CDC with an opportunity to collect traveler contact information directly from the traveler prior to departure from the arrival airport.

CDC estimates that for each set of airline and traveler information ordered, airlines require approximately six hours to review the order, search their records, and send those records to CDC. CDC anticipates that travelers will need approximately five minutes to complete the PLF. There is no cost to respondents other than their time perform these actions. For manifest information, CDC does not have a specified format for these submissions, only that it is one acceptable to both CDC and the respondent. The total number of hours requested as part of this 225,734.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Airline Medical Officer or Equivalent/Computer and Information Systems Manager.	Domestic TB Manifest Template or Informal Manifest Request.	2	1	360/60
Airline Medical Officer or Equivalent/Computer and Information Systems Manager.	Domestic Non-TB Manifest Template or Informal Manifest Request.	98	1	360/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Traveler	Public Health Passenger Locator Form: Outbreak of public health significance* (international flights).	2,700,000	1	5/60
Traveler	Public Health Passenger Locator Form: Limited onboard exposure† (international flights.	800	1	5/60
Traveler	Public Health Passenger Locator Form (domestic flights).	800	1	5/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08787 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20MR; Docket No. CDC–2020–0039]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Leptospirosis and melioidosis active hospital-based surveillance in Puerto Rico.'' The project aims to identify leptospirosis and melioidosis cases in Puerto Rico by establishing active surveillance for both diseases at four hospital sites for timelier disease identification and treatment and to improve understanding of leptospirosis and melioidosis epidemiology and ecology in Puerto Rico for public health control and prevention planning.

DATES: CDC must receive written comments on or before June 26, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0039 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Leptospirosis and melioidosis active hospital-based surveillance in Puerto Rico—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The project aims to identify leptospirosis and melioidosis cases in Puerto Rico by establishing active surveillance for both diseases at four hospital sites for timelier disease identification and treatment and to improve understanding of leptospirosis and melioidosis epidemiology and ecology in Puerto Rico for public health control and prevention planning. Both diseases can cause outbreaks after hurricanes and flooding, especially in tropical areas, and this project is being conducted in response to an increase in leptospirosis cases after Hurricanes Irma and Maria in 2017.

Participation is voluntary. Participants will be recruited from the population presenting to the emergency

department of the four hospital sites with febrile illness, and will be interviewed to gather information on symptoms, possible exposures, and medical history, in addition to having diagnostic samples collected to test for leptospirosis plus or minus melioidosis (depending on presenting symptoms). Participants will then also be interviewed approximately two weeks after enrollment to determine illness progression and outcome. Patients testing positive for leptospirosis, if willing, may have animals sampled from their home or work environments, if present, to help determine the animal reservoirs related to human leptospirosis illness in Puerto Rico.

The estimated annualized burden hours requested are 1,675. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Patient	PIFA (screening)	7,000	1	5/60	583
Patient	PIFA (full form: Sections 1–4, 11)	3,000	1	10/60	500
Patient	Consent Form	3,000	1	6/60	300
Patient	PIFF	1,000	1	10/60	167
Patient	Animal Household Survey	250	1	30/60	125
Total					1,675

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08794 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended, and the Determination of the Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, CDC, pursuant to Public Law 92–463. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)–CE15–002: The CDC National Centers of Excellence in Youth Violence Prevention: Building the Evidence for Community- and Policy-Level Prevention.

Date: June 17, 2020.

Time: 8:30 a.m., EDT.

Place: Videoconference.

Agenda: To review and evaluate grant applications.

For Further Information Contact: Mikel Walters, Ph.D., Scientific Review Official, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, Georgia 30341, Telephone (404)639–0913, *MWalters@cdc.gov.*

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2020–08808 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Change in Reporting Requirements for The Federal Cigarette Labeling and Advertising Act (FCLAA) and Comprehensive Smokeless Tobacco Health Education Act (CSTHEA)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces that it is extending the March 31, 2020 deadline for submissions required under the Federal Cigarette Labeling and Advertising Act (FCLAA) and the Comprehensive Smokeless Tobacco Health Education Act (CSTHEA) for cigarette and smokeless tobacco products, respectively. CDC also announces that it is extending the deadline for ingredient reports for new products that are due at the time of first importation. Previous notices announced that ingredient reports are due annually on March 31, and/or upon initial importation of cigarettes and/or smokeless tobacco products. Due to the current public health response to COVID–19, CDC is not able to accept any ingredient submissions and will not be issuing Certificates of Compliance at this time. CDC is communicating this information to state government entities and will re-evaluate this approach as necessary.

FOR FURTHER INFORMATION CONTACT: Kathy Gallagher, Associate Director for Policy, the Office on Smoking and Health, the Centers for Disease Control and Prevention, 4770 Buford Highway NE, Chamblee, Georgia 30341; *nccdoshfclaa@cdc.gov* or at 404–639–5349.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (PRA)requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) for the standardized collection of data from 10 or more entities. CDC has approval from OMB under Control Number 0920–0210, which expires April 30, 2022, to collect cigarette ingredient information. Pursuant to FCLAA, each manufacturer, packager, or importer of cigarettes must annually submit to HHS a list of ingredients added to tobacco in the manufacture of cigarettes. CDC has been delegated by HHS with the responsibility of implementing provisions under FCLAA. Submissions of reports are due to CDC every year by March 31, and/or upon initial importation of tobacco products into the United States.

CDC also has approval from OMB under Control Number 0920–0338, which expires April 30, 2022, to collect smokeless tobacco product ingredient and nicotine content information. Pursuant to the CSTHEA, each manufacturer, packager, or importer of smokeless tobacco products must annually submit to HHS a list of ingredients added to tobacco in the manufacture of smokeless tobacco products and the quantity of nicotine contained in each smokeless tobacco product. CDC has been delegated by HHS with the responsibility of implementing provisions under CSTHEA. Submissions of reports are due to CDC every year by March 31, and/or upon initial importation of smokeless tobacco products.

Upon receipt of reports pursuant to FCLAA and CSTHEA, CDC issued Certificates of Compliance for all submissions that met the following requirements: (1) The submission clearly states on whose behalf the submission is made; and (2) the list of ingredients, including chemical names and corresponding Chemical Abstract Service (CAS) registry numbers, added to tobacco in the manufacture of cigarettes and/or smokeless tobacco products is complete and without error.

Due to the current COVID–19 public health crisis, CDC is indefinitely extending the March 31, 2020 deadline. CDC is neither processing any previously received reports nor issuing Certificates of Compliance at this time. CDC will provide updates to the public through subsequent notices published in the **Federal Register**.

Dated: April 21, 2020.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2020–08797 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–20–20MT; Docket No. CDC–2020–0040]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled The National Firefighter Registry (NFR). In accordance with the Firefighter Cancer Registry Act of 2018, the National Firefighter Registry (NFR) will develop and maintain a voluntary registry of firefighters to collect relevant health and occupational information of such firefighters for purposes of determining cancer incidence.

DATES: CDC must receive written comments on or before June 26, 2020.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2020–0040 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

*Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

The National Firefighter Registry—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In order to accurately monitor trends in cancer incidence and evaluate control measures among the U.S. fire service, Congress passed the Firefighter Cancer Registry Act of 2018. Under this legislation, CDC/NIOSH was directed to create a registry of U.S. firefighters for the purpose of monitoring cancer incidence and risk factors among the current U.S. fire service. Funding of the project was authorized through this legislation for five years as of fiscal year 2019. NIOSH is requesting a three year approval for the package.

The main goal of the National Firefighter Registry (NFR), according the Firefighter Cancer Registry Act of 2018, is, ''to develop and maintain a voluntary registry of firefighters to collect relevant health and occupational information of such firefighters for purposes of determining cancer incidence.'' Results from the NFR will provide information for decision makers within the fire service and medical or public health community to devise and implement policies and procedures to lessen cancer risk and/or improve early detection of cancer among firefighters.

The below table outlines the estimated time burden for participants enrolling in the NFR. There are three corresponding documents to be completed as part of the enrollment process; the Informed Consent, User Profile, and Enrollment Questionnaire. The estimated time burden for the Informed Consent and User Profile are five minutes each, and an estimated twenty minute burden for enrollment questionnaire and 33,354 in burden hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
U.S. Firefighters	Informed Consent	66,666	1	5/60	5,566
U.S. Firefighters	NFR User Profile (web-portal registration).	66,666	1	5/60	5,566
U.S. Firefighters	NFR Enrollment Questionnaire	66,666	1	20/60	22,222
Total					33,354

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08788 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting of the Community Preventive Services Task Force (CPSTF)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention within the Department of Health and Human Services announces the next meeting of the Community Preventive Services Task Force (CPSTF) on June 10–11,2020.

DATES: The June meeting will be held on Wednesday, June 10, 2020, from 8:30 a.m. to 6:00 p.m. EDT and Thursday, June 11, 2020, from 8:30 a.m. to 5:00 p.m. EDT. Wednesday, June 10, 2020 will be a closed session to conduct internal CPSTF business related to its 2020 process for priority topics for 2021–2025.

ADDRESSES: The June CPSTF meeting will be held via web conference. Information regarding meeting logistics will be available on the Community Guide website (*www.thecommunityguide.org)* closer to the date of the meeting.

FOR FURTHER INFORMATION CONTACT: Onslow Smith, Office of the Associate Director for Policy and Strategy; Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–E–69, Atlanta, GA 30329, phone: (404)498–6778, email: *CPSTF@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Meeting Accessibility: The June CPSTF meeting will be held virtually. The first day will consist of internal CPSTF business related to its 2020 process for establishing its priority topics for 2021–2025 and is closed to the public. The second day will consist of deliberations on systematic reviews of literature and is open to the public. All participants who would like to attend the second day must register by 5:00 p.m. EDT on Friday, June 5, 2020. Participants will receive registration confirmation with web conference meeting instructions within two days before the meeting.

To register for the second day, individuals should send an email to *CPSTF@cdc.gov* and include the following information: name, title, organization name, organization address, phone, email. CDC will email web conference information from the *CPSTF@cdc.gov* mailbox. Additional logistical information regarding this virtual meeting will be available on the Community Guide website (*www.thecommunityguide.org*) closer to the date of the meeting.

Public Comment: Individuals who would like to make public comments for the June meeting must indicate their desire to do so with their registration by providing their name, organizational affiliation, and the topic to be addressed (if known). The requestor will receive instructions for the public comment process for this virtual meeting after the request is received. A public comment period follows the CPSTF's discussion of each systematic review and is limited to one minute per person. Public comments will become part of the meeting summary.

Background on the CPSTF: The CPSTF is an independent, nonfederal panel whose members are appointed by the CDC Director. CPSTF members represent a broad range of research, practice, and policy expertise in prevention, wellness, health promotion, and public health. The CPSTF was convened in 1996 by the Department of Health and Human Services (HHS) to identify community preventive programs, services, and policies that increase healthy longevity, save lives and dollars, and improve Americans' quality of life. CDC is mandated to provide ongoing administrative, research, and technical support for the operations of the CPSTF. During its

meetings, the CPSTF considers the findings of systematic reviews on existing research and practice-based evidence and issues recommendations. CPSTF recommendations are not mandates for compliance or spending. Instead, they provide information about evidence-based options that decision makers and stakeholders can consider when they are determining what best meets the specific needs, preferences, available resources, and constraints of their jurisdictions and constituents. The CPSTF's recommendations, along with the systematic reviews of the evidence on which they are based, are compiled in the *The Community Guide.*

Matters proposed for discussion: Information regarding any changes to the start and end times for the meeting, if required, and the agenda topics will be available on the Community Guide website (*www.thecommunityguide.org*) closer to the dates of the meeting.

The meeting agendas are subject to change without notice.

All meeting attendees must register by the dates outlined under *Meeting Accessability*.

Dated: April 21, 2020.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2020–08801 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–20–1175]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Environmental Public Health Tracking Network (Tracking Network)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on February 10, 2020 to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) 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; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Environmental Public Health Tracking Network (Tracking Network) (OMB Control No. 0920–1175, Exp. 04/30/2020)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In September 2000, the Pew Environmental Health Commission issued a report entitled ''America's Environmental Health Gap: Why the Country Needs a Nationwide Health Tracking Network.'' In this report, the Commission documented that the existing environmental health systems were inadequate and fragmented and recommended a ''Nationwide Health Tracking Network for disease and exposures.'' In response to the report, Congress appropriated funds in the fiscal year 2002's budget for the CDC to establish the National Environmental Public Health Tracking Network (Tracking Network).

Continuously since 2008, and at the national level, the program collects data from (1) other CDC programs such as the National Center for Health Statistics, (2) other federal agencies such as the Environmental Protection Agency, (3) publicly accessible systems such as the Census Bureau, and (4) funded and unfunded state and local health departments (SLHD). These data are integrated into and disseminated from the Tracking Network and used for analyses which can inform national programs, interventions, or policies; guide further development and activities within the Tracking Program; or advance the practice and science of environmental public health tracking. The Tracking Program also collects information from funded SLHD to monitor their progress related to their funding and for program evaluation. This information collection request (ICR) is focused on data and information gathered by the Tracking Program from SLHD. The CDC requests a three-year approval to revise the ''Environmental Public Health Tracking Network (Tracking Network)'' (OMB Control No. 0920–1175; Expiration Date 04/30/2020). Specifically, CDC seeks to make the following changes:

1. For Tracking Data, minor changes are requested for the Radon Testing Form—removed 33 elements and added four elements.

2. For Program Data, minor changes are requested for the following instruments:

a. EPHT Work Plan—added ten keyword questions.

b. Public Health Action Report—added four questions.

c. Performance Measurement Strategy Report—removed two questions/elements and reduce reporting to once a year.

d. Communication Plan Template and Guide—streamlined template for more efficient reporting.

e. Partnership Plan Template and Guide—partnership plan was separated from communication plan for clarity.

f. Website Analytics Template—created an excel reporting template with one cell for each question.

3. Add four respondents to the 26 SLHDs currently funded to account for the data voluntarily received from unfunded SLHDs and to allow for potential program growth over the next three years.

4. Increase the annualized number of responses from 598 in to 628 (net increase 30 responses) and the annualized time burden from 20,244 to 21,860 hours (net increase 1,616 hours).

The three-year approval will allow CDC to continue collecting health, exposure, and hazard data for environmental health surveillance as well as program monitoring information from funded SLHD through the current five-year cooperative agreement—''Enhancing Innovation and Capabilities of the Environmental Public Health Tracking Network'' (CDC–RFA–EH17–1720).

The Tracking Network provides the United States with accurate and timely standardized data from existing health, exposure, and hazard surveillance systems and supports ongoing efforts within the public health and environmental sectors. The goal of the Tracking Network is to improve health tracking, exposure and hazard monitoring, and response capacity. When such data are available, the Tracking Program obtains data from national or public sources in order to reduce the burden on SLHD. When data are not available nationally or publicly, the Tracking Program relies on funded SLHD to obtain and submit these data to the Tracking Network. Data from unfunded SLHD are accepted but not requested or solicited.

Data submitted annually by SLHD to the Tracking Program include: (1) Birth defects prevalence, (2) childhood lead blood levels, if a SLHD does not already report such data to CDC, (3) community drinking water monitoring, (4) emergency department visits, (5) hospitalizations, and (6) radon testing. The Tracking Program receives childhood lead blood levels data from CDC's Childhood Lead Poisoning Prevention Program (under the Healthy Homes and Lead Poisoning Surveillance System [HHLPSS—OMB Control No. 0920–0931, expiration date 5/31/2021]). A metadata record, a file describing the original source and collection procedures for the data being submitted, is also submitted with each dataset (one per dataset for a total of six metadata records per year) using the Tracking Program's metadata creation tool.

Standardized extraction, formatting, and submission processes are developed in collaboration between CDC and SLHD for each dataset. Additions or modifications to these standardized datasets will also be developed collaboratively in order to improve the accuracy, completeness, efficiency, or utility of data submitted to CDC. Such changes will occur at most once a year. Examples of changes to data processes may include: (1) Addition of new variables or outcomes, (2) updates to case definitions, (3) modifications to temporal or spatial aggregation, and (4) changes in formatting for submission. As required, the Tracking Network will submit future additions and modifications as nonsubstantive change requests or revision ICRs.

Over the past three years, these data have been

- Used to calculate standardized measures for environmental health surveillance.
- Integrated into the Tracking Network and disseminated to the public via the Tracking Network's National Public Portal at *http://ephtracking.cdc.gov/showHome.action.*
- Queried 577,058 times via the Tracking Network's National Public Portal.

Conduct analyses such as

- A review of air and water quality differences between rural and urban counties.
- The development of standardized sub-county geographies for disseminating health data.
- An analysis of the short-term associations between air pollution and respiratory emergency department visits across all age groups.

The Tracking Program also collects program monitoring information from funded SLHD. In addition to standard reporting required by CDC's Procurement and Grants Office, the Tracking Program also collects information from funded SLHD for the purposes of program evaluation and monitoring. This information includes an Environmental Public Health Tracking Workplan Template, a Performance Measurement Strategy Report, a Communication Plan, a Partnership Plan, and a website Analytics Template. Each of these forms are collected annually as documents emailed to the Tracking Program. A public health action (PHA) report is submitted at least once and up to four times a year via email to the Tracking Program as funded SLHD have PHA to report.

Over the past three years, these data were used to identify funded SLHD in need of additional technical assistance, identify common challenges and successes, improve communication between funded SLHD and CDC, and to monitor funded SLHD compliance with funding requirements.

There are no costs for the respondents other than their time. The total estimated time burden is 21,860 hours. This estimate includes the time it takes to extract the data from the original data source(s), standardize and format the data to match the corresponding Tracking Network data form, and submit the data to the Tracking Network. In some cases, the data at the source are centralized and easily extracted. In other cases, like for radon data, the data are not. In those cases, the number of hours for extracting and standardizing the data is much greater.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
State and local health department	Birth defects prevalence	22	1	80
	Childhood lead blood levels	18	1	80
	Community drinking water monitoring	30	1	100
	Emergency department visits	30	1	80
	Hospitalizations	30	1	80
	Radon testing	18	1	100
	Metadata records	30	6	20
	EPHT Work Plan	30	1	40
	Public Health Action Report	30	4	20
	Performance Measurement Strategy Report	30	1	20
	Communications plan	30	1	20
	Partnership plan	30	1	20
	Website analytics	30	2	1

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2020–08793 Filed 4–24–20; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3393–PN]

Medicare Program; Application From Community Health Accreditation Partner (CHAP) for Initial CMS-Approval of Its Home Infusion Therapy Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from Community Health Accreditation Partner for initial recognition as a national accrediting organization for suppliers of home infusion therapy services that wish to participate in the Medicare program. The statute requires that within 60 days of receipt of an organization's complete application, the Centers for Medicare & Medicaid Services (CMS) publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 27, 2020.

ADDRESSES: In commenting, please refer to file code CMS–3393–PN.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3393–PN, P.O. Box 8016, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3393–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Christina Mister-Ward, (410)786–2441. Shannon Freeland, (410) 786- 4348.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments.

I. Background

Home infusion therapy (HIT) is a treatment option for Medicare beneficiaries with a wide range of acute and chronic conditions. Section 5012 of the 21st Century Cures Act (Pub. L. 114–255, enacted December 13, 2016) added section 1861(iii) to the Social Security Act (the Act), establishing a new Medicare benefit for HIT services. Section 1861(iii)(1) of the Act defines ''home infusion therapy'' as professional services, including nursing services; training and education not otherwise covered under the Durable Medical Equipment (DME) benefit; remote monitoring; and other monitoring services. Home infusion therapy must be furnished by a qualified HIT supplier and furnished in the individual's home. The individual must:

- Be under the care of an applicable provider (that is, physician, nurse practitioner, or physician assistant); and
- Have a plan of care established and periodically reviewed by a physician in coordination with the furnishing of home infusion drugs under Part B, that prescribes the type, amount, and duration of infusion therapy services that are to be furnished.

Section 1861(iii)(3)(D)(i)(III) of the Act requires that a qualified HIT supplier be accredited by an accrediting organization (AO) designated by the Secretary in accordance with section 1834(u)(5) of the Act. Section 1834(u)(5)(A) of the Act identifies factors for designating AOs and in reviewing and modifying the list of designated AOs. These statutory factors are as follows:

- The ability of the organization to conduct timely reviews of accreditation applications.
- The ability of the organization to take into account the capacities of suppliers located in a rural area (as defined in section 1886(d)(2)(D) of the Act).
- Whether the organization has established reasonable fees to be charged to suppliers applying for accreditation.
- Such other factors as the Secretary determines appropriate.

Section 1834(u)(5)(B) of the Act requires the Secretary to designate AOs to accredit HIT suppliers furnishing HIT not later than January 1, 2021. Section 1861(iii)(3)(D)(i)(III) of the Act requires a ''qualified home infusion therapy supplier'' to be accredited by a CMS-approved AO, pursuant to section 1834(u)(5) of the Act.

On March 1, 2019, we published a solicitation notice entitled, ''Medicare Program; Solicitation of Independent Accrediting Organizations To Participate in the Home Infusion Therapy Supplier Accreditation Program'' (84 FR 7057). This notice informed national AOs that accredit HIT suppliers of an opportunity to submit applications to participate in the HIT supplier accreditation program. We stated that complete applications would be considered for the January 1, 2021 designation deadline if received by February 1, 2020.

Regulations for the approval and oversight of AOs for HIT organizations are located at 42 CFR part 488, subpart L. The requirements for HIT suppliers are located at 42 CFR part 486, subpart I.

II. Approval of Accreditation Organizations

Section 1834(u)(5) of the Act and the regulations at § 488.1010 require that our findings concerning review and approval of a national AO's requirements consider, among other factors, the applying AO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data.

Section 488.1020(a) requires that we publish, after receipt of an organization's complete application, a notice identifying the national accrediting body making the request,

describing the nature of the request, and providing at least a 30-day public comment period. In accordance with § 488.1010(d), we have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of Community Health Accreditation Partner (CHAP) initial request for CMS's approval of its HIT accreditation program. This notice also solicits public comment on whether CHAP's requirements meet or exceed the Medicare conditions of participation for HIT services.

III. Evaluation of Deeming Authority Request

CHAP submitted all the necessary materials to enable us to make a determination concerning its request for initial approval of its HIT accreditation program. This application was determined to be complete on February 27, 2020. Under section 1834(u)(5) of the Act and § 488.1010 (Application and re-application procedures for national HIT AOs), our review and evaluation of CHAP will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of CHAP's standards for HIT as compared with CMS' HIT conditions for certification.
- CHAP's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of CHAP's to CMS standards and processes, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ CHAP's processes and procedures for monitoring a HIT supplier found out of compliance with CHAP's program requirements.

++ CHAP's capacity to report deficiencies to the surveyed supplier and respond to the suppliers' plan of correction in a timely manner.

++ CHAP's capacity to provide CMS with electronic data and reports necessary for effective assessment and interpretation of the organization's survey process.

++ The adequacy of CHAP's staff and other resources, and its financial viability.

++ CHAP's capacity to adequately fund required surveys.

++ CHAP's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

++ CHAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

- CHAP's agreement or policies for voluntary and involuntary termination of suppliers.
- CHAP agreement or policies for voluntary and involuntary termination of the HIT AO program.
- CHAP's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys or participate in accreditation decisions.

IV. Collection of Information Requirements

This document does not impose information collection and requirements; that is, reporting, recordkeeping or third party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: April 14, 2020.

Evell J. Barco Holland,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020–08796 Filed 4–24–20; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–0892]

Prospective Grant of an Exclusive Patent License: Development, Production, and Commercialization of a Seasonal Influenza Vaccine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The U.S. Food and Drug Administration (FDA) is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Sciogen Inc. located in San Jose, California.

DATES: Only written comments and/or complete applications for a license which are received by the FDA Technology Transfer Program within 15 days from the date of publication of this notice in the **Federal Register** will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, including inquiries concerning license applications, and comments and objections relating to the contemplated Exclusive Patent License should be directed to William Ronnenberg, Lead Patent Advisor, Technology Transfer Program, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993; *FDAInventionLicensing@fda.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: William Ronnenberg, Lead Patent Advisor, Technology Transfer Program, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993; 240–402–4561, *FDAInventionLicensing@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. U.S. Patent No. 9,163,068 issued October 20, 2015, entitled, ''Influenza Virus Recombinant Proteins'' (FDA Ref. No. E–2010–004/US–03).
2. U.S. Patent No. 9,896,484 issued February 20, 2018, entitled, ''Influenza Virus Recombinant Proteins'' (FDA Ref. No. E–2010–004/US–04).

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States.

The prospective exclusive license territory may be limited to the United States for certain of the rights, or

worldwide, and the field of use may be limited to the following:

''The development, production, and commercialization of seasonal influenza vaccines.''

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless, within 15 days from the date of this published notice, the Technology Transfer Program at FDA receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this notice, the public may file comments or objections (See, **ADDRESSES**). Comments and objections, other than those in the form of a completed license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 21, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08879 Filed 4–24–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–4824]

Office of Minority Health and Health Equity Strategic Priorities; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is reopening the comment period for the notice, published in the **Federal Register** of January 3, 2020. In the notice, FDA opened a public docket to solicit input and comments from interested stakeholders, including racial and ethnic minority, underrepresented, and underserved populations on the Office of Minority Health and Health Equity Strategic Priorities (OMHHE). FDA is reopening the comment period to update comments and to receive any new information.

DATES: FDA is reopening the comment period on the notice published January 3, 2020 (85 FR 316). Submit either electronic or written comments by June 26, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 26, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 26, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–N–4824 for ''Office of Minority Health and Health Equity Strategic Priorities.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Christine Merenda, Food and Drug Administration, Office of Minority Health and Health Equity, 10903 New Hampshire Ave., Bldg. 32, Rm. 2382,

Silver Spring, MD 20993, 301–796–8453, Fax: 301–847–8601, email: *Christine.merenda@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 3, 2020 (85 FR 316), FDA opened a public docket to solicit input and comments from interested stakeholders, including racial and ethnic minority, underrepresented, and underserved populations in establishing strategic priorities for OMHHE.

Interested persons were originally given until February 28, 2020, to comment on the OMHHE.

Following publication of the January 3, 2020, notice, FDA received a request to allow interested persons additional time to comment. The requester asserted that the time period of 60 days was insufficient to respond fully to FDA's specific requests for comments and to allow potential respondents to thoroughly evaluate and address pertinent issues.

FDA is reopening the comment period until June 26, 2020. The Agency believes that an additional 60 days will allow adequate time for interested persons to respond to FDA's specific requests for comments and to receive any new information.

Dated: April 21, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08878 Filed 4–24–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1027]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions in FDA's infant formula recall regulations.

DATES: Submit either electronic or written comments on the collection of information by June 26, 2020.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 26, 2020. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 26, 2020. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1027 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Infant Formula Recall Regulations.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD

20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Infant Formula Recall Regulations—21 CFR 107.230, 107.240, 107.250, 107.260, and 107.280

OMB Control Number 0910–0188—Extension

Section 412(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a(e)) (the FD&C Act) provides that if the manufacturer of an infant formula has knowledge that reasonably supports the conclusion that an infant formula processed by that manufacturer has left its control and may not provide the nutrients required in section 412(i) of the FD&C Act or is otherwise adulterated or misbranded, the manufacturer must promptly notify the Secretary of Health and Human Services (the Secretary). If the Secretary determines that the infant formula presents a risk to human health, the manufacturer must immediately take all actions necessary to recall shipments of such infant formula from all wholesale and retail establishments, consistent with recall regulations and guidelines issued by the Secretary. Section 412(f)(2) of the FD&C Act states that the Secretary shall by regulation prescribe the scope and extent of recalls of infant formula necessary and appropriate for the degree of risk to human health presented by the formula subject to recall. FDA's infant formula recall regulations in part 107 (21 CFR part 107) implement these statutory provisions.

Section 107.230 requires each recalling firm to conduct an infant formula recall with the following elements: (1) Evaluate the hazard to human health, (2) devise a written recall strategy, (3) promptly notify each affected direct account (customer) about the recall, and (4) furnish the appropriate FDA district office with copies of these documents. If the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post (at point of purchase) a notice of the recall and provide FDA with a copy of the notice. Section 107.240 requires the recalling firm to conduct an infant formula recall with the following elements: (1) Notify the appropriate FDA district office of the recall by telephone within 24 hours, (2) submit a written report to that office within 14 days, and (3) submit a written status report at least every 14 days until the recall is terminated. Before terminating a recall, the recalling firm is required to submit a recommendation for termination of the recall to the appropriate FDA district office and wait for FDA's written concurrence (§ 107.250). Where the recall strategy or implementation is determined to be deficient, FDA may require the firm to change the extent of the recall, carry out additional effectiveness checks, and issue additional notifications (§ 107.260). In addition, to facilitate location of the product being recalled, the recalling firm is required to maintain distribution records for at least 1 year after the expiration of the shelf life of the infant formula (§ 107.280).

The reporting and recordkeeping requirements described previously are designed to enable FDA to monitor the effectiveness of infant formula recalls in order to protect babies from infant formula that may be unsafe because of contamination, nutritional inadequacy, or is otherwise adulterated or misbranded. FDA uses the information collected under these regulations to help ensure that such products are quickly and efficiently removed from the market.

Description of Respondents: Respondents to this collection of information are manufacturers of infant formula who are for-profit businesses in the private sector.

FDA estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
107.230; Elements of infant formula recall	2	1	2	4,450	8,900
107.240; Notification requirements	2	1	2	1,482	2,964
107.250; Termination of infant formula recall	2	1	2	120	240
107.260; Revision of an infant formula recall	1	1	1	625	625
Total [2]					12,729

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] No burden has been estimated for the recordkeeping requirement in § 107.280 because these records are maintained as a usual and customary part of normal business activities. Manufacturers keep infant formula distribution records for the prescribed period as a matter of routine business practice.

The reporting and third-party disclosure burden estimates are based on FDA's records, which show that there are six manufacturers of infant formula and that there have been, on average, two infant formula recalls per year for the past 3 years. Based on this information, we estimate that there are, on average, approximately two infant formula recalls per year.

Thus, we estimate that two respondents conduct recalls annually pursuant to §§ 107.230, 107.240, and 107.250. The estimated number of respondents for § 107.260 is minimal because we seldom use this section; therefore, we estimate that there are one or fewer respondents annually for § 107.260. The estimated number of hours per response is an average based on our experience and information from firms that have conducted recalls. FDA estimates that two respondents will conduct infant formula recalls under § 107.230 and that it takes a respondent 4,450 hours to comply with the requirements of that section, for a total of 8,900 hours. FDA estimates that two respondents conduct infant formula recalls under § 107.240 and that it takes a respondent 1,482 hours to comply with the requirements of that section, for a total of 2,964 hours. FDA estimates that two respondents submit recommendations for termination of infant formula recalls under § 107.250 and that it takes a respondent 120 hours to comply with the requirements of that section, for a total of 240 hours. Finally, FDA estimates that one respondent needs to carry out additional effectiveness checks and issue additional notifications, for a total of 625 hours. Therefore, the total annual burden hours for reporting is 12,729 hours (8,900 + 2,964 + 240 + 625).

Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities. No burden has been estimated for the recordkeeping requirement in § 107.280 because these records are maintained as a usual and customary part of normal business activities. Manufacturers keep infant formula distribution records for the prescribed period as a matter of routine business practice.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
107.230; Elements of infant formula recall	2	1	2	50	100
107.260; Revision of an infant formula recall	1	1	1	25	25
Total					125

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Table 2 reports FDA's third-party disclosure burden estimates for §§ 107.230 and 107.260. The estimated burden hours per disclosure is an average based on FDA's experience. The third-party disclosure burden in § 107.230 is the requirement to promptly notify each affected direct account (customer) about the recall, and if the recalled formula presents a risk to human health, the recalling firm must also request that each establishment that sells the recalled formula post a notice of the recall at the point of purchase. FDA estimates that two respondents conduct infant formula recalls under § 107.230 and that it takes a respondent 50 hours to comply with the third-party disclosure requirements of that section, for a total of 100 hours. The third-party disclosure burden in § 107.260 is the requirement to issue additional notifications where the recall strategy or implementation is determined to be deficient. FDA estimates that one respondent issues additional notifications under § 107.260 and that it takes a respondent 25 hours to comply with the third-party disclosure requirements of that section, for a total of 25 hours. The total annual third-party disclosure burden is 125 hours (100 + 25).

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: April 20, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08894 Filed 4–24–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–5664]

Standardized Medicated Feed Assay Limits; Draft Guidance for Industry; Availability; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or Agency) is extending the comment period for the notice of availability that published in the **Federal Register** on February 27, 2020. In that notice, FDA requested comments on the draft guidance for industry (GFI) #264 entitled ''Standardized Medicated Feed Assay Limits.'' The Agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the document published February 27, 2020 (85 FR 11369). Submit either electronic or written comments on the draft guidance by June 26, 2020, to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a

third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–5664 for ''Standardized Medicated Feed Assay Limits.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Katie Ciesienski, Center for Veterinary Medicine (HFV–141), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0676, *Katie.Ciesienski@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 27, 2020, FDA published a notice announcing the availability of draft GFI #264 entitled ''Standardized Medicated Feed Assay Limits'' with a 60-day comment period. This draft guidance recommends a standardized set of assay limits for medicated feeds. Standardized medicated feed assay limits allow predictability in the review process as the sponsor can determine early in the drug development process what assay limits they should expect to meet for medicated feeds used in Target Animal Safety, Effectiveness, Chemistry, Manufacturing, and Controls, Bioequivalence, and Human Food Safety residue chemistry studies. Assay limits are used pre-approval to ensure that medicated feeds in these studies contain the appropriate amount of drug, and post-approval for compliance and customer service purposes.

The Agency has received a request for a 90-day extension of the comment period. The request conveyed concern that the current 60-day comment period does not allow sufficient time to develop a comprehensive response.

FDA has considered the request and is extending the comment period for the notice of availability for 60 days, until June 26, 2020. The Agency believes that a 60-day extension allows adequate time for interested persons to submit comments.

Dated: April 21, 2020.

Lowell J. Schiller,

Principal Associate Commissioner for Policy.

[FR Doc. 2020–08890 Filed 4–24–20; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's Advisory Commission on Childhood Vaccines (ACCV) has scheduled a public meeting. Information about ACCV and the agenda for this meeting can be found on the ACCV website at *https://www.hrsa.gov/advisory-committees/vaccines.*

DATES: May 18, 2020. This meeting will begin at 9:00 a.m. ET.

ADDRESSES: This meeting will be held by Adobe Connect webinar and teleconference.

• *Webinar link: https://hrsa.connectsolutions.com/accv/.*

• *Conference call-in number:* 888–790–1734, passcode: 4177683.

FOR FURTHER INFORMATION CONTACT: Annie Herzog, Division of Injury Compensation Programs, HRSA, 5600 Fishers Lane, 08N186B, Rockville, Maryland 20857; 301–443–6634; or *aherzog@HRSA.gov.*

SUPPLEMENTARY INFORMATION: The ACCV provides advice and recommendations to the Secretary of HHS on policy, program development, and other issues related to implementation of the National Vaccine Injury Compensation Program (VICP) and concerning other matters as described under section 2119 of the Public Health Service Act (42 U.S.C. 300aa–19).

During the May 18, 2020, meeting, the ACCV will discuss a draft VICP Notice of Proposed Rulemaking. Agenda items are subject to change as priorities dictate. Refer to the ACCV website for any updated information concerning the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested

and may be limited as time allows. Requests to submit a written statement or make oral comments to ACCV should be sent to Annie Herzog, ACCV Principal Staff Liaison, using the contact information above at least 5 business days prior to the meeting. Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Annie Herzog at the address and phone number listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2020–08883 Filed 4–24–20; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0135]

Agency Information Collection Activities; Revision, of a Currently Approved Collection: Application for Carrier Documentation

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until May 27, 2020.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1615–0135 in the body of the letter, the agency name and Docket ID USCIS–2015–0004. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2015–0004.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the *Federal Register* on December 18, 2019, at 84 FR 69387, allowing for a 60-day public comment period. USCIS did receive 3 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2015–0004 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Carrier Documentation.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–131A; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information provided on Form I–131A to verify the status of (1) permanent or conditional residents or (2) non-permanent or conditional residents who hold an advance parole document and determine whether the applicant is eligible for the requested carrier documentation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–131A is 5,100 and the estimated hour burden per response is .92 hours; biometrics processing is 5,100 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 10,659 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $919,275.

Dated: April 21, 2020.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2020–08833 Filed 4–24–20; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7024–N–18]

30-Day Notice of Proposed Information Collection: Public Housing Capital Fund Program; OMB Control No.: 2577–0157

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* May 27, 2020.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. 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/Start* Printed Page 15501PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Capital Fund Program.

OMB Approval Number: 2577–0157.

Type of Request: Revision of a currently approved collection and one new Notices of Funding Availability (NOFA) added after the 60-day comment period.

Form Numbers: HUD Form 50075.1, HUD–5084, HUD–5087, HUD–51000, HUD–51001, HUD–51002, HUD–51003, HUD–5104, HUD–51915, HUD–51915–A, HUD–51971–I–II, HUD–52396, HUD–52427, HUD–52482, HUD–52483–A, HUD–52484, HUD–52485, HUD–52651–A, HUD–52829, HUD–52830, HUD–52833, HUD–52845, HUD–52846, HUD–52847, HUD–52849, HUD–53001, HUD–53015, HUD–5370, HUD–5370EZ, HUD–5370C, HUD–5372, HUD–5378, HUD–5460, HUD–52828, 50071, 5370–C1, 5370–C2.

Description of the need for the information and proposed use: Each year Congress appropriates funds to approximately 3,015 Public Housing Authorities (PHAs) for modernization, development, financing, and management improvements. The funds are allocated based on a complex formula. The forms in this collection are used to appropriately disburse and utilize the funds provided to PHAs. Additionally, these forms provide the information necessary to approve a financing transaction in addition to any Capital Fund Financing transactions. Respondents include the approximately 3,015 PHA receiving Capital Funds and any other PHAs wishing to pursue financing.

This proposed information collection has been revised to include the following changes below:

1. HUD has removed all of the hours for the annual submission of form HUD–50075.2 and reduced the hours for HUD–50075.1. HUD is now collecting that information electronically thru the Energy Performance Information Center (EPIC) system. These hours were transferred to OMB No. 2577–0274 Energy Performance Information Center (EPIC). HUD will continue to use the HUD–50075.1 for the Capital Fund set aside grant programs, Lead Based Paint, Emergency Safety and Security, and Emergency and Disaster. Only those hours remain in 2577–0157.1. As a result, the burden hours were decreased 9,260 hours

2. Due to conversion of Public Housing to the Section 8 thru the Rental Assistance Demonstration (RAD) Program, the number of PHAs receiving Capital Funds has been reduced from 3,100 to 3,015. This has reduced the number of hours by 3,774.

3. The total reduction in in burden hours are 13,034.

RESPONDENTS (*i.e.,* AFFECTED PUBLIC): PUBLIC HOUSING AUTHORITIES

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–5084	3,015	1	3,015	1.5	4,522.50	$34	$153,765
HUD–5087	50	1	50	3	150	56	8,400
HUD–50071	10	1	10	0.5	5	56	280
HUD–50075.1	300	1	300	2.2	660	34	204,600
HUD–51000	590	1	590	1	590	34	20,600
HUD–51001	2,550	12	30,600	3.5	107,100	34	3,641,000
HUD–51002	1,600	5	8,000	1	8,000	34	272,000
HUD–51003	500	2	1,000	1.5	1,500	34	51,000
HUD–51004	500	2	1,000	2.5	2,500	34	85,000
HUD–51915 and HUD–51915–A	2,630	1	2,630	3	7,890	34	268,260
HUD–51971–I, II	80	1	80	1.5	120	34	4,080
HUD–52396	96	1	96	2	192	34	6,528
HUD–52427	88	1	88	0.5	44	34	1,496
HUD–52482	40	1	40	2	80	34	2,720
HUD–52483–A	40	1	40	2	80	34	2,720
HUD–52484	532	4	2,128	10	21,280	34	723,520
HUD–52485	40	1	40	1	40	34	1,360
HUD–52651–A	40	1	40	2.5	100	34	3,400
HUD–52829	25	1	25	40	1000	56	56,000
HUD–52830	25	1	25	16	400	56	22,400
HUD–52833	3,015	1	3,015	13	30,915	34	1,332,630
HUD–52836	10	1	10	0.5	.....	56	280
HUD–52845	25	1	25	8	200	56	11,200
HUD–52846	25	1	25	16	400	56	22,400
HUD–52847	25	1	25	8	200	56	11,200
HUD–52849	25	1	25	1	25	56	1,400

RESPONDENTS (*i.e.,* AFFECTED PUBLIC): PUBLIC HOUSING AUTHORITIES—Continued

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–53001	3,015	1	3,015	2.5	7,537	34	256,275
HUD–53015	40	1	40	3	120	34	4,080
HUD–5370, 5370EZ	2,694	1	2,694	1	2,694	34	91,596
HUD–5370C	2,694	1	2,694	1	2,694	34	91,596
HUD–5372	590	1	590	1	590	34	20,060
HUD–5378	158	24	3,792	0.25	948	34	32,232
HUD–5460	40	1	40	1	40	34	1,360
Public Housing Information Center Certification of Accuracy	3,015	1	3,015	2	6,030.00	34	186,000
HUD–52828 Physical Needs Assessment form	3,015	1	3,015	15.4	46,431	56	2,600,136
Broadband Feasibility determination	3,015	1	3,015	10	30,150	56	1,688,400
Mold, Carbon Monoxide and other Hazards NOFA	50	1	50	.5	25	34	850
Totals					293,593.00		11,717,545

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.

(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.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 21, 2020.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2020–08845 Filed 4–24–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RX.01444999.0020100 20XR0680A4]

Pumped-Storage Hydroelectric Power Development on Seminoe Reservoir, Kendrick Project, Wyoming

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to accept proposals, select lessee, and contract for pumped-storage hydroelectric power on Seminoe Reservoir.

SUMMARY: Current Federal policy allows non-Federal development of a potential electrical power resource on Federal water resource projects. This Notice provides background information, proposal content guidelines, and information concerning the selection of a non-Federal entity to develop pumped-storage hydroelectric power utilizing Seminoe Reservoir, a feature of the Kendrick Project, located in Wyoming. Interested entities are invited to submit proposals on this project. This Notice of Intent to accept proposals does not obligate Reclamation to select a lessee; the decision to select a lessee will ultimately be made based on the qualifications of submitted proposals.

DATES: A written proposal and seven copies must be submitted on or before 4 p.m. (Mountain Standard Time) on September 24, 2020. A proposal will be considered timely only if it is received in the office of the Area Manager on or before 4 p.m. on the above-designated date. Interested entities are cautioned that delayed delivery to the Area Manager's office due to failures or misunderstandings of the entity and/or of mail, overnight, or courier services will not excuse lateness and, accordingly, are advised to provide sufficient time for delivery. Late proposals will not be considered.

ADDRESSES: Written proposals and seven copies should be sent to Ms. Carlie Ronca, Area Manager, Bureau of Reclamation, Wyoming Area Office, P.O. Box 1630; Mills, Wyoming 82644; telephone (307) 261–5671. Information related to the Western Area Power Administration's purchasing and/or marketing the power may be obtained at Western Area Power Administration, Rocky Mountain Region, Attn: Dave Neumayer, Power Marketing Manager, 5555 East Crossroads Blvd., Loveland, Colorado 80538, telephone (970) 461–7322.

FOR FURTHER INFORMATION CONTACT: Questions regarding proposal requirements or technical data available for Seminoe Reservoir may be directed to Mr. Brad Cannon, Bureau of Reclamation, Wyoming Area Office, P.O. Box 1630, Mills, Wyoming 82644; telephone (307) 261–5635. Upon receipt of your questions, Mr. Cannon will arrange an informational meeting and/or site visit with interested entities. Reclamation reserves the right to schedule a single meeting and/or visit to address the questions or requested site visits submitted by all entities. Specific information related to operation and maintenance of the Seminoe Dam, Powerplant, and Reservoir may also be obtained from Mr. Brad Cannon at the above contact information.

SUPPLEMENTARY INFORMATION: Ensuring energy and economic security for America is a top priority of the Department of the Interior. This priority is achieved in part via new energy generation from hydropower. The Department, acting through Reclamation will consider proposals for non-Federal development of pumped-storage hydroelectric power utilizing Seminoe Reservoir as the lower impoundment for a pumped-storage project. The Department will prioritize projects that appropriately balance increased energy

generation with consideration of natural resource impacts, and which will not impact any of Reclamation's existing projects' specific purposes. The Western Area Power Administration (Western) would have the first opportunity to purchase and/or market the power that would be generated by such development under a lease of power privilege (LOPP) contract. Reclamation is considering such hydroelectric power development under its LOPP process and regulations.

The Federal Energy Regulatory Commission (FERC) also has jurisdiction in this case. FERC jurisdiction applies to all elements of a proposed pumped-storage hydroelectric power project at Seminoe Reservoir that are outside of Reclamation facilities and lands. In this case, FERC jurisdiction will include the upper reservoir, a large part of the penstock connecting the upper reservoir with Seminoe Reservoir, and other facilities (such as power transmission lines and access roads that are outside of Reclamation jurisdiction). The Kendrick Project (formerly known as the Casper-Alcova Project), located in south-central Wyoming, was found feasible by the Secretary of the Interior on August 27, 1935, and approved by the President on August 30, 1935. The Kendrick Project, including Seminoe Dam and Powerplant and Alcova Dam, were authorized pursuant to Section 4 of the Act of June 25, 1910 (36 Stat. 836), and Subsection B of the Act of December 5, 1924 (43 Stat. 702). Seminoe Dam, which is the primary storage feature of the Kendrick Project, was constructed from 1936 to 1939, while Alcova Dam, which diverts water from the North Platte River into the Casper Canal, was constructed from 1935 to 1938.

Seminoe Dam and Powerplant is a multiple purpose structure that provides benefits of irrigation, power, and flood control. Seminoe Dam is 295 feet high and is on the North Platte River, approximately 72 miles southwest of Casper, Wyoming. It has a total storage capacity of 1,017,280 acre-feet and construction was completed in 1939. Seminoe Powerplant contains three units, each composed of a 13,500-kilowatt generator driven by a 20,800-horsepower turbine.

Reclamation is considering a non-Federal pumped-storage hydroelectric power development on Seminoe Reservoir through a LOPP. A LOPP is a congressionally authorized alternative to Federal hydroelectric power development. It is an authorization issued to a non-Federal entity to utilize a Reclamation facility for non-Federal electric power generation, consistent with Reclamation project purposes.

LOPP contracts have terms not to exceed 40 years. The general authority for LOPP under Reclamation law includes, among others, the Town Sites and Power Development Act of 1906 (43 U.S.C. 522) and the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) (1939 Act).

Reclamation and FERC will be responsible for compliance with National Environmental Policy Act (NEPA) requirements related to any project selected for consideration pursuant to this notice. Reclamation and FERC will also lead necessary consultation with involved American Indian tribal governments and compliance with the National Historic Preservation Act, Endangered Species Act, and other related environmental regulations for all elements of a proposed project. LOPP contracts will be issued only when Reclamation has determined that NEPA and any other regulatory compliance requirements are completed. All Reclamation costs associated with project planning and regulatory compliance requirements will be borne by the selected lessee.

No Federal funds will be available for non-Federal hydroelectric power development. Reclamation's Kendrick Project is a Federal Reclamation project. In addition to submitting proposals to Reclamation as stated above, interested parties will also need to file an appropriate application with FERC in order to develop all elements of a non-Federal pumped-storage hydroelectric power development at this reservoir not encompassed by Reclamation's authority.

Fundamental Considerations and Requirements

As indicated above, Reclamation can only issue a LOPP for Seminoe Reservoir on the lower reservoir in a pumped-storage system that encroaches or encompasses Reclamation lands. Parallel approvals from FERC will be necessary for project elements above the Reclamation-controlled lands and waters of the Seminoe facilities. These elements will include part of the penstock, the upper reservoir, and potential appurtenant facilities such as transmission lines, access roads, etc. Reclamation and FERC will determine the appropriate relationship between the two agencies in coordinating the study and decision-making process.

Any LOPP on Seminoe Reservoir must not interfere with existing contractual commitments related to operation and maintenance of Seminoe Dam and other Kendrick Project facilities. The lessee (*i.e.,* successful proposing entity) will be required to enter into a contract with the Bureau of Reclamation. This contract will (1) address requirements related to coordination of operation and maintenance with Kendrick Project stakeholders, and (2) stipulate that the LOPP lessee will be responsible for any increase in operation or maintenance costs or lost revenues (*e.g.,* Federal power interference) that are attributable to the non-Federal pumped-storage hydroelectric power project.

No LOPP project facilities or features will be permitted within the Reclamation zone surrounding Seminoe Dam, including inlet/outlet works, hydropower facilities, and appurtenant facilities. The one exception to this constraint may be power transmission lines.

The lessee would be responsible for securing transmission and marketing of the power generated by the proposed project.

Western will have the first opportunity to purchase and/or market the power that is generated by the project under a LOPP. Western will consult with Reclamation on such power purchasing and/or marketing considerations. In the event Western elects to not purchase and/or market the power generated by the hydropower development or such a decision cannot be made prior to execution of the LOPP, the lessee will have the right to market the power generated by the project to others.

All costs incurred by the United States related to a proposed LOPP project will be at the expense of the lessee. Such costs include management and coordination of necessary Reclamation activities, provision of information, conduct of or assistance with regulatory compliance (including NEPA), consultation during design development and related to operation and maintenance under a LOPP, development of the LOPP, necessary contracts with outside consultants, or any other cost for which the government would be reimbursed by an applicant or the general public. In addition, the lessee will be required to make annual payments to the United States for the use of a Government facility in the amount of 2–3 mills per kilowatt-hour of gross generation. Under the LOPP, provisions will be included for inflation of the annual payment with time. Such annual payments to the United States would be deposited as a credit to the Reclamation Fund.

Proposal Content Guidelines

Interested parties should submit proposals specifically addressing the following qualifications, capabilities, and approach factors. Proposals submitted will be evaluated and ranked directly based on these factors.

Additional information may be provided at the discretion of those submitting proposals. This additional/supplemental information will be reviewed and considered as appropriate in evaluating the overall content and quality of proposals.

Qualifications of Proposing Entity

Provide relevant information describing/documenting the qualifications of the proposing entity to plan, design, and implement such a project, including, but not limited to:

(1) Type of organization;

(2) Length of time in business;

(3) Experience in funding, design and construction of similar projects;

(4) Industry rating(s) that indicate financial soundness and/or technical and managerial capability;

(5) Experience of key management personnel;

(6) History of any reorganizations or mergers with other companies;

(7) Preference status (as applied to a LOPP, the term ''preference entity'' means an entity qualifying for preference under Section 9(c) of the Reclamation Project Act of 1939 as a municipality, public corporation or agency, or cooperative or other nonprofit organization financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936, as amended); and,

(8) Any other information not already requested above or in the following evaluation categories that demonstrates the interested entity's organizational, technical, and financial ability to perform all aspects of the work.

Proposed Project Plan

Describe and provide mapping and drawings of proposed facilities and equipment comprising the project. Include geographical locations and descriptions of all structures, pump/turbines, penstocks, upper reservoir, transmission lines, access roads, and other appurtenant facilities. Describe proposed capacities and general operation of the pumped-storage hydroelectric power project. Include: Proposed pump/turbine capacity in pump and generate modes, power source and power consumption; upper reservoir site requirements, configuration, and water storage capacity; turbine generating capacity, transmission line size and route; and other relevant aspects of the project.

Also describe diurnal, seasonal and/or annual patterns (as relevant) of energy generation and consumption. Include descriptions and estimates of any influence on power generation capacity and/or consumption attributable to type of water year (*i.e.,* each month of average, dry, or wet water years, as relevant). If capacity and energy can be delivered to another location, either by the proposing entity or by potential wheeling agents, specify where capacity and energy can be delivered. Include concepts for power sales and contractual arrangements, involved parties, and the proposed approach to wheeling, as relevant.

Proposed Approach to Acquisition of Necessary Property Rights

Specify plans for acquiring title to or the right to occupy and use all lands necessary for the proposed development, including such additional lands as may be required during construction.

Address lands necessary for transmission lines, access roads and all aspects of project development, operation, and maintenance.

Proposed Plan for Acquisition/Perfection of Water Rights

Necessary water rights or purchases must be arranged by the project proponent(s). Quantify water necessary for operation of the proposed development(s), including initial fill of the upper reservoir and replacement of water lost to evaporation or other aspects of annual system operation. Identify the source of water rights acquired or to be acquired to meet these water needs, including the current holder of such rights, and how these rights would be used, acquired, or perfected.

Impact on Kendrick Project Water Rights and Operations

Describe any potential changes in seasonal or annual fulfillment of existing water rights or storage contracts that may occur as a result of the proposed pumped-storage hydroelectric power project. Also provide full hydrologic analysis and related studies exploring potential impact of the project on current operations and projected operations of Seminoe Dam, Powerplant, Reservoir, and/or the Kendrick Project as a whole.

This analysis should include estimates of daily fluctuations in reservoir elevation attributable to proposed project operations, including schedule (nighttime filling, daytime generation) and other details pertinent to reservoir fluctuations.

Long-Term Operation and Maintenance

Provide a description (with relevant references) of the project proponent's experience in operation and maintenance of pumped-storage hydroelectric or similar facilities once they are operational and over the long-term (*i.e.,* the 40-year lease contemplated for the proposed project). Identify the organizational structure and plan for the long-term operation and maintenance of the proposed project. Define how the proposed project would operate in harmony with Seminoe Reservoir and the Kendrick Project as a whole, specifically related to existing contracts for operation and maintenance of Kendrick Project features.

Proposed Contractual Arrangements

Describe anticipated contractual arrangements with project stakeholders at Seminoe Reservoir or the broader Kendrick Project. If desired, contact information for Kendrick Project stakeholders can be obtained from Mr. Brad Cannon at the mailing address and telephone number provided earlier in this notice.

Management Plan

Provide a management plan to accomplish such activities as planning, NEPA compliance, LOPP development, design, construction, facility testing, project commissioning, and preparation of an Emergency Action Plan. Provide schedules of these activities as applicable. Describe what studies are necessary to accomplish the pumped-storage hydroelectric power development and how the studies would be implemented.

Environmental Impact

Discuss potentially significant adverse impacts from the proposed project on biophysical or sociocultural resource parameters at Seminoe Reservoir and/or the Kendrick Project as a whole.

Other concerns may include, but not be limited to, impact on land use adjacent to proposed facilities, recreation at Seminoe Reservoir or in surrounding upland areas, cultural resources, and Indian Trust assets.

Discuss potential adverse impacts based on available information. Provide information on the types and severity of expected impacts and proposed methods of resolving or mitigating these impacts. Describe also any potentially beneficial environmental effects that may be expected from the proposed project, including such perspectives as

energy conservation or using available water resources in the public interest.

As necessary, describe studies required to adequately define the extent, potential severity, and potential approaches to mitigation of impacts that may be associated with the proposed development.

Other Study and/or Permit Requirements

Describe planned response to other applicable regulatory requirements, including the National Historic Preservation Act, Clean Water Act, Endangered Species Act, and state and local laws and licensing requirements. Also describe any known potential for impact on lands or resources of American Indian tribes, including trust resources.

Project Development Costs and Economic Analysis

Estimate the costs of development, including the cost of studies to determine feasibility, environmental compliance, project design, construction, financing, and the amortized annual cost of the investment. Estimate annual operation, maintenance, and replacement expenses, annual payments to the United States that are potentially associated with the Kendrick Project. Estimate costs associated with any anticipated additional transmission or wheeling services. Identify proposed methods of financing the project. Estimate the anticipated return on investment and present an economic analysis that compares the present worth of all benefits and the costs of the project.

Performance Guarantee and Assumption of Liability

Describe plans for (1) providing the Government with performance bonds or irrevocable letter of credit covering completion of the proposed project; (2) assuming liability for damage to the operational and structural integrity of Seminoe Dam and Reservoir facilities or other aspects of the Kendrick Project caused by construction, commissioning, operation, and/or maintenance of the pumped- storage hydroelectric power development; and (3) obtaining general liability insurance.

Other Information

This final paragraph is provided for the applicant to include additional information considered relevant to Reclamation's selection process in this matter.

Selection of Lessee

Reclamation will evaluate proposals received in response to this published notice. Proposals will be ranked according to response to the factors described in Fundamental Considerations and Requirements and Proposal Content Guidelines sections provided in this notice. In general, Reclamation will give more favorable consideration to proposals that (1) are well adapted to developing, conserving, and utilizing the water resource and protecting natural resources; (2) clearly demonstrate that the offeror is qualified to develop the hydropower facility and provide for long-term operation and maintenance; and (3) best share the economic benefits of the pumped-storage hydroelectric power development among parties to the LOPP. A proposal will be deemed unacceptable if it is inconsistent with Kendrick Project purposes, as determined by Reclamation.

Reclamation will give preference to those entities that qualify as preference entities (as defined under Proposal Content Guidelines) provided that the preference entity is well qualified and their proposal is at least as well adapted to developing, conserving, and utilizing the water and natural resources as other submitted proposals. Preference entities will be allowed 90 days to improve their proposals, if necessary, to be made at least equal to a proposal(s) that may have been submitted by a non-preference entity.

As noted, this Notice of Intent to accept proposals does not obligate Reclamation to ultimately select a lessee for pumped-storage hydroelectric power development on Seminoe Reservoir.

Notice and Time Period To Enter Into LOPP

Reclamation will notify, in writing, all entities submitting proposals of Reclamation's decision regarding selection of the potential lessee. The selected lessee will have 3 years from the date of such notification to accomplish NEPA compliance and enter into a LOPP for the proposed development of pumped-storage hydroelectric power at Seminoe Reservoir. The lessee will then have up to 3 years from the date of execution of the lease to complete the designs and specifications and an additional 2 years to secure financing and to begin construction. Such timeframes may be adjusted by Reclamation for just cause resulting from actions and/or circumstances that are beyond the control of the lessee.

Michael S. Black,

Regional Director, Missouri Basin—Interior Region 5, Bureau of Reclamation.

[FR Doc. 2020–08832 Filed 4–24–20; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1131]

Certain Wireless Mesh Networking Products and Related Components Thereof; Commission Determination To Review in Part and Vacate in Part a Final Initial Determination and To Affirm the Finding of No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the Administrative Law Judge's (''ALJ'') final initial determination (''ID''), issued on January 10, 2020, affirm the ID's finding of no violation of section 337 in the above-referenced investigation, and vacate in part the ID. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5453. 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 September 10, 2018, based on a complaint, as supplemented, filed by SIPCO LLC of Ashburn, Virginia (''SIPCO''). *See* 83 FR 45681–82 (Sep. 10, 2018). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based upon the importation into the United States,

the sale for importation, and the sale within the United States after importation of certain wireless mesh networking products and related components thereof by reason of infringement of certain claims of U.S. Patents Nos. 6,914,893 (''the '893 patent''); 7,103,511 (''the '511 patent''); 8,964,708 (''the '708 patent''); and 9,439,126 (''the '126 patent''). *See id.* The notice of investigation names the following respondents: Emerson Electric Co. of St. Louis, Missouri; Emerson Process Management LLLP of Bloomington, Minnesota; Emerson Process Management Asia Pacific Private Limited of Singapore; Emerson Process Management Manufacturing (M) Sdn. Bhd. of Nilai, Malaysia; Fisher-Rosemount Systems, Inc. of Round Rock, Texas; Rosemount Inc. of Shakopee, Minnesota; Analog Devices, Inc. of Norwood, Massachusetts; Linear Technology LLC of Milpitas, California; Dust Networks, Inc. of Union City, California; Tadiran Batteries Inc. of Lake Success, New York; and Tadiran Batteries Ltd. of Kiryat Ekron, Israel. *See id.* The Office of Unfair Import Investigations is not a party to this investigation. *See id.*

During the course of the investigation, respondents Dust Networks, Inc., Tadiran Batteries Inc., and Tadiran Batteries Ltd. were terminated from the investigation. The remaining respondents are Emerson Electric Co.; Emerson Process Management LLLP; Emerson Process Management Asia Pacific Private Limited; Emerson Process Management Manufacturing (M) Sdn. Bhd.; Fisher-Rosemount Systems, Inc.; Rosemount Inc.; Analog Devices, Inc.; and Linear Technology LLC (collectively ''Respondents''). The asserted claims of the '126 patent and '511 patent were also terminated from the investigation. The '893 and '708 patents remain asserted in this investigation.

On January 10, 2020, the ALJ issued the final ID in this investigation. The ID found no violation of section 337. The ID's finding included subsidiary findings that SIPCO failed to show infringement of any asserted claim of the '893 or '708 patents and that all of the remaining asserted claims of the '708 patent were invalid. The ID also found that SIPCO failed to satisfy the domestic industry requirement for either of the '708 or '893 patents. The ID also included the ALJ's recommended determination on remedy bonding. In the event the Commission were to find a violation of section 337, the ALJ recommended issuance of a limited exclusion order, a cease and desist order, and a bond of either 0.1% or 0.05%, depending on the basis for the violation finding.

On January 27, 2020, SIPCO and Respondents submitted petitions seeking review of the ID. On February 4, 2020, SIPCO and Respondents submitted responses to the others' petitions.

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID with respect to (1) the construction of ''remote wireless device'' in the '708 patent; (2) infringement and validity of the '708 patent; (3) infringement and validity of the '893 patent; and (4) whether SIPCO satisfies the domestic industry requirement of section 337 for the '708 or the '893 patent. The Commission has determined not to review the remainder of the ID.

On review, the Commission has determined to affirm the ID's finding of no violation of section 337 with regard to the '708 patent and the '893 patent. In addition, the Commission has determined to vacate certain portions of the final ID. The Commission opinion is issued concurrently herewith.

The investigation is hereby terminated.

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 210).

By order of the Commission.

Issued: April 21, 2020.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2020–08831 Filed 4–24–20; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Institute of Electrical and Electronics Engineers

Notice is hereby given that, on April 1, 2020, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Institute of Electrical and Electronics Engineers (''IEEE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 31 new standards have been initiated and 10 existing standards are being revised. More detail regarding these changes can be found at: *https://standards.ieee.org/about/sasb/sba/jan2020.html.*

On February 8, 2015, the IEEE Board of Directors approved an update of the IEEE patent policy for standards development, which became effective on 15 March 2015. The updated policy is available at *http://standards.ieee.org/develop/policies/bylaws/approved-changes.pdf* and, from the effective date, will be available at *http://standards.ieee.org/develop/policies/bylaws/sect6-7.html.*

On September 17, 2004, IEEE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2004 (69 FR 64105).

The last notification was filed with the Department on February 6, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 2020 (85 FR 11396).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020–08834 Filed 4–24–20; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Malathy Sundaram, M.D.; Decision and Order

On November 20, 2019, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Malathy Sundaram, M.D. (hereinafter, Registrant) of Dover, New Hampshire. OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. BS8504703. *Id.* It alleged that Registrant is without ''authority to handle controlled substances in New Hampshire, the state in which . . . [Registrant is] registered with the DEA.'' *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

Specifically, the OSC alleged that, ''[a]ccording to records of the New Hampshire Medical Board, the current status of . . . [Registrant's] medical license is listed as 'suspended' because on September 6, 2019, . . .

[Registrant's] state medical license (License No. 13607) expired and has not been renewed.'' OSC, at 1–2. The OSC concluded that ''DEA must revoke . . . [Registrant's registration] based upon . . . [her] current lack of authority to handle controlled substances in the State of New Hampshire.'' *Id.* at 2.

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated January 21, 2020, a Diversion Investigator (hereinafter, DI) assigned to the Manchester (New Hampshire) District office, New England Division, stated that she, a second DI, and a DEA Special Agent located Registrant at her place of employment on December 6, 2019. Request for Final Agency Action dated January 28, 2020 (hereinafter, RFAA), Exhibit (hereinafter, EX) 8 (DI's Declaration), at 2–3. The DI stated that the three showed their credentials and presented Registrant with the original OSC. *Id.* DI stated that she explained to Registrant that ''she had 30 days to respond'' to the OSC and then ''asked her to sign a DEA–12 receipt form showing that she had received'' the OSC. *Id.* at 3. The DI reported that Registrant ''complied with the request and signed the receipt.'' *Id.; see* RFAA EX 4 (DEA–12 receipt dated December 6, 2019).

The Government forwarded its RFAA, along with the evidentiary record, to this office on January 30, 2020. In its RFAA, the Government represented that ''neither the DEA . . . [Office of Administrative Law Judges] nor the . . . [Manchester District Office] had received any written correspondence, telephone, or any other communication from Registrant in response'' to the OSC since the ''passage of more than 30-days since [Registrant's] receipt'' of the OSC. RFAA, at 4–5. The Government requested that Registrant's registration be revoked, based on her lack of ''authority to handle controlled substances in New Hampshire.'' *Id.* at 6.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on December 6, 2019. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations and my review of the record, I find that neither Registrant, nor anyone purporting to represent Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. BS8504703 at the registered address of 835 Central Ave., Dover, New Hampshire 03820. RFAA, EX 1 (Facsimile of DEA Certificate of Registration Number BS8504703), at 1; RFAA EX 2 (Certification of Registration History), at 1. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. RFAA EX 2, at 1. Registrant's registration expires on February 28, 2021, and is ''in an active pending status.'' *Id.*

The Status of Registrant's State License

The Government submitted substantial evidence that Registrant's New Hampshire medical license was suspended on September 6, 2019. No evidence in the record refutes this evidence. Further, the records of the New Hampshire Medical Board, of which I take official notice, show the current status of Registrant's medical license to be suspended, effective September 6, 2019, due to a ''non-disciplinary remedial action.'' [1] New Hampshire Online Licensing, *https://nhlicenses.nh.gov* (last visited April 14, 2020). Accordingly, I find that Registrant currently is not licensed to engage in the practice of medicine in New Hampshire, the State in which she is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . ., to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the state in which she practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A.*

[1] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response may be filed and served by email (*dea.addo.attorneys@dea.usdoj.gov*) or by mail to Office of the Administrator, Attn: ADDO, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152.

Ricci, M.D., 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

According to New Hampshire law, ''All prescribers and dispensers authorized to prescribe or dispense schedule II–IV controlled substances within the state shall be required to register'' with the Controlled Drug Prescription Health and Safety Program. N.H. Rev. Stat. § 318–B:33(II) (Current through Chapter 7 of the 2020 Reg. Sess.); *see also* N.H. Rev. Stat. § 318–B:31(IX) (Current through Chapter 7 of the 2020 Reg. Sess.) (defining ''program''). ''Prescriber'' means a ''practitioner or other authorized person who prescribes a schedule II, III, and/or IV controlled substance.'' N.H. Rev. Stat. § 318–B:31(VIII) (Current through Chapter 7 of the 2020 Reg. Sess.). In turn, a ''practitioner'' is a ''physician . . . or other person licensed or otherwise permitted to prescribe . . . a controlled substance in the course of licensed professional practice.'' *Id.* at § 318–B:31(VI); *see also* N.H. Code Admin. R. Med. 501.02(k) and (l) (Current with amendments received through March 1 2020) (providing deadlines by which ''licensees'' must register with the Controlled Drug Prescription Health and Safety Program). Thus, under New Hampshire law, only a licensed professional, such as a physician, may be authorized to prescribe a controlled substance in schedules II–IV.

Here, the undisputed evidence in the record is that Registrant is not currently licensed to practice medicine in New Hampshire. As such, she is not qualified to register as a prescriber or dispenser of schedule II–IV controlled substances in New Hampshire. Thus, because Registrant lacks authority to practice medicine in New Hampshire and, therefore, is not authorized to handle schedule II–IV controlled substances in New Hampshire, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BS8504703 issued to Malathy Sundaram, M.D. This Order is effective May 27, 2020.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2020–08885 Filed 4–24–20; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL COUNCIL ON DISABILITY

National Council on Disability; Meeting

TIME AND DATES: The Members of the National Council on Disability (NCD) will meet via conference call Monday, May 18, 2020, 10:00 a.m.–12:00 p.m., EDT. Interested parties may join the meeting in listen-only capacity. Call-In Number: 888–204–4368; Passcode: 5084239, Host Name: Neil Romano.

MATTERS TO BE CONSIDERED: The Council conduct a business meeting, to include approving the revised budget for fiscal year 2020.

AGENDA: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Eastern Daylight Time):

Monday, May 18, 2020

10:00 a.m.–10:10 a.m.—Welcome and Call to Order, Chairman Neil Romano
- Roll Call: Council Members
- Roll Call: Staff
- Call for Vote on Acceptance of Agenda
- Call for Vote of January 2020 Council Meeting Minutes

10:10 a.m.–11:10 a.m.—Executive Reports
- Chairman's Report, Neil Romano, Chairman
- Executive Report, Lisa Grubb, Executive Director and CEO
- Financial Report, Keith Woods, Financial Management Analyst
- Call for Vote on Fiscal Year 2020 revised budget, Wendy S. Harbour, Council Member
- Governance Report, Billy Altom, Council Member
- Legislative Affairs Report, Anne Sommer, Director of Legislative Affairs and Outreach
- Policy Report, Joan Durocher, Director of Policy and General Counsel

11:10 a.m.–11:40 a.m.—Public Comment

11:40 a.m.–12:00 p.m.—Unfinished and New Business

12:00 p.m.—Call for Motion to Adjourn

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW, Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2022 (Fax).

Accommodations: A CART streamtext link has been arranged for this meeting. The web link to access CART on Monday, May 18, 2020 is: *http://www.streamtext.net/player?event=NCD-TELECONFERENCE.*

Dated: April 21, 2020.

Sharon M. Lisa Grubb,

Executive Director and CEO.

[FR Doc. 2020–08807 Filed 4–24–20; 8:45 am]

BILLING CODE 8421–02–P

NATIONAL SCIENCE FOUNDATION

Request for Information—Interagency Arctic Research Policy Committee, Chaired by the National Science Foundation; Extension of Public Comment Period

AGENCY: National Science Foundation.

ACTION: Request for information; extension of public comment period.

SUMMARY: On April 3, 2020, the National Science Foundation, on behalf of the Interagency Arctic Research Policy Committee (IARPC), announced a request for information regarding development of the next 5-year Arctic Research Plan: 2022–2026, originally open for a 90-day public comment period. In response to the challenges of providing input on the next 5-year Arctic Research Plan: 2022–2026 during the current global pandemic, IARPC is extending the public comment period for an additional 30 days.

DATES: Written comments must be submitted no later than August 2, 2020.

ADDRESSES: Email comments to *IARPCPlan@nsf.gov.* Send written submissions to Roberto Delgado, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

FOR FURTHER INFORMATION: Contact Meredith LaValley at 940–733–5675.

SUPPLEMENTARY INFORMATION: On April 3, 2020, IARPC, chaired by the National Science Foundation, announced the start of a public comment period on the content and organization of the next 5-year Arctic Research Plan: 2022–2026 (85 FR 19031). In response to the challenges of providing input during the current global pandemic, IARPC is extending the public comment period by an additional 30 days. Comments must be received or postmarked by no later than August 2, 2020. Please see the original **Federal Register** notice for further information (85 FR 19031).

Dated: April 22, 2020.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2020–08857 Filed 4–24–20; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281; NRC–2020–0099]

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption in response to an April 6, 2020, request from the Virginia Electric and Power Company to temporarily suspend the requirement for on-the-job training to allow certain security training personnel to re-qualify for assigned duties and responsibilities as an Armed Responder for the Surry Power Station, Units 1 and 2.

DATES: The exemption was issued on April 9, 2020.

ADDRESSES: Please refer to Docket ID NRC–2020–0099. 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–2020–0099. 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 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.*

The exemption request dated April 6, 2020, contains security-related information and is accordingly withheld from public disclosure under 10 CFR 2.390. NRC staff's approval is available in ADAMS under Package Accession No. ML20098E802.

FOR FURTHER INFORMATION CONTACT: Shawn A. Williams, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1009, email: *Shawn.Williams@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: April 22, 2020.

For the Nuclear Regulatory Commission.

Shawn A. Williams,

Senior Project Manager, Plant Licensing Branch II–1 Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

Attachment—Exemption 10 CFR 73, Appendix B, Section VI.C.2., Subsections (a) and (b)

Nuclear Regulatory Commission

Docket Nos. 50–280, and 50–281

Virginia Electric and Power Company, Surry Power Station, Units 1 and 2 Exemption

I. Background

Virginia Electric and Power Company (the licensee) is the holder of the Renewed Facility Operating License Nos. DPR–32 and DPR–37 for Surry Power Station, Units 1 and 2 (Surry), which consists of two pressurized-water reactors (PWRs) located in Surry County, Virginia. The licenses provide, among other things, that the facilities are subject to all the rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, Commission) now or hereafter in effect.

II. Request/Action

By letter dated, April 6, 2020, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20099B303, withheld from public disclosure) the licensee requested an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR), Part 73, Appendix B, Section VI, ''Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties,'' subsections C.2(a) and (b), pursuant to 10 CFR 73.5, ''Specific exemptions.'' Due to the Coronavirus Disease 2019 (COVID–19) pandemic currently affecting the United States and the state of emergency declared by the Commonwealth of Virginia on March 12, 2020, the licensee is requesting an exemption from these subsections to temporarily suspend the requirement for 40 hours of on-the-job training (OJT) to allow the following security training personnel positions located at Surry and Innsbrook Technical Center (Dominion Energy corporate) to re-qualify for assigned duties and responsibilities as an Armed Responder at Surry: Supervisor Nuclear Security Training, Nuclear Security Trainer, Associated Nuclear Security Trainer/Armorer, and Nuclear Security Training Specialist (hereafter Security Training Staff). The exemption would apply to sequestered Security Training Staff used to support the licensee's security pandemic response team (PRT) that may be relied upon to augment and maintain the required minimum security staffing levels at Surry, if needed. These Security Training Staff would then become part of the PRT as Armed Responders.

III. Discussion

Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 73 when the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The licensee requests to temporarily suspend requirements in Appendix B to Part 73, Section VI, subsections C.2(a) and C.2(b) related to OJT to allow Security Training Staff at Surry and Dominion Energy corporate to re-qualify for assigned duties and responsibilities as an Armed Responder. Section VI.C.2(a) and (b) requires, in part, that Armed Responders shall complete a minimum of 40 hours of OJT prior to assignment to demonstrate their ability to effectively apply the knowledge, skills, and abilities required to effectively perform assigned duties and responsibilities. The underlying purpose of these requirements are to ensure that the individuals can perform their duties in accordance with the licensee's approved security plans.

A. The Exemption Is Authorized By Law

The licensee is proposing that certain Security Training Staff positions be exempt from the requirement to complete a minimum of 40 hours of OJT for the purpose of re-qualifying for assigned duties and responsibilities as an Armed Responder at Surry. The NRC staff examined the licensee's rationale that supports the exemption request.

The licensee stated that the Security Training Staff are subject matter experts in security and currently train individuals to perform security duties and implement the response strategy and are on-the-job qualified evaluators. The licensee indicated that the current Security Training Staff at Surry and Dominion Energy corporate were each at one time qualified, at a minimum, as an Armed Responder, which means they have already completed 40 hours of OJT or have been part of the training staff since before inception of the 40-hour OJT requirement. These Security Training Staff re-qualifying as Armed Responders will be required to comply with the other applicable regulatory

requirements for training and qualification.

The licensee relies on the expertise of the Security Training Staff to inform security processes, firearms-related activities, and force-on-force activities. The licensee attests that the Security Training Staff provides status updates on Surry processes and procedures, lesson plans, and dynamic learning activities, and that they continually perform activities associated with Surry's protective strategy and adjustments, terminology, or changes associated to the strategy. Additionally, the licensee indicated it requalified the Security Training Staff on the critical tasks of an Armed Responder in the Critical Task Matrix specified in the combined Millstone, North Anna and Surry Power Stations' Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Independent Spent Fuel Storage Installation Security Program.

In accordance with 10 CFR 73.5, the Commission may grant exemptions from the regulations in 10 CFR part 73, as authorized by law. The NRC staff finds that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or other laws, and is, thus, authorized by law.

B. The Exemption Will Not Endanger Life or Property or the Common Defense and Security

The licensee stated that: ''Re-qualifying Security Training Staff as Armed Responders increases the margin to maintain minimum staffing. Security Training Staff are considered subject matter experts in each of the fields they instruct. At [Surry] qualified trainers are certified to instruct all regulatory related items in 10 CFR 73 Appendix B. They have expert level knowledge of the protective strategy, security procedures, and target sets.'' The licensee requested that this exemption expire 90 days following the lifting of the state of emergency declared by the Commonwealth of Virginia on March 12, 2020.

The NRC staff finds that the requested exemption will continue to allow the licensee to maintain the required security posture as the licensee will have the ability to re-qualify Security Training Staff as Armed Responders to ensure that minimum security staffing will be maintained. In addition, granting this exemption for no longer than 90 days following the lifting of the state of emergency declared by the Commonwealth of Virginia on March 12, 2020, the jurisdiction in which this facility is located, would allow for the licensee to restore normal security staffing in a systematic manner. For example, it may take time after the state of emergency is lifted for COVID–19-affected security personnel to fully recover and return to work. The licensee may also need the Security Training Staff to remain on shift until it completes range activities or annual re-qualifications (*e.g.,* firearms familiarization or qualification, use of force, etc.) for some regular members of the security force that may be due for such training.

Based on the above, the NRC staff concludes that the proposed exemption would not endanger life or property or the common defense and security.

C. Otherwise in the Public Interest

On March 28, 2020, the Cybersecurity & Infrastructure Security Agency (CISA) within the U.S. Department of Homeland Security (DHS) published Version 2.0 of its ''Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID–19 Response'' (*https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce*). Although that guidance is advisory in nature, it is designed to ensure ''continuity of functions critical to public health and safety, as well as economic and national security.'' DHS and CISA recommend the Energy Sector, including nuclear power reactor facilities, workers and functions, continue to operate during the COVID–19 public health emergency.

The licensee states, in part, that, ''Maintaining SPS [Surry] in operation and secure during the pandemic will help to support the public need for reliable electricity supply to cope with the pandemic. If the plant is forced to shut down because it cannot comply with minimum staffing requirements, the area electrical grid would lose this reliable source of baseload power. In addition, SPS [Surry] personnel would face the added transient challenge of shutting down the plant and possibly not restarting it until the pandemic passes. This does not serve the public interest in maintaining a safe and reliable supply of electricity. In addition, maintaining the necessary security staff onsite promotes the safety and security of the plant, and, as a result, promotes the health, safety and security of the public as well.''

Additionally, the licensee stated that, ''There would be an increased risk of exposure to the coronavirus if these individuals [the Security Training Staff] were required to complete the 40-hour on-shift OJT requirement. Placing these individuals on-shift and rotating them through multiple security posts to complete the 40-hour OJT requirement would require interaction with multiple people, thus increasing the risk of exposure to the coronavirus.''

Based on the above and the NRC staff's aforementioned findings, the NRC staff concludes that the exemption is in the public interest because it allows the licensee to maintain the required security posture at Surry while the facility continues to provide electrical power. The exemption also enables the licensee to minimize the risk of exposing essential security personnel to the coronavirus during the COVID–19 public health emergency.

D. Environmental Considerations

The NRC staff's approval of this exemption request is categorically excluded under 10 CFR 51.22(c)(25)(vi)(E), and there are no special circumstances present that would preclude reliance on this exclusion. The NRC staff determined that this action applies to granting of an exemption from requirements relating to education, training, experience, qualification, requalification, or other employment suitability requirements. The NRC staff have determined that approval of this exemption request involves no significant hazards consideration; no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; no significant increase in individual or cumulative public or occupational radiation exposure; no significant construction impact; and no significant increase in the potential for or consequences from radiological accidents. In addition, the NRC staff has determined that there would be no significant impacts to biota, water resources, historic properties, cultural resources, or socioeconomic conditions in the region. As such, there are no extraordinary circumstances present that would preclude reliance on this categorical exclusion. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

Accordingly, the Commission has determined that pursuant to 10 CFR part 73.5 the exemption is authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. Therefore, the Commission hereby grants the licensee an exemption from the requirements of 10 CFR 73, Appendix B, Section VI, Subsection

C.2(a) and C.2(b), for Surry for those individuals occupying the identified positions on the Security Training Staff as of April 9, 2020. This exemption would not be applicable to any subsequent requalification. This exemption expires no later than 90 days following the lifting of the state of emergency declared by the Commonwealth of Virginia on March 12, 2020.

Dated at Rockville, Maryland, this 9th day of April 2020.

For the Nuclear Regulatory Commission.

Craig Erlanger,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–08847 Filed 4–24–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1051; NRC–2018–0052]

Holtec International HI–STORE Consolidated Interim Storage Facility Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft environmental impact statement; extension of comment period.

SUMMARY: On March 20, 2020, the U.S. Nuclear Regulatory Commission (NRC) issued for public comment a draft Environmental Impact Statement (EIS) for Holtec International's (Holtec's) application to construct and operate a consolidated interim storage facility (CISF) for spent nuclear fuel (SNF) and Greater-Than Class C (GTCC) waste, along with a small quantity of mixed oxide fuel. The public comment period was originally scheduled to close on May 22, 2020. Given recent events associated with the COVID–19 public health emergency, 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 20, 2020 (85 FR 16150) is extended. Comments should be filed no later than July 22, 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 *https://www.regulations.gov/* and search for Docket ID NRC–2018–0052. Address questions about NRC Docket IDs 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, ATTN: Program Management, Announcements and Editing Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Email comments to: Holtec-CISFEIS@nrc.gov.*

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: Jill Caverly, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7674; email: *Jill.Caverly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0052 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2018–0052.
- *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.* The draft EIS for the Holtec nternational HI–STORE CISF project is available in ADAMS under Accession No. ML20069G420.
- *Project web page:* Information related to the Holtec HI–STORE CISF project can be accessed on the NRC's Holtec HI–STORE CISF web page at *https://www.nrc.gov/waste/spent-fuel-storage/cis/holtec-international.html.*
- *Public Libraries:* A copy of the draft EIS can be accessed at the following public libraries (library access and hours are determined by local policy):
- Carlsbad Public Library, 101 S. Halagueno Street, Carlsbad, NM 88220
- Hobbs Public Library, 509 N Shipp St., Hobbs, NM 88240
- Roswell Public Library, 301 N. Pennsylvania, Roswell, NM 88201

B. Submitting Comments

Please include Docket ID NRC–2018–0052 in your comment submission. Written comments may be submitted during the draft EIS comment period as described in the **ADDRESSES SECTION** of the document.

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 posts all comment submissions at *https://www.regulations.gov* and enters all 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 because the NRC does not routinely edit comment submissions before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

On March 20, 2020, the NRC issued for public comment a draft EIS for Holtec's application to construct and operate a CISF for SNF and GTCC waste. The draft EIS for Holtec's license application includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. After comparing the impacts of the proposed action (Phase 1) to the No-Action alternative, the NRC staff, in accordance with the requirements in part 51 of title 10 of the *Codes of Federal Regulations,* recommends the proposed action (Phase 1), which is the issuance of an NRC license for 40 years to Holtec to construct and operate a CISF for SNF at the proposed location. In addition, the Bureau of Land Management (BLM) staff recommends the issuance of a permit to construct and operate the rail spur. This recommendation is based on (i) the license application, which includes an environmental report and supplemental documents, and Holtec's responses to the NRC staff's requests for additional

information; (ii) consultation with Federal, State, Tribal, local agencies, and input from other stakeholders; (iii) independent NRC and BLM staff review; and (iv) the assessments provided in the EIS.

The public comment period was originally scheduled to close on May 22, 2020. The NRC has decided to extend the public comment until July 22, 2020 to allow more time for members of the public to submit their comments. Comments of Federal, State, and local agencies, Indian Tribes or other interested persons will be made available for public inspection when received. Public meetings for the draft EIS will be announced at a later time.

Dated: April 21, 2020.

For the Nuclear Regulatory Commission.

Cinthya I. Roman-Cuevas,

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

[FR Doc. 2020–08826 Filed 4–24–20; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0226, It's Time To Sign Up for Direct Deposit or Direct Express, RI 38–128

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR), It's Time to Sign Up for Direct Deposit or Direct Express, RI 38–128.

DATES: Comments are encouraged and will be accepted until June 26, 2020.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

—*Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0226). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Form RI 38–128, It's Time to Sign Up for Direct Deposit or Direct Express, provides the opportunity for the annuitant to elect Direct Deposit or Direct Express. This election is required only once: When a person is first put on our rolls.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: It's Time to Sign Up for Direct Deposit or Direct Express (RI 38–128).

OMB Number: 3206–0226.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 20,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 10,000 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2020–08865 Filed 4–24–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88704; File No. 4–631]

Joint Industry Plan; Order Approving the Twentieth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, NASDAQ BX, Inc., NASDAQ PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, and NYSE Arca, Inc.

April 21, 2020

I. Introduction

On February 14, 2020, NYSE Group, Inc., on behalf of the following parties to the National Market System Plan to Address Extraordinary Market Volatility (''the Plan''): Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Chicago Stock Exchange, Inc., the Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors Exchange LLC, Long-Term Stock Exchange (''LTSE''), NASDAQ BX, Inc., NASDAQ PHLX LLC, The NASDAQ Stock Market LLC (''Nasdaq''), New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc., NYSE National Inc., and NYSE American LLC (collectively, the ''Participants'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 608 thereunder,[2] a proposal to amend the Plan (''Twentieth Amendment'').[3] The proposed Twentieth Amendment was published in the **Federal Register** on March 23, 2020.[4] The Commission received no comments on the proposal.

[1] 15 U.S.C. 78k–1(a)(3).

[2] 17 CFR 242.608.

[3] *See* Letter from Elizabeth King, General Counsel and Corporate Secretary, NYSE, to Vanessa Countryman, Secretary, Commission, dated February 13, 2020.

[4] *See* Securities Exchange Act Release No. 88406 (March 17, 2020), 85 FR 16408 (''Notice'').

This Order approves the Twentieth Amendment to the Plan as proposed.

II. Background

The Plan was approved in May 2012 on a pilot basis to ''allow the Participants and the public to gain valuable practical experience with Plan operations during the pilot period'' and to assess ''whether further modifications of the Plan are necessary or appropriate prior to final approval.'' [5] On April 11, 2019, the Commission approved the Eighteenth Amendment to the Plan, which transitioned the Plan from operating on a pilot to a permanent basis and adopted a mechanism for periodic review and assessment of the Plan.[6] As part of the mechanism for periodic review and assessment of the Plan, the Participants committed to provide the Commission with certain data on a quarterly and annual basis. In particular, the Participants agreed to provide the Commission, and make publicly available, quarterly reports providing basic statistics that could be used to identify trends in the performance and impact of the Plan on market activity. The Participants added to the Plan Section II.B of Appendix B (''Appendix B.II.B'') to specify the specific data points that would be included in the quarterly reports.

III. Description of the Proposal

The Participants propose to amend Appendix B.II.B to improve its clarity and transparency by revising and supplementing the current language.[7] The Participants stated that, in the course of preparing to compile and aggregate the data required for the first quarterly report, they determined that the language of Appendix B.II.B could be improved by, among other things: (a) Emphasizing from the outset that the data should be aggregated across primary listing exchanges, (b) specifying the specific partitions that should be applied to each data point, (c) specifying the specific distribution statistics that should be applied to each data point, and (d) providing additional clarity as to what reopening data should be included.[8]

IV. Discussion

The Commission finds that the Twentieth Amendment, as proposed, is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the Twentieth Amendment is consistent with Section 11A of the Act [9] and Rule 608 thereunder [10] in that the proposal is appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, and that it removes impediments to, and perfects the mechanism of, a national market system.

The Commission continues to believe, as it stated in the Eighteenth Amendment Approval Order, that ''the ongoing review and assessment requirements proposed by the Participants will both facilitate a robust, data-driven assessment of the Plan's effectiveness and provide the Commission and the public sufficient transparency of the effectiveness of the LULD mechanism necessary to help ensure the Plan remains designed to achieve its objective.'' [11] We believe that the changes proposed in the Twentieth Amendments are consistent with these previously stated policy goals. Specifically, the proposed changes, which effectuate an important clarification concerning the method for aggregating data and precise descriptions of the required data elements for each quarterly report, will improve the Participants' ability to produce for the Commission and the public high-quality quarterly reports. For these reasons, the Commission finds that the proposed changes to Appendix B.II.B contained in the Twentieth Amendment are consistent with Section 11A of the Act and Rule 608 thereunder.

V. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act [12] and Rule 608 thereunder,[13] that the Twentieth Amendment to the Plan (File No. 4–631) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08795 Filed 4–24–20; 8:45 am]

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[5] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631) (''Plan Approval Order'') (approving Plan as amended).

[6] *See* Securities Exchange Act Release No. 85623, 84 FR 16086 (April 17, 2019) (''Eighteenth Amendment Approval Order'').

[7] The Participants also propose to make a non-substantive amendment to the Plan to reflect the name change of Chicago Stock Exchange, Inc. to NYSE Chicago, Inc and to change its address.

[8] *See* Notice *supra* note 4 at 85 FR 16409–11, for a more detailed description of proposed changes to Appendix B.II.B.

[9] 15 U.S.C. 78k–1.

[10] 17 CFR 242.608.

[11] *See* Eighteenth Amendment Approval Order, *supra* note 6, at 84 FR 16086.

[12] 15 U.S.C. 78k–1.

[13] 17 CFR 242.608.

[14] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88714; File No. SR–NYSECHX–2020–11]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Temporarily Extend the Time Within Which Institutional Brokers Are Required To Report Non-Tape, Clearing-Only Submissions Into the Exchange's Systems

April 21, 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 20, 2020, the NYSE Chicago, Inc. (''NYSE Chicago'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes that, for a temporary period that begins on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020, to temporarily extend the time within which Institutional Brokers are required to report non-tape, clearing-only submissions into the Exchange's systems pursuant to Article 21, Rule 6(a)(3). 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes that, for a temporary period that begins on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020, to temporarily extend the time within which Institutional Brokers [4] are required to report non-tape, clearing-only submissions into the Exchange's systems pursuant to Article 21, Rule 6(a)(3). The Exchange is proposing this temporary relief due to changes in work flow in the post-trade processing of transactions in the cash equity leg of stock-option orders that are a consequence of the precautionary measures to prevent the spread of COVID–19 taken by options exchanges and their members and by Institutional Brokers.

Role of Institutional Brokers in Equity Leg of Options With Stock Trades

Institutional Brokers are Exchange Participants that provide order handling and execution services for other broker-dealers or institutional clients, including options floor traders. Once an Institutional Broker establishes a relationship with an options floor trader, that options trader can use the Institutional Broker to either execute and clear or only clear the stock leg of complex options transactions with a stock component. This proposed rule change concerns the post-trade processes associated with an options trader using an Institutional Broker to clear the equity leg of an options with stock transaction that the options floor broker reports directly to a FINRA Trade Reporting Facility (''TRF'').

Specifically, an Institutional Broker can authorize its options floor trader clients that execute a stock trade in the over-the-counter (''OTC'') market and use a non-exchange front-end order and execution management system to report the transaction to a TRF to use the Institutional Broker's MPID and for clearing use the Institutional Broker's clearing firm.[5] When such stock trade is reported to the TRF, it is simultaneously also reported for clearing purposes to the Deposit Trust Clearing Corporation (''DTCC'') with the Institutional Broker's clearing account assigned to both sides of the trade.

The Institutional Broker then uses Brokerplex [6] as a post-trade tool to transfer the securities to the clearing accounts associated with the actual counter-parties to the equity transaction. This process is governed by Article 21, Rule 6, which concerns the submission of clearing information for transactions executed off of the Exchange. Article 21, Rule 6(a)(1) provides that an Institutional Broker may enter clearing-only submissions into Brokerplex for trades already reported that were executed on another exchange or in the OTC market. As the Rule describes, the purpose of these clearing-only submissions is to transfer securities from one Clearing Participant to another.[7] This transfer of position from one Clearing Participant to another occurs after the trade has been originally reported and sent to DTCC for clearing. When an Institutional Broker uses Brokerplex to transfer a position to another Clearing Participant, the Exchange submits that position transfer to DTCC so that the correct ultimate counter-parties' clearing accounts are identified.

On average, an Institutional Broker can perform anywhere between 30 and 40 transactions per day that would be subject to Article 21, Rule 6(a) where the Institutional Broker transfers positions from one Clearing Participant to another.

To enter clearing-only submissions to transfer positions into Brokerplex, the Institutional Broker needs to obtain from the options floor trader the information about the counter-parties to the equity transaction. Once the Institutional Broker has the relevant information, *e.g.,* the names of each party and number of shares to allocate to each party, the Institutional Broker enters this information into Brokerplex and transfers the positions from its own account (or the account of its clearing firm) to the accounts of the ultimate beneficiaries of the trade. Until the Institutional Broker receives this information from the options floor trader, the Institutional Broker bears the risk of these transactions, which have already been reported in its name. The Institutional Broker is responsible for ensuring that the clearing information it receives from its options floor trader customer is complete before fully submitting the transaction into Brokerplex so that the final allocations are accurate.

Article 21, Rule 6(a)(3) requires an Institutional Broker to enter all such non-tape, clearing-only submissions into the Exchange's systems for a non-Exchange transaction (*i.e.,* the equity legs that an options floor trader reports directly to a TRF) within three (3) hours of the execution of such transaction. If an Institutional Broker does not meet this three-hour requirement, there is no risk that a trade would not clear.[8] Nevertheless, an Institutional Broker who does not meet this three-hour requirement would be out of compliance with Exchange rules.

Under normal trading conditions, *i.e.,* when the options trading floors are open and Institutional Brokers are working in their offices, the three-hour window provides sufficient time for the Institutional Broker to identify which options floor trader was involved in the trade and then obtain from that options trader the identity of the counter-parties so that transfers of securities under Article 21, Rule 6(a)(1) can be completed within three hours.

Disruptions From Social Distancing Measures

On March 11, 2020, the World Health Organization characterized COVID–19 as a pandemic.[9] To slow the spread of the disease, federal and state officials implemented social-distancing measures, placed significant limitations on large gatherings, limited travel, and closed non-essential businesses.

In response, since March 23, 2020, the four largest options trading floors have been temporarily closed.[10] To the extent

[4] The term ''Institutional Broker'' is defined in Article 1, Rule 1(n) to mean a member of the Exchange who is registered as an Institutional Broker pursuant to the provisions of Article 17 and has satisfied all Exchange requirements to operate as an Institutional Broker on the Exchange. There are currently five Institutional Brokers on the Exchange.

[5] Unlike some options floor brokers, Institutional Brokers are members of FINRA and able to report the stock component of a stock-option trade to a TRF.

[6] Brokerplex is an order entry, management and recordation system provided by the Exchange for use by Institutional Brokers. *See* Article 17, Rule 5.

[7] Pursuant to Article 1, Rule 1, the term ''Clearing Participant'' means a Participant that has been admitted to membership in a Qualified Clearing Agency, *i.e.,* DTCC, pursuant to the Rules of the Qualified Clearing Agency.

[8] Notwithstanding the current 3-hour reporting requirement in Article 21, Rule 6(a)(3), such trades are reported to DTCC by the time DTCC's systems close, which is 8:30 p.m. ET.

[9] *See* WHO Director-General's Opening Remarks at the Media Briefing on COVID–19 (March 11, 2020), available at *https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarksat-the-media-briefing-on-covid-19-11-march-2020.*

[10] *See* Press Release, dated March 18, 2020, announcing that NYSE Arca and NYSE American options trading floors will temporarily close beginning March 23, 2020, available here: *https://ir.theice.com/press/news-details/2020/New-York-Stock-Exchange-to-Move-Temporarily-to-Fully-Electronic-Trading/default.aspx*; Nasdaq PHLX Options Trader Alert #2020–7, dated March 15, 2020, announcing that NYSE PHLX will suspend open outcry trading beginning March 17, 2020, available here: *https://www.nasdaqtrader.com/MicroNews.aspx?id=OTA2020–7*; Press Release,

Continued

options floor traders continue trading and use Institutional Brokers to transfer the clearing for the stock leg of options with stock transactions, they are doing so in a work-from-home capacity and not from the options trading floors, potentially making it more time consuming to communicate the details of a trade and make adjustments within the three hours permitted under Article 21, Rule 6(a)(3). Specifically, in response to these workflow changes, Institutional Brokers have authorized their options trading clients to use the Institutional Broker MPID and clearing firm information on specified non-exchange front-end order and execution management systems.[11] Because the options floor traders have been authorized by the Institutional Broker to report the equity leg directly to the TRF via such electronic systems, the Institutional Broker may not be aware that a trade has happened until it sees the trade appear in its clearing account, and then may not know which options floor trader entered the trade until the options floor trader that entered the trade contacts the Institutional Broker.

With this temporary change in workflow, the current three-hour time period specified in Article 21, Rule 6(a)(3) may not provide sufficient time for an Institutional Broker to both obtain and then submit into Brokerplex the clearing information needed to allocate such off-Exchange transactions to the correct counterparties.

Proposed Rule Change

Given the current changes to Institutional Broker workflow that have resulted from the temporary closures of options trading floors, the Exchange proposes that, for a temporary period that begins on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020, to temporarily extend the time that Institutional Brokers must enter non-tape, clearing-only submissions into Brokerplex as required under Article 21, Rule 6(a)(3).

As noted above, Institutional Brokers that have authorized options floor traders to enter equity transactions directly into a non-exchange front-end order and execution management system may not be aware of an equity transaction reported to a TRF in its name until the trade appears on its clearing account. Once they become aware of such a trade, Institutional Brokers proactively obtain information about such trades to allocate them to the correct counterparties. When the options trading floors are open, an options floor trader will communicate directly with the Institutional Broker for the reporting and clearing of the equity transaction. In this case, the Institutional Broker knows as the trade occurs which options floor trader customer is responsible for the transaction and knows who to subsequently contact to obtain the necessary clearing information. With options trading floors temporarily closed and options floor traders working from home, Institutional Brokers must now reach out to individual traders to identify who effected the transaction and the names of all counterparties. It may then take several more telephone calls before the Institutional Broker is able to obtain the complete allocation information for such transaction. The Institutional Broker may not be able to obtain the full scope of the information it needs to submit from the options floor trader, *e.g.,* names of parties to a trade and specific allocations to each party, in order to transfer securities from one Clearing Participant to another pursuant to Article 21, Rule 6(a)(1) and enter it into Brokerplex within the current three-hour time requirement.

As a result, three of the five Institutional Brokers, which represent over 80% of the order flow on the Exchange, have sought relief from the Exchange with respect to the time requirement in Article 21, Rule 6(a)(3). The Exchange expects the relief sought by this proposed rule change to impact, at most, 30 to 40 transactions per day, which represents approximately 15% of all transactions conducted by Institutional Brokers through Brokerplex. These trades are often large in size and involve multiple counterparties and, therefore, require more time to allocate among the various participants relative to trades that involve a single counterparty.

The Exchange notes the proposed rule change would have no impact on trade reporting or clearing of trades, as all trades would have already been reported to the Consolidated Tape in accordance with applicable trade reporting rules of the TRF and submitted to DTCC for clearing. Until such time that an Institutional Broker has information from the options floor trader about the counterparties to the trade, it bears the risk of the transaction. That risk is only transferred from the Institutional Broker when the Institutional Broker allocates the trades to the appropriate (and actual) parties to the trade based on the information it receives from the options floor trader.

Accordingly, the Exchange proposes that, for a temporary period that begins on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020, Institutional Brokers may enter non-tape, clearing-only submissions into the Exchange's systems for non-Exchange transaction by 8:00 p.m. ET of the day of the trade, rather than within three hours as required under the rule. The Exchange believes that extending the time to enter clearing-only submissions until 8:00 p.m. ET during this temporary period is appropriate because the Brokerplex system closes at that time and thus, the proposed time would provide that all clearing-only submissions would be entered on the same day that a trade has been consummated. Because all such submissions would be required by 8:00 p.m., the Exchange would be able to report such submissions, *i.e.,* the Institutional Broker's transfer of positions from the Institutional Broker's account to the appropriate counter-party to the trade, to the clearing agency before DTCC's systems close.

Given the unique circumstances of the precautionary measures to prevent the spread of COVID–19, the Exchange believes that extending the time to enter clearing-only submissions to 8:00 p.m. ET would be appropriate. In practice, Institutional Brokers generally make these submissions once they have complete information. Institutional Brokers have a strong incentive to submit such submissions into Brokerplex because they bear the risk for the transaction until it can be allocated to the correct counterparties. Accordingly, even during this temporary period, clearing-only submissions related to transactions that occur earlier in the trading day will likely be entered into Brokerplex as soon as the Institutional Broker receives the necessary information, which would likely be well before 8:00 p.m. ET. However, for complex transactions that take the Institutional Broker a longer time to gather the information—even for transactions that occurred earlier in the trading day—the temporary extension until 8:00 p.m. ET would give them sufficient time to obtain the necessary information in order to meet their obligation to ensure that the information is complete before entering it into Brokerplex.

dated March 12, 2020, announcing that Cboe Options Exchange will temporarily close its trading floor beginning March 16, 2020, available here: *http://ir.cboe.com/~/media/Files/C/CBOE-IR-V2/press-release/2020/press-release-cboe-announces-trading-floor-closure.pdf.*

[11] While Institutional Brokers can authorize such use at any time, the Exchange understands that when the options trading floors are open, Institutional Brokers do not authorize this workflow process, and that once all of the options trading floors are open, Institutional Brokers will remove such authorization.

Because the proposed rule change would not impact trading, the timely reporting of transactions to the Consolidated Tape, or clearing, the Exchange believes the proposed 8:00 p.m. ET cut-off strikes the appropriate balance between continuing to require that Institutional Brokers enter clearing-only submissions on the day that a trade is consummated and providing them with additional time to enter such submissions when their normal workflow is impeded as a result of changes to workflow that are outside of their control. The Exchange notes that the proposed rule change would not require any technology changes.

The Exchange proposes to effect this change by adding Commentary .05 to Article 21, Rule 6 that sets forth the proposed rule text that would replace Article 21, Rule 6(a)(3) during a temporary period that begins on April 20, 2020, and ends on the earlier of the reopening of all the options trading floors or after the end of the day on May 15, 2020. The Exchange believes that this temporary relief will permit Institutional Brokers to comply with the reporting requirements in Article 21, Rule 6(a) during a period when their staff and staff of options floor traders are working from home and completing such tasks within three hours is less straightforward and more complex.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, in that it is designed to promote just and equitable principles of trade; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general to protect investors and the public interest. As a result of uncertainty related to the ongoing spread of the COVID–19 virus, four major options trading floors have been temporarily closed. In addition, social-distancing measures have been implemented throughout the country to reduce the spread of COVID–19, resulting in staff of options floor traders and Institutional Brokers working from home.

The proposed rule change would allow the Exchange to temporarily extend the time by which Institutional Brokers would be required to report non-tape, clearing-only submissions into the Exchange's systems for a given non-Exchange transaction to 8:00 p.m. ET of the day on which the execution of such transaction occurred rather than within three (3) hours of the execution of such transaction. The Exchange believes that this temporary relief is necessary and appropriate in the public interest, and is consistent with the protection of investors, given the changes to workflow that increase the time it takes for Institutional Brokers to obtain complete information about counterparties for such trades during a period when options trading floors are closed and both options floor traders and Institutional Brokers are working from home as precautionary measures to protect the health and safety of their employees and to prevent the spread of COVID–19. In particular, this proposed rule change would have no impact on trade reporting or clearing of trades, as all trades would be reported to the Consolidated Tape in accordance with applicable trade reporting rules of the TRF and submitted to DTCC for clearing in a timely manner. This proposed rule change concerns only post-trade allocations of the equity leg of an options with stock transaction that has already been reported to the DTCC in the name of the Institutional Broker's clearing firm. Until the Institutional Broker reports such submission into Brokerplex with the correct counterparties, the Institutional Broker bears the risk of the transaction. In addition, this proposed rule change would have no impact on trading because Article 21, Rule 6 concerns only the reporting of transactions that have already been consummated and reported to another exchange or trade reporting facility and disseminated to the Consolidated Tape.

Given the unique circumstances of the precautionary measures to prevent the spread of COVID–19, the Exchange believes that extending the time to enter clearing-only submissions to 8:00 p.m. ET is necessary and appropriate in the public interest. The Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(5) of the Act, in particular, and promotes just and equitable principles of trade, by providing Institutional Brokers with additional time to enter clearing-only submissions so that they may properly and accurately transfer positions from their clearing account to the clearing account of the actual participants on the trade, which submission will remove impediments to and perfect the mechanism of a free and open market and national market system, and in general, protect investors and the public interest. In practice, Institutional Brokers generally make these submissions once they have complete information because they have a strong incentive to do so since they bear the risk for the transaction until it can be allocated to the correct counterparties. Accordingly, even during this temporary period, clearing-only submissions related to transactions that occur earlier in the trading day will likely be entered into Brokerplex as soon as the Institutional Broker receives the necessary information, which would likely be well before 8:00 p.m. ET. However, for complex transactions that take the Institutional Broker a longer time to gather the information—even for transactions that occurred earlier in the trading day—the temporary extension until 8:00 p.m. ET would give them sufficient time to obtain the necessary information in order to meet their obligation to ensure that the information is complete before entering it into Brokerplex. The proposed rule change would also ensure that Institutional Brokers continue to enter clearing-only submissions on the day that a transaction occurs and to do so no later than the time that Brokerplex closes.

Because the proposed rule change would not impact trading, the timely reporting of transactions to the Consolidated Tape, or clearing, the Exchange believes the proposed 8:00 p.m. ET cut-off strikes the appropriate balance between continuing to require that Institutional Brokers enter clearing-only submissions on the day that a trade is consummated and providing them with additional time to enter such submissions when their normal workflow is impeded as a result of changes to workflow that are outside of their control.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather to provide temporary relief for Institutional Brokers that are required to comply with Article 21, Rule 6(a)(3) during a temporary period when the options trading floors are closed and staff of options floor traders and Institutional Brokers are working from home.

[12] 15 U.S.C. 78f(b).

[13] 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

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 [14] and Rule 19b–4(f)(6) thereunder.[15] 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 [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative for 30 days after the date of the filing. Pursuant to Rule 19b–4(f)(6)(iii),[19] 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 represents that the filing is necessary given the changes to workflow that increase the time it takes for Institutional Brokers to obtain complete information about counterparties for such trades during a period when options trading floors are closed and both options floor traders and Institutional Brokers are working from home as precautionary measures to protect the health and safety of their employees and to prevent the spread of COVID–19. The Exchange represents that the proposed rule change would have no impact on trade reporting or clearing of trades because Article 21, Rule 6 concerns only the reporting of transactions that have already been consummated and reported to another exchange or trade reporting facility and disseminated to the Consolidated Tape. The Commission believes that the proposed rule change would provide additional time to institutional brokers to report these transactions while the options trading floors are closed and market participants' staff are working from home. 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.[20]

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–NYSECHX–2020–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSECHX–2020–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*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–NYSECHX–2020–11, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08812 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] 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).

[21] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88717; File No. SR–NYSE–2020–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Provide a Longer Period for Listed Companies To Regain Compliance With Its $50 Million Market Capitalization/ Stockholders' Equity and $1.00 Price Continued Listing Requirements by Tolling the Compliance Periods Through and Including June 30, 2020

April 21, 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 20, 2020, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 provide a longer period for listed companies to regain compliance with its $50 million market capitalization and $1.00 price continued listing requirements by tolling compliance periods through and including June 30, 2020. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The U.S. and global equities markets have experienced unprecedented market-wide declines as a result of the ongoing spread of COVID–19. As a consequence, since the commencement of the current market turbulence in the last week of February 2020, the Exchange has experienced an unusually high number (as compared to historical levels) of listed companies:

- That have been designated, or may soon be designated, as below compliance with continued listing standards, as set forth in Section 802.01B and become subject to a maximum 18-month cure period (pursuant to the procedures set forth in Sections 802.02 and 802.03 as applicable), as a consequence of having both stockholders' equity of less than $50 million and an average global market capitalization over a consecutive 30 trading-day period of less than $50 million (the ''$50 Million Standard''); or
- that have stock prices that have fallen below the Exchange's $1.00 price requirement for capital and common stock set forth in Section 802.01C of the Manual (*i.e.,* the average closing price of their stock has fallen below $1.00 over a consecutive 30 trading day period) (the ''Dollar Price Standard'') and that are consequently subject to a six months compliance plan period (as set forth in Section 802.01C) or that may imminently fall below compliance with that listing standard.[4]

In response to the conditions described above, the Exchange proposes to provide a longer period of time to regain compliance with the $50 Million Standard and Dollar Price Standard by tolling the applicable compliance periods through June 30, 2020 (the ''Tolling Period''). The Exchange proposes to continue to identify companies that fall below the $50 million Standard and the Dollar Price Standard during the Tolling Period and inform such companies of their noncompliance. Any companies notified of noncompliance during the Tolling Period would have to meet the press release requirements under Section 802.02 or 802.03 (for companies identified as below the $50 Million Standard) or Section 802.01C (for companies identified as below the Dollar Price Standard) and, where applicable, will be subject to the Form 8–K disclosure requirement under SEC rules.[5] In addition, the Exchange would continue to attach a .BC indicator to such companies' tickers [6] and would continue to identify them as below compliance on the Exchange's website during the Tolling Period. However, any time period for which a company is deemed to be below compliance during the Tolling Period, would not be counted toward the maximum applicable compliance plan period of 18 months with respect to the $50 million Standard or six months with respect to the Dollar Price Standard. Instead, all applicable compliance plan periods for companies newly identified as below compliance with these listing standards during the Tolling Period would be calculated as beginning on July 1, 2020.

The Exchange notes that at the time of the financial crisis it waived the Dollar Price Standard in its entirety, including ceasing to identify companies as newly below compliance with that standard during the period of the relief and freezing for that period the compliance periods of companies that had previously been identified as noncompliant with the Dollar Price Standard.[7] In its conversations with listed companies, the Exchange has learned that many companies are experiencing severe disruptions to their businesses during the current crisis, including employees who have contracted the COVID–19 virus and the need to adopt emergency measures to protect their employees from infection. The Exchange believes that it is undesirable to impose on companies in the midst of this crisis the additional burden of attempting to return to compliance with these market price-based standards while the crisis is ongoing, which may be unrealistic for many companies in the immediate term whereas their prospects may be better once the current extraordinary conditions have passed.

[4] For illustrative purposes, the Exchange notes that the number of listed companies with a trading price below $1.00 as of the date of this filing is approximately 10 times as many as was the case on the last trading day of 2019.

[5] The Exchange encourages companies to issue the required press release as promptly as possible.

[6] While the Exchange attaches a .BC indicator to the tickers of listed companies that are below compliance when it provides data to the Consolidated Tape, the Exchange cannot require commercial data vendors to carry this information on their services and understands that some of them do not include the .BC indicator in their data packages.

[7] *See* Securities Exchange Act Release No. 59510 (March 4, 2009), 74 FR 10636 (March 11, 2009) (SR–NYSE–2009–21) (suspending the dollar price requirement through June 30, 2009). *See also* Securities Exchange Act Release No. 60273 (July 9, 2009), 74 FR 34606 (July 16, 2009) (SR–NYSE–2009–64) (extending the suspension of the dollar price requirement through July 31, 2009).

The Exchange's proposed application of the Tolling Period in relation to the $50 Million Standard and the Dollar Price Standard is in addition to the ongoing temporary suspension of the $15 million market capitalization standard of Section 802.01B through and including June 30, 2020, with respect to which the Exchange submitted an earlier rule filing.[8] The extreme volatility and the precipitous decline in trading prices of many securities experienced in the U.S. and global equities markets could lead to a high number of securities being deemed to be below compliance with continued listing standards during a short period of highly volatile markets. The proposed Tolling Period would provide temporary relief to these companies and their shareholders in response to these extraordinary market conditions.

Under the proposed Tolling Period, the compliance period of any company that is in a compliance period for non-compliance with the $50 Million Standard at the time of commencement of the Tolling Period would have this compliance period tolled and recommence on July 1, 2020. Consistent with Sections 802.02 and 802.03, a company that is operating under a compliance plan for non-compliance with the $50 Million Standard as of the date of this filing would be deemed to be back in compliance with continued listing requirements if at any time, including during the Tolling Period, the company is able to demonstrate (1) compliance with the $50 Million Standard, or (2) the ability to qualify under an original listing standard, in each case for a period of two consecutive quarters.

Notwithstanding this proposal, companies will be required to submit compliance plans within the applicable time frames set forth in Sections 802.02 and 802.03 of the Manual, and the Exchange will review companies' progress under their plans on a quarterly basis during the Tolling Period as provided by those rules. In addition, Sections 802.02 and 802.03 provide the Exchange with the authority to commence delisting proceedings against a company prior to the end of the maximum compliance plan period if the company fails to meet the material aspects of the compliance plan accepted by the Exchange or any of the quarterly milestones in that plan. This proposal does not in any way limit the Exchange's authority to take such action where it deems appropriate.

Under the proposed application of the Tolling Period in relation to the Dollar Price Standard, the compliance period of any company that is in a compliance period at the time of commencement of the Tolling Period would have this compliance period tolled and recommence on July 1, 2020. Consistent with the normal application of the rule, companies that are in a compliance period at the time of commencement of the Tolling Period would be deemed to have regained compliance during the Tolling Period if, at the expiration of their respective six-month cure periods established prior to the commencement of the Tolling Period, they have a $1.00 closing share price on the last trading day of the period and a $1.00 average share price based on the preceding 30 trading days (*e.g.,* a company that is currently in a compliance period with a specified end date of May 30, 2020, will be deemed to have returned to compliance if it meets the applicable requirements on May 30, notwithstanding the fact that the Tolling Period will be in effect at that time, and if it does not return to compliance as of May 30, it will have its compliance period tolled through June 30. In addition, consistent with the normal application of the rule, any company that is in a compliance period at the time of commencement of the Tolling Period can return to compliance during the Tolling Period earlier that the specified end date for its compliance period if such company has both a $1.00 closing share price on the last trading day of any calendar month during the previously-established compliance period and a $1.00 average share price based on the 30 trading days preceding the end of such month.

The proposed adoption of the Tolling Period does not provide any additional compliance period to any company with respect to which the Exchange has commenced delisting proceedings prior to the date of this filing, including those that have exercised their appeal right.

The Exchange would be able to implement the proposed rule change immediately upon effectiveness of this proposed rule change.

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, and, in general to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As a result of uncertainty related to the ongoing spread of the COVID–19 virus, the prices of securities listed on U.S. exchanges have been experiencing rapid and significant changes. The proposed rule change is designed to reduce uncertainty by extending time periods to regain compliance with continued listing standards during the current highly unusual market conditions, thereby protecting investors, facilitating transactions in securities, and removing an impediment to a free and open market. Notwithstanding the tolling of the compliance periods, important investor protections will remain, including that investors will be able to identify companies that are non-compliant with the requirements on the Exchange's website, including for newly-identified companies whose compliance periods have been tolled during the Tolling Period, and the Exchange will append a .BC indicator to such companies' tickers when providing data to the Consolidated Tape. In addition, companies that become newly non-compliant with the applicable continued listing standards will have to notify investors by issuing a press release as required under NYSE rules and, where required by SEC rules, a Form 8–K. With exception of companies that are currently in delisting proceedings, all companies listed on the Exchange that are currently below compliance with the $50 Million Standard or the Dollar Price Standard as of the time of filing of this proposal, or that fall below those standards after the submission of this proposal, would be eligible to take advantage of the proposed tolling period.

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 reduce uncertainty for certain companies and their shareholders by providing additional time for companies to regain compliance. In addition, the proposed rule change is not designed to have any

[8] *See* Securities Exchange Act Release No. 88441 (March 20, 20020), 85 FR 17136 (March 26, 20020) (SR–NYSE–2020–21).

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

[10] 15 U.S.C. 78f(b)(5).

effect on intermarket competition but instead seeks to address concerns the Exchange has observed surrounding the application of the $50 Million Price Requirement and the Dollar Price Requirement to companies listed on the Exchange. Other exchanges can craft relief based on their own rules and observations.

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

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

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with 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 upon filing. The Exchange stated that the proposed rule change is designed to respond to the unprecedented uncertainty and resulting market declines related to the global spread of the COVID–19 virus. Specifically, the Exchange stated that the proposed rule change is designed to reduce uncertainty for certain companies and their shareholders by providing additional time for companies that are below compliance with the $50 Million Standard and the Dollar Price Standard to regain compliance with these standards during the current highly unusual market conditions. The Exchange also stated that investors will still be able to identify companies that are non-compliant with the requirements on the Exchange's website and the Exchange will continue to append a .BC indicator to those companies' tickers when providing data to the Consolidated Tape. In addition, the Exchange noted that it will continue to notify companies about new instances of non-compliance and any newly non-compliant companies will have to notify investors by issuing a press release and, where required by SEC rules, a Form 8–K.

The Commission notes that while the proposal provides additional time for companies to comply with the $50 Million Standard and the Dollar Price Standard, new companies that are deficient with these standards during the Tolling Period will still continue to be notified by the Exchange of the deficiency as they currently would be under normal circumstances with no Tolling Period, and would continue to be required to notify investors by issuing a press release as required under NYSE rules and, where required by SEC rules, a Form 8–K.[15] In addition, the Exchange will continue to attach a .BC indicator to the tickers of companies that fall below the $50 Million Standard and the Dollar Price Standard during the Tolling Period, including companies newly identified during the Tolling Period, and will continue to identify such companies as below compliance on the Exchange's website during the Tolling Period, so that shareholders and the public will have access to such information as they normally would without the Tolling Period. Pursuant to the requirements of Sections 802.02 and 802.03 of the Manual, companies below compliance will continue to be required to submit compliance plans within the applicable time frames set forth therein and the Exchange will continue to review companies' progress under their plans on a quarterly basis during the Tolling Period. The Commission notes that the additional time to comply with the standards is meant to address the current unusual market conditions while continuing to ensure that shareholders and the public have relevant and accurate information concerning a company's deficiency with the $50 Million Standard and the Dollar Price Standard. The Commission also notes that the proposal is a temporary measure designed to respond to current, unusual 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.[16]

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) [17] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2020–36 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–2020–36. 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

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] The Commission notes that the Exchange encourages companies to issue the required press release as promptly as possible. *See supra* note 5.

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78s(b)(2)(B).

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–2020–36 and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08815 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88710; File No. SR–CboeBYX–2020–012]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.26(a) To Add LTSE as a Source for Market Data for Certain Purposes

April 21, 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 6, 2020, Cboe BYX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe BYX Exchange, Inc. proposes to amend Rule 11.26(a) to reflect the operation of the Long-Term Stock Exchange, Inc. (LTSE) as a registered national securities exchange. 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/byx/*), 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 proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the LTSE as a registered national securities exchange.

On May 10, 2019, the Commission approved LTSE's application to register as a national securities exchange.[5] As part of its transition to exchange status, LTSE announced that it plans to commence the entry of orders in test symbols on April 24, 2020 and plans to gradually phase in non-test securities no earlier than May 15, 2020, which may continue for a period of at least four weeks.[6] The Exchange, therefore, proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the test phase of LTSE as a registered national securities exchange beginning on April 24, 2020. Specifically, the Exchange proposes to amend Rule 11.26(a) to include LTSE by stating it will utilize LTSE market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes.

Additionally, the Exchange proposes to update the names of the Chicago Stock Exchange, NSX, Nasdaq OMX PHLX, and Nasdaq OMX BX noted in Rule 11.26(a) to NYSE Chicago, NYSE National, Nasdaq PSX, and Nasdaq BX, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 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.

The Exchange believes that its proposal to update Exchange Rule 11.26(a) to include LTSE and update the names of other exchanges will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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

The Exchange believes its proposed rule change would not impose any

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[18] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] *See supra* note 2 [sic].

[6] *See supra* note 3 [sic].

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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 [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with 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 the Exchange to implement the proposed rule change in anticipation of LTSE's launch, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, 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.[15]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2020–012 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2020–012. 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–CboeBYX–2020–012, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08810 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88716; File No. SR–NASDAQ–2020–001]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Approving a Proposed Rule Change To Modify the Delisting Process for Securities With a Bid Price at or Below $0.10 and for Securities That Have Had One or More Reverse Stock Splits With a Cumulative Ratio of 250 Shares or More to One Over the Prior Two-Year Period

April 21, 2020.

I. Introduction

On January 2, 2020, The Nasdaq Stock Market LLC (''Exchange'' or ''Nasdaq'') 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 modify the delisting process for securities with a bid price at or below $0.10 in certain circumstances as described below and for securities that have had one or more reverse stock splits with a cumulative ratio of 250 shares or more to one over the prior two-year period. The proposed rule change was published for comment in the **Federal Register** on January 22, 2020.[3] On March 5, 2020, 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] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange has proposed to modify its delisting process for securities with a closing bid price at or below $0.10 for ten consecutive trading days during any bid price compliance period and for securities that have had one or more reverse stock splits with a cumulative ratio of 250 shares or more to one over the prior two-year period (*i.e.,* in cases where following such reverse stock split(s) an investor would hold one share for every 250 shares or more owned at the start of the two-year period).

Nasdaq's current rules require that primary equity securities, preferred stocks, and secondary classes of common stock maintain a minimum bid price of at least $1.00 per share for continued listing.[6] Under Rule 5810(c)(3)(A), a security is considered deficient with this bid price requirement if its bid price closes below $1.00 for a period of 30 consecutive business days. Under Nasdaq Rule 5810(c)(3)(A), a company with a bid price deficiency has 180 calendar days from notification of the deficiency to regain compliance. A company generally can regain compliance with the bid price requirement by maintaining a $1.00 closing bid price for a minimum of ten consecutive business days during the 180-day compliance period.[7] Under Rule 5810(c)(3)(A)(ii), a company that lists its security on the Nasdaq Capital Market, or transfers its listing to that market, may be eligible for a second 180 calendar day period to regain compliance, provided that on the last day of the first compliance period the company meets the market value of publicly held shares requirement for continued listing as well as all other applicable standards for initial listing (except for the bid price requirement) on the Nasdaq Capital Market and notifies the Exchange of its intent to cure the bid price deficiency.[8] If a company is able to avail itself of this second 180-day bid price compliance period when listed on, or transferring to, Nasdaq's Capital Market, the total compliance period to cure a bid price deficiency would be up to 360 calendar days.[9]

According to the Exchange, it believes that there are certain situations where a company may be facing more serious issues for which a compliance period of up to 360 days may not be appropriate.[10] The Exchange stated that these situations involve securities with very low prices (as proposed, at or below $0.10) and securities where the company has completed one or more reverse stock splits over the prior two-year period that, when considered cumulatively, result in a ratio of 250 shares or more to one and then fails to satisfy the bid price requirement. According to the Exchange, the challenges facing the company in these situations are generally not temporary and may be so severe that the company is not likely to regain compliance within the prescribed compliance period.[11] The Exchange also stated that these companies often become subject to delisting for other reasons during the compliance periods.[12] Accordingly, the Exchange has proposed to modify its listing rules so that companies that fit into the categories specified above are subject to shortened compliance periods, which, in the Exchange's view, could lead to earlier delisting and enhanced review procedures.

With respect to securities with very low prices, the Exchange has proposed to modify its listing rules to provide that a company in any bid price compliance period under Rule 5810(c)(3)(A) as described above (*i.e.,* the company's security has already traded below $1.00 for thirty consecutive business days) will immediately receive a Staff Delisting Determination if the security has a closing bid price of $0.10 or less for a period of ten consecutive trading days, which would end any otherwise applicable compliance period.[13] The Exchange also has proposed to amend its rules to not permit a company to avail itself of any bid price compliance periods under Rule 5810(c)(3)(A), and instead require the issuance of a Staff Delisting Determination, if a company falls out of compliance with the $1.00 minimum bid price after completing one or more reverse stock splits resulting in a cumulative ratio of 250 shares or more to one over the two-year period immediately prior to such non-compliance.[14] According to the Exchange, it believes it would be inappropriate to permit such securities to remain listed while relying on very large reverse stock splits to maintain compliance with the $1.00 minimum bid price.[15]

The Exchange stated that a company that is not eligible for a compliance period under the proposed rule change would receive a Staff Delisting Determination, which it could appeal to a Hearings Panel. The Hearings Panel could grant the company an exception to remain listed for a period not to exceed 180 days from the date of the Staff Delisting Determination if, according to the Exchange, it believes the company will be able to achieve and maintain compliance with the bid price

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 87982 (January 15, 2020), 85 FR 3736.

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

[5] *See* Securities Exchange Act Release No. 88325, 85 FR 14264 (March 11, 2020). The Commission designated April 21, 2020 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] *See* Rules 5450(a)(1), 5460(a)(3), 5550(a)(2), and 5555(a)(1).

[7] Under Rule 5810(c)(3)(G), Nasdaq staff could extend this ten-day period to a maximum of 20 days.

[8] If it does not appear to Nasdaq that it is possible for the company to cure the deficiency with the bid price requirement, it will not be eligible for this second 180-day period to achieve compliance. *See* Rule 5810(c)(3)(A)(ii). See also Rule 5810(c)(3)(A)(i), which describes the conditions for a company transferring from the Nasdaq Global Market to the Nasdaq Capital Market to avail itself of the additional 180-day compliance period set forth in Rule 5810(c)(3)(A)(ii).

[9] *See* Notice, *supra* note 3, 85 FR at 3737. *See also* Rule 5810(c)(3)(A).

[10] *See* Notice, *supra* note 3, 85 FR at 3737.

[11] *See id.*

[12] *See id.*

[13] The Exchange noted that such a company could request review of the Staff Delisting Determination by a Hearings Panel, and the Hearings Panel could grant the company additional time to complete a reverse stock split or otherwise regain compliance. *See id.* See also *infra* note 16 and accompanying text, noting that the Hearings Panel can grant up to an additional 180 days.

[14] The Exchange stated, for example, that a company could effect a reverse stock split in a ratio of 25 shares to one, followed within the two-year period by a second reverse stock split in a ratio of ten shares to one, resulting in a cumulative ratio of 250 shares to one. *See* Notice, *supra* note 3, 85 FR at 3737 n.7. Alternatively, a company could affect three reverse stock splits in the two-year period, with ratios of ten shares to one, five shares to one, and five shares to one, respectively, resulting in a cumulative ratio of 250 shares to one. *See id.*

[15] *See id.* at 3737. *See also supra* note 13 (noting that the Hearings Panel could grant the company up to an additional 180 days).

requirement.[16] However, the Exchange also proposed to modify its listing rules so that following such a Hearings Panel exception the company would be subject to the procedures applicable to a company with recurring deficiencies as described in Rule 5815(d)(4)(B). As a result, if within one year of the date a company regained compliance (*i.e.,* in those cases where the company was not granted a compliance period under proposed Rule 5810(c)(3)(A)(iii) and (iv) but the Hearings Panel had granted an exception during which time the company came into compliance) the company again fails to maintain compliance with the bid price requirement, the company would not be eligible for a compliance period and instead the Listing Qualifications Department will issue a Staff Delisting Determination, which can be appealed to the Hearings Panel.

The Exchange has proposed to begin to implement the proposed rule change for companies that first receive notification of non-compliance with the bid price requirement after the date of this approval order. Accordingly, a company that has already received notification of such non-compliance would be permitted to regain compliance under the existing rule, in the manner that the notification of non-compliance would have described.[17]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[19] which requires, among other things, that the rules of a national securities exchange 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; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In addition, the Commission finds that the proposed rule change is consistent with Section 6(b)(7) of the Act,[20] which requires, among other things, that the rules of a national securities exchange provide a fair procedure for the prohibition or limitation by the exchange of any person with respect to access to services offered by the exchange.

The development and enforcement of meaningful listing standards[21] for an exchange is of critical importance to financial markets and the investing public. Among other things, such listing standards help ensure that exchange-listed companies will have sufficient public float, investor base, and trading interest to provide the depth and liquidity to promote fair and orderly markets.[22] Meaningful listing standards are also important given investor expectations regarding the nature of securities that have achieved an exchange listing and the role of an exchange in overseeing its market and assuring compliance with its listing standards.[23]

The proposed amendments would shorten the compliance periods available to listed companies to cure a bid price deficiency in certain circumstances, which could lead to earlier delisting of the company. In particular, rather than being able to take advantage of the compliance periods under the Exchange's rules of 180 calendar days or 360 calendar days for companies that so qualify, companies in a bid price compliance period that have a closing bid price at or below $0.10 for ten consecutive trading days would have that compliance period end and be issued an immediate Staff Delisting Determination, which could then be appealed. Similarly, companies that have had reverse stock splits with a cumulative ratio of 250 shares to one over the prior two-year period would not be able to take advantage of any of the compliance periods under Rule 5810(c)(3)(A) if they fail the bid price requirement and the company would receive an immediate Staff Delisting Determination, which could then be appealed.

The Exchange noted in its proposal that the compliance periods are designed to allow adequate time for a company that faces temporary business issues, temporary decreases in the market value of its securities, or temporary market conditions to come back into compliance with a bid price deficiency.[24] According to the Exchange, however, in those situations where securities have a very low security price (*i.e.,* $0.10 or below) or the company has undertaken large reverse stock splits over a two-year period but then fails the bid price requirement, a compliance period of up to 360 calendar days may not be appropriate. The Exchange has found that companies meeting such criteria often have problems so severe that they are not likely to regain compliance during either the 180 or 360 calendar day compliance periods. In Nasdaq's experience, such companies are not usually experiencing temporary problems, have other compliance issues, and frequently need to raise additional capital to fund their business operations and often do so by engaging in extremely dilutive transactions. The Commission believes that, in such circumstances, there are investor protection concerns with allowing the securities identified in the Exchange's proposal to have an extended period of time to regain compliance with the bid

[16] *See* Rule 5815(c)(1)(A).

[17] *See* Notice, *supra* note 3, 85 FR at 3738. The Exchange noted in its proposal that under Rule 5810(c)(3)(A)(ii), a company is not eligible for the second compliance period ''if it does not appear to Nasdaq that it is possible for the Company to cure the deficiency.'' *See id.* at 3738 n.8. The Exchange stated that, as is currently the case, it may rely upon this language to deny the second compliance period to a company with a very low stock price or that has engaged in significant prior reverse stock splits, even though the company is not yet subject to the proposed rule change. *See id.* See also Rule 5810(c)(3)(A)(i), which states that following a transfer from Nasdaq Global Market to Capital Market a company will be afforded the remainder of the applicable compliance period in Rule 5810(c)(3)(A)(ii) ''unless it does not appear to Nasdaq that it is possible for the Company to cure the deficiency.''

[18] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78f(b)(7).

[21] The Commission notes that this reference to ''listing standards'' is referring to both initial and continued listing standards.

[22] The Commission has consistently recognized the importance of exchange listing standards. Among other things, listing standards provide the means for an exchange to screen issuers that seek to become listed and to provide listed status only to those that are bona fide companies with sufficient public float, investor base, and trading interest likely to generate depth and liquidity sufficient to promote fair and orderly markets. In addition, once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained. *See, e.g.,* Securities Exchange Act Release Nos. 81856 (October 11, 2017), 82 FR 48296, 48298 (October 17, 2017) (SR–NYSE–2017–31); 81079 (July 5, 2017), 82 FR 32022, 32023 (July 11, 2017) (SR–NYSE–2017–11). The Commission notes that, in general, adequate listing standards, by promoting fair and orderly markets, are consistent with Section 6(b)(5) of the Act, in that they are, among other things, designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and protect investors and the public interest. *See, e.g.,* Securities Exchange Act Release No. 80933 (June 15, 2017), 82 FR 28200 (June 20, 2017) (SR–NYSE–2017–30).

[23] *See supra* note 22.

[24] *See* Notice, *supra* note 3, 85 FR at 3737.

price requirement, as provided under Nasdaq's current rules, prior to commencing delisting proceedings. The Commission believes that shortening the available compliance periods in the described situations, and immediately commencing delisting proceedings, should therefore help to ensure that only those securities that are suitable for continued Exchange trading remain listed on the Exchange.

Further, the low-priced stocks identified in the criteria raise concerns about their susceptibility to manipulation and the prevention of fraudulent and manipulative acts and practices as well as the ability to promote fair and orderly markets on the Exchange in such securities. As Nasdaq stated in its proposal, securities listed on the Exchange are exempt from the Penny Stock Rules, which provide enhanced investor protections, among other things, to prevent fraud and safeguard against potential market manipulation.[25] The Exchange stated in support of its proposal that it believes such exemption may not be appropriate for abnormally low-priced securities and securities that are trading below $1.00 after completing one or more reverse stock splits with a cumulative ratio of 250 shares to one or more over the prior two-year period because these securities, in the Exchange's view, may have similar characteristics to penny stocks.[26] Given the historical concerns regarding penny stocks, the Commission believes Nasdaq's proposal to commence delisting proceedings sooner in the process for those companies meeting the criteria identified in the proposed rule that fail to satisfy the bid price requirement is appropriate.

The Commission also notes that companies that have shortened compliance periods as a result of the proposed changes being approved herein will still be able to appeal the Staff Delisting Determination to the Hearings Panel.[27] The Hearings Panel, as noted above, can grant the company an additional 180 days to comply with the bid price requirement should the Hearings Panel determine that the facts warrant such additional time. The Commission believes that the shortening of the 180 or 360 calendar day period to regain compliance with a bid price deficiency in the situations described above is appropriate in light of the need to protect investors and the public interest and that the Hearings Panel review process should continue, as it currently does, to provide a fair procedure for the review of the Staff Delisting Determination in accordance with Section 6(b)(7) of the Act.

Finally, the Commission notes that, for the same reasons discussed above, it is appropriate and consistent with the protection of investors for Nasdaq to amend its recurring deficiency provisions to include companies that fall out of compliance with the bid price requirement within a year of regaining such compliance after being granted an exception from the Hearings Panel, in those cases where such companies were previously not eligible for a compliance period due to a low stock price or excessive reverse stock splits. The Commission believes it is reasonable for the Exchange to determine that such recurrent violators of the bid price requirement may not be able to regain compliance during the compliance periods and as such should be subject to an immediate Staff Delisting Determination, which can then be appealed to the Hearings Panel.[28]

The Exchange's proposal identifies securities listed on its market that have had serious and recurrent issues in meeting and regaining compliance with the $1.00 bid price continued listing requirement and proposes to prohibit such companies from utilizing the compliance periods and instead commence immediate delisting proceedings. This should help to protect investors and the public interest, while at the same time providing a fair procedure for companies to appeal the Staff Delisting Determination to the Hearings Panel. Based on the above, the Commission believes that the proposed rule change can help to ensure that the Exchange lists only securities with a sufficient market, with adequate depth and liquidity, and with sufficient investor interest to support an exchange listing.

Based on the foregoing, the Commission finds that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–NASDAQ–2020–001) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08814 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[25] *See* 17 CFR 240.3a51–1(a)(1); 17 CFR 240.15g–1 to –9. In particular, the Penny Stock Rules provide protections to investors in low-priced stocks requiring, among other things, that broker-dealers provide a disclosure document to their customers describing the risk of investing in penny stocks and approve customer accounts for transactions in penny stocks.

[26] *See* Notice, *supra* note 3, 85 FR at 3738.

[27] A timely request for a hearing shall ordinarily stay the suspension and delisting action pending the issuance of a written Panel Decision. *See* Rule 5815(A)(1)(b).

[28] *See* Notice, *supra* note 3, 85 FR at 3738.

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88706; File No. SR–CboeEDGX–2020–016]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 13.4(a) To Add LTSE as a Source for Market Data for Certain Purposes

April 21, 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 6, 2020, Cboe EDGX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe EDGX Exchange, Inc. proposes to amend Rule 13.4(a), stating it will utilize LTSE market data from the CQS/UQDF for purposes of order handling, routing, execution, and related compliance processes. 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.

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

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 update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the LTSE as a registered national securities exchange.

On May 10, 2019, the Commission approved LTSE's application to register as a national securities exchange.[5] As part of its transition to exchange status, LTSE announced that it plans to commence the entry of orders in test symbols on April 24, 2020 and plans to gradually phase in non-test securities no earlier than May 15, 2020, which may continue for a period of at least four weeks.[6] The Exchange, therefore, proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation [sic] the test phase of LTSE as a registered national securities exchange beginning on April 24, 2020. Specifically, the Exchange proposes to amend Rule 13.4(a) to include LTSE by stating it will utilize LTSE market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes.

Additionally, the Exchange proposes to update the names of the Chicago Stock Exchange, NSX, Nasdaq OMX PHLX, and Nasdaq OMX BX noted in Rule 13.4(a) to NYSE Chicago, NYSE National, Nasdaq PSX, and Nasdaq BX, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 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.

The Exchange believes that its proposal to update Exchange Rule 13.4(a) to include LTSE and update the names of other exchanges will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with 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 the Exchange to implement the proposed rule change in anticipation of LTSE's launch, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, 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

[5] *See supra* note 2 [sic].

[6] *See supra* note 3 [sic].

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposal operative upon filing.[15]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2020–016 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–2020–016. 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–2020–016, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08819 Filed 4–24–20; 8:45 am]

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[15] 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).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33843; 812–14866]

Principal Funds, Inc. et al.

April 21, 2020.

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

ACTION: Notice.

Notice of an application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (''Act'') for exemptions from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d-1 thereunder to permit certain joint transactions.

Summary of Application: Applicants request an order that would permit certain registered management investment companies or series thereof that are advised by Principal Global Investors, LLC (''PGI'')[1] to invest in a private investment vehicle established by PGI to invest directly in real estate.

Applicants: Principal Funds, Inc. (''PFI''), Principal Variable Contracts Funds, Inc. (''PVC''), PGI, Principal Direct Property Fund, LP (''PDPF''), Principal Direct Property Fund GP, LLC (''PDPGP'') and Principal Commercial Property Fund REIT, LLC (''PCP REIT'').

Filing Dates: The application was filed on January 16, 2018 and amended on June 27, 2018, July 11, 2019, September 6, 2019, February 5, 2020, and March 17, 2020.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on May 18, 2020, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: PGI, Attn: Adam U. Shaikh, Assistant General Counsel, *shaikh.adam@principal.com.*

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–3038, or Trace W. Rakestraw, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each of PFI and PVC is organized as a Maryland corporation and is an open-end management investment company registered under the Act. PFI and PVC each consist of multiple Funds (as defined below).

2. PDPF is organized as a limited partnership, and applicants state that it will rely on an exception from the definition of ''investment company'' such as section 3(c)(1) or section 3(c)(7) of the Act (or any other applicable exclusion). PDPGP, the general partner of PDPF, is organized as a limited liability company and will be a direct or indirect wholly owned subsidiary of Principal Financial Group, Inc. (''PFG''). As general partner of PDPF, PDPGP will

[1] PGI includes any successor entity to PGI or an entity controlling, controlled by, or under common control with PGI. For purposes of the application, the term ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

be responsible for the operational and administrative maintenance of PDPF, but it will not exercise any responsibilities for the management of PDPF's assets.

3. PCP REIT is organized as a limited liability company, and applicants anticipate that it will be excluded from the definition of ''investment company'' under section 3(a)(1) of the Act by reason of its real estate investments. Applicants state that PCP REIT will elect to be taxed as a real estate investment trust (''REIT'') under the Internal Revenue Code of 1986, as amended (the ''Code'') and will not incur separate, entity level tax under the current provisions of the Code.

4. PGI, a Delaware limited liability company, is an investment adviser that is registered with the Commission under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). PGI is an indirect, wholly owned subsidiary of PFG. PGI will be the investment adviser to each of the Funds (as defined below), PDPF and PCP REIT.[2]

5. PGI believes that exposure to direct real estate investments is an important element of diversified retirement investing. Applicants argue that direct exposure to real estate offers advantages over investment in conventional real estate mutual funds that invest primarily in publicly traded REITs. In addition, applicants note that, while the Act does not preclude a registered management investment company from investing directly in real estate (provided that the fund is not subject to a fundamental policy precluding such investment and, in the case of an open-end fund, has sufficient liquidity to comply with applicable Commission and staff positions), direct investment in real estate would be impractical due to the typical size of such investments and for tax reasons. Accordingly, applicants propose to allow each Fund (solely to the extent consistent with its investment policies, objectives, strategies and restrictions) to obtain exposure to real estate through PDPF, which will be dedicated to investing indirectly in real estate through PCP REIT.

6. For this reason, applicants request an order under sections 6(c) and 17(b) of the Act for exemptions from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 thereunder, to permit: (i) One or more Funds (as defined below) to purchase, hold and redeem units of limited partnership interests of PDPF (''Units''); (ii) PDPF to sell Units to one or more Funds and redeem such Units following demand of such Funds; (iii) to the extent it could be deemed an element of a ''joint transaction,'' as defined below, PDPF to purchase, hold and redeem interests in PCP REIT; and (iv) the Funds and Other Accounts (as defined below) to engage in certain purchase or sale cross transactions in securities, all as described and subject to the conditions set forth in the application.[3]

7. Applicants request that the relief extend to each existing or future registered management investment company or series thereof that is advised by PGI or any successor entity or any entity controlling, controlled by, or under common control with PGI (each, a ''Fund'').[4] Applicants further request that the relief extend to any future limited partnership (''Future LP''), general partner thereof (''Future GP''), and underlying real estate investment vehicle (''Future Real Estate Fund'') in which such Future LP invests that has elected to be taxed as a REIT pursuant to the Code that operate in a manner that is identical to PDPF, PDPGP and PCP REIT except for the types of real estate investments held by a Future Real Estate Fund.[5]

8. Applicants state that PCP REIT will invest in direct real estate holdings and, to maintain some liquidity, may invest a portion of its assets in liquid investments. To finance its investments in real estate holdings, PCP REIT plans to borrow from banks, as well as from insurance companies, pension/retirement systems, state and federal government related entities (*e.g.,* Freddie Mac), investment banks, and other commercial lenders (*e.g.,* GE Capital Corporation (or its successor), Ally Financial) (lenders other than banks are referred to as ''Non-bank Commercial Lenders''). Applicants represent that PCP REIT plans to incur loans from Non-bank Commercial Lenders because such lenders have been longstanding capital resources to the commercial real estate market and often are able to offer more favorable lending terms to borrowers.[6] PCP REIT will not incur any loans that are callable at the option of the lender.

9. Applicants state that PDPF will invest a substantial portion of its assets in PCP REIT and, if deemed appropriate by PGI, for short-term cash management purposes and/or for purposes of maintaining some liquidity, invest a portion of its assets in liquid securities. PDPF will incur expenses relating to the management of any liquid investments held by PDPF, as well as for the general operation and administration of the entity.[7]

10. PDPF will conduct a non-public offering of its Units, and will not be publicly traded. Applicants state that PDPF is currently expected to be made available solely to the Funds, although it is possible that it will be made available in the future to: (i) Unaffiliated registered investment companies, pension plans, other institutional investors or high-net-worth individuals (''Outside Investors''); as well as to (ii) pension plans, insurance separate accounts, collective investment trusts, or other institutional investors or high-net-worth individuals for which PGI or an affiliate of PGI serves as investment adviser (''Other Accounts'').[8]

11. Applicants state that the Funds (as well as any Other Accounts or Outside Investors) that invest in PDPF will be able to purchase and redeem Units on a daily basis at the next determined net asset value (''NAV'') per Unit. In the event that PDPF is unable to accommodate investment demand from the Funds, Other Accounts and/or Outside Investors, opportunities for investment will be allocated in accordance with allocation policies and procedures drafted and maintained by

[2] Only PGI will serve as investment adviser to PDPF or PCP REIT, and any other investment adviser to PDPF or PCP REIT will serve only as investment sub-adviser.

[3] Applicants acknowledge that they are not seeking, and the Commission is not granting, relief from any disclosure requirements that are applicable to applicants.

[4] Each entity that currently intends to rely on the requested relief has been named as an applicant. For purposes of the requested order, ''successor'' is limited to an entity that results from reorganization into another jurisdiction or a change in the type of business organization.

[5] Any entity that relies in the future on the requested relief will comply with the terms and conditions of the application as they apply to the corresponding current party.

[6] Applicants submit that, in light of the presence of a bona fide business purpose for PDPF and PCP REIT and the difficulty a Fund would have in directly investing in real estate, the structure proposed by the application can be distinguished from a structure intended primarily to evade leverage restrictions applicable to open-end funds.

[7] Applicants anticipate that PDPF will be able to efficiently deploy assets invested by the Funds in light of the ability of PDPF to invest in liquid investments in addition to interests in PCP REIT, so that any Fund assets invested in PDPF that are not currently invested in real estate will be effectively deployed pending completion of real estate investments. The performance of PDPF, the costs of investing in PDPF and the related expenses, will be considered by the Funds' Board during the course of its oversight of the Funds' investments in PDPF, including its annual determinations as required by condition 1 below.

[8] No applicant, or an affiliated person thereof, will have a proprietary interest in any Outside Investor or Other Account, except that an applicant or an affiliated person thereof may be a shareholder of an Outside Investor that is a registered investment company so long as the applicant or affiliated person of such applicant is not an affiliated person of such registered investment company.

PGI.[9] Applicants represent that, while such allocation policies and procedures may be subject to revision over time, the allocation policies and procedures generally will allocate opportunities on a *pro rata* basis based on orders received, with normal exceptions for rounding and *de minimis* amounts, although applicants state that other allocation methodologies may be employed as appropriate. Any such methodology will be applied in a manner that is objective and verifiable and will be consistent with PGI's fiduciary obligation to treat client accounts in a manner that is fair and provides for equality of opportunity over time. However, PDPF will reserve the right to give the Funds preferential access to opportunities to invest in PDPF as compared to Outside Investors and (to the extent permitted under the allocation policies and procedures) Other Accounts, and the Funds will always have opportunities to invest in PDPF that are at least as favorable as the opportunities to invest in PDPF made available to Other Accounts or Outside Investors. The policies and procedures will require the documentation of the basis of allocation, as well as the basis for any exception to the general principles set forth in the policies and procedures, which exception will be subject to review by legal or compliance personnel.

12. Applicants anticipate that PDPF will be managed to maintain sufficient liquidity to satisfy the daily liquidity needs of its limited partners under ordinary market conditions. However, any investment in PDPF will be subject to terms permitting PDPF, under circumstances described in the application, to (a) cease offering new Units; (b) limit or postpone redemptions in the event that PCP REIT has insufficient liquidity to satisfy redemption requests; or (c) utilize a ''gate'' pursuant to which the amount of redemptions from PDPF by any limited partner on any business day may be limited to a percentage of the limited partner's entire investment in PDPF.[10] Accordingly, each Fund that is an open-end investment company will treat its entire investments in PDPF and any Future LPs as investments that are not liquid for purposes of any applicable rules or guidance of the Commission or its staff regarding the management of liquidity. Similarly, each Fund, including any open-end or closed-end investment company will, at all times, limit its holdings in PDPF (together with any Future LPs) to no more than 15% of its net assets.[11]

13. Redemption requests will be considered on a first in basis based upon the business day of receipt, unless a limited partner (other than a registered investment company or Other Account) has agreed to a lower priority of redemption. Except as a limited partner (other than a registered investment company or Other Account) has otherwise agreed, redemption requests of all investors will be treated equally, and PDPF will allocate redemption proceeds on a *pro rata* basis in the event that there are insufficient liquid assets to satisfy fully all redemption requests. The rules on redemption and PDPF's policy regarding the allocation of redemption proceeds, and any changes to either of these, will be disclosed to all prospective investors in PDPF. PDPF will have a written policy regarding the allocation of redemption proceeds that will be applied in a manner that is objective and verifiable and will be consistent with PGI's fiduciary obligation to treat client accounts in a manner that is fair.

14. Each Fund and Other Account limited partner of PDPF will have identical rights, duties and obligations under the limited partnership agreement as each other Fund and Other Account limited partner. If Outside Investors are permitted to invest in PDPF, PDPF may distinguish between Fund and Other Account limited partners, on the one hand, and Outside Investors, on the other, by entitling the Funds and Other Accounts to purchase, hold and redeem Units with more favorable rights, duties and obligations pursuant to the terms of the limited partnership agreement with respect to the following issues: (a) Utilization of redemption gates; (b) limitation of rights of redemption; and/or (c) the level of expenses charged in connection with an investment in PDPF.[12]

15. PDPF will be able to purchase and redeem limited liability company interests in PCP REIT on a daily basis at the next determined NAV. Applicants represent that PDPF will be the sole investor in PCP REIT, other than the ninety-nine or more additional investors necessary or appropriate to allow PCP REIT to qualify as a REIT under section 856(a)(5) of the Code (the ''Tax Holders''). The Tax Holders' interests in PCP REIT will be preferred to PDPF's interests in PCP REIT. However, (a) the Tax Holders will have only limited voting rights, (b) the Tax Holders' aggregate interests in PCP REIT will be *de minimis* in relation to that of PDPF,[13] and (c) PCP REIT will not issue additional interests to the Tax Holders after the initial organization of PCP REIT (clause (a), (b), and (c), collectively, the ''Tax Holder Limitations'').[14] Accordingly, it is anticipated that PDPF will own substantially all of the total outstanding securities of PCP REIT at all times during the operation of PCP REIT.

16. Applicants represent that PCP REIT will not participate in any joint enterprise or other joint arrangement, within the meaning of rule 17d–1 under the Act, with the Future Real Estate Funds or other PGI related accounts, and applicants are not asking for an order pursuant to rule 17d–1 with respect to any such transaction. Further, applicants state that PGI has adopted policies and procedures applicable to any purchasing conflicts between PCP REIT and any other PGI related accounts, which are designed to allocate opportunities consistent with PGI's fiduciary obligations to its clients and will be applied in a manner that is objective and verifiable.

Applicants' Legal Analysis

Section 17(a)—purchase and sale of Units

1. Section 17(a) of the Act generally prohibits an ''affiliated person'' as defined by section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of a registered investment company, acting as principal, from purchasing securities or other property from the registered investment company or selling securities or other property to the registered investment company.

[9] Applicants are not seeking any comfort and acknowledge that the Commission is providing no opinion on whether these allocation policies and procedures meet the standards applicable either under the Act or the Advisers Act.

[10] PDPF expects that the ability to limit or postpone redemption will help to minimize transaction costs, investment losses and any dilutive effects on non-redeeming limited partners. PDPF's ability to limit or postpone redemption and the circumstances under which PDPF may waive an established redemption gate, in whole or in part, are discussed in greater detail in the application.

[11] Applicants submit that, although closed-end Funds do not present the same concerns with respect to liquidity as open-end Funds, it is nonetheless appropriate to limit the investments of these Funds in PDPF (and Future LPs) to address concerns that may arise regarding complex structures and the use of leverage, among other things.

[12] In making a determination as to whether the rights, duties, and obligations of the Funds and Other Accounts under the terms of the limited partnership agreement are more favorable than those of Outside Investors, applicants will consider each right, duty, and obligation individually and in the aggregate.

[13] Applicants anticipate that the Tax Holders will invest, in aggregate, approximately $125,000 and will represent much less than 1% of the expected aggregate net assets of PCP REIT.

[14] The Tax Holders' interests in PCP REIT and the Tax Holder Limitations are discussed in greater detail in the application.

Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include, among others, (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with the power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person. Section 2(a)(9) defines ''control'' to mean ''the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with such company.''

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of each registered investment company involved and with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants state that the sale by PDPF of its Units to a Fund or the repurchase by PDPF of its Units from a Fund may be deemed to be prohibited by section 17(a) of the Act, as PDPF and each Fund may be deemed to be affiliated persons, or affiliated persons of affiliated persons, of each other under multiple theories. For example, the Fund may be deemed to be an affiliated person of PDPF in the event that it owns 5% or more of the Units in PDPF. In addition, PDPF could be deemed to be an affiliated person of an affiliated person of the Fund, if it is deemed to be under the control of or under common control with PGI.

4. Applicants believe that the proposed transactions among the Funds and PDPF satisfy the requirements for relief from section 17(a) of the Act under both sections 17(b) and 6(c) of the Act.

5. Applicants submit that the proposed transactions are reasonable and fair and would not involve overreaching on the part of any person concerned. Before investment by a Fund in PDPF, the Fund's Board, including a majority of the Independent Directors, would have made the determinations required under condition 1 below.[15] The Board, including the Independent Directors, will review these determinations on at least an annual basis. Applicants represent that, currently, the Board is made up of twelve directors, nine of whom are Independent Directors. Further, applicants notes that PGI's ability to allocate a Fund's assets to investments in PDPF would be limited to address any potential for overreaching because (a) the allocation would be determined either by the Fund's glide path or would be within a range of permissible allocations approved in advance by the Board and (b) the Fund's investment would be limited under condition 3 below.

6. In addition, applicants state that each Fund would purchase and sell Units on the same terms as each other Fund and any Other Account, and on terms that are at least as favorable as the terms on which Outside Investors would purchase and sell Units. PDPF also would sell its shares to or purchase its shares from a Fund at the next-calculated NAV per Unit. This value, which would be provided to the Funds on a daily basis, would be determined based on the valuations of the assets of PCP REIT, which would be determined by using valuation methodologies that are consistent with section 2(a)(41) of the Act except that the PDPF Committee will, in reliance on independent appraisals obtained at least quarterly, make determinations that would otherwise be made by a board of directors.[16]

7. Applicants further submit that the proposed transactions would be consistent with the policies of each Fund. Applicants represent that the investment by a Fund in PDPF would be effected in accordance with the investment policies, objective, strategies and restrictions contained in the registration statement of the Fund.

8. Finally, applicants submit that, for these reasons, as well as the benefits shareholders in the Funds would experience by reason of the Funds' investments in PDPF, the proposed transactions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 17(d)

9. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit joint transactions involving registered investment companies and their affiliates unless the Commission has approved the transaction. In considering whether to approve a joint transaction under rule 17d–1, the Commission considers whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation of the investment companies is on a basis different from or less advantageous than that of the other participants.

10. Applicants state that the sale of Units to a Fund, the Fund's holding of Units, the redemption of Units held by the Fund, an Other Account's purchase, holding and redemption of Units alongside a Fund, PDPF's purchase, holding and redemptions of interest in the PCP REIT, and PGI's management of the Funds, Other Accounts, PDPF and PCP REIT at the same time that the Funds are investing in PDPF (directly) and PCP REIT (indirectly) could be deemed to constitute a joint enterprise or joint arrangement among the Funds, Other Accounts, PDPF, PDPGP, PCP REIT, and PGI because the Funds may be presumed to be affiliated persons, or affiliated persons of affiliated persons, of PGI, Other Accounts, PDPF or PCP REIT.

11. For the reasons discussed above, applicants submit that the proposed transactions are consistent with the provisions, policies and purposes of the Act. Applicants further believe that, based on the terms of the proposed transactions and the conditions set forth

[15] The ''Independent Directors'' are the directors who are not interested persons of the relevant Fund within the meaning of section 2(a)(19) of the Act.

[16] Applicants note that, in accordance with condition 9, PDPF will consolidate PCP REIT for reporting purposes and the consolidated financial statements of PDPF will be prepared in accordance with Regulation S–X, will be audited by an independent auditor, and, if practicable, will be prepared as of the same date and for the same periods as the investing Funds. Applicants state that the Public Company Accounting Oversight Board auditing standards applicable to the audit of PDPF would be the same standards as those applicable to a registered investment company. Further, applicants state that the U.S. Generally Accepted Accounting Principles and Regulation S–X would apply to the financial statements of both PDPF and a registered investment company. Thus, applicants assert that critical accounting policies governing security valuation, accounting for investment transactions, recognition of investment income and of expenses, and accrual of expenses, which are often the critical policies applicable to investment companies, would apply in substantially the same manner for the financial statements of PDPF. Valuation of the assets of PDPF and PCP REIT for which market quotations are not readily available will be overseen by a committee consisting of the employees and agents of PDPF, PGI and/or its subsidiaries (the ''PDPF Committee'').

below, the participation by the Funds in the proposed transactions would be on a basis no different from that of other Funds or Other Accounts or less advantageous than that of other Funds, Outside Investors or Other Accounts. A Fund will hold Units of PDPF only if it will at all times have identical rights, duties and obligations under the limited partnership agreement as each other Fund limited partner and Other Account limited partner. If Outside Investors or Other Accounts are permitted to invest in PDPF, the Funds will be entitled to purchase, hold and redeem Units on terms that are at least as favorable, including (without limitation) the expenses associated with an investment in PDPF, as the terms on which any Outside Investor purchases, holds or redeem Units and on terms that are the same as the terms on which any Other Account purchases, holds or redeems Units.[17] PDPF and the Tax Holders will be the only investors in PCP REIT, and the Tax Holders' interests will be subject to the Tax Holder Limitations. All transactions in Units would be priced in the same manner and would be redeemable under the terms discussed herein and disclosed to investors. In addition, any investment by a Fund in PDPF would be subject to oversight by the Fund's Board.

Section 17(a)—Cross Transactions

12. Applicants also propose that the Funds and Other Accounts be permitted to engage in certain purchase and sale cross transactions in securities (''Cross Transactions''). Applicants expect that these transactions will be between a Fund seeking to implement a portfolio strategy and an Other Account seeking to raise or invest cash, or vice versa. Applicants represent that the Funds currently are able rely on rule 17a–7 to engage in such Cross Transactions. However, if a Fund and an Other Account were deemed to be affiliated persons of an affiliated person of each other by virtue of their ownership or control affiliations with PDPF, the Funds may not be entitled to rely on rule 17a–7 because they would no longer be affiliated solely for the reasons permitted by the rule. Applicants represent that Funds and Other Accounts will not engage in Cross Transactions involving Units, and to the extent any Future LPs are created, PDPF and the Future LPs (and their respective subsidiaries) will not engage in cross-trades with each other.

13. Applicants represent that, when engaging in Cross Transactions, the Funds and Other Accounts will comply with the requirements set forth in rule 17a–(7)(a) through (g), as interpreted by the Commission staff. Applicants assert that the potential affiliations created by the PDPF structure do not affect the other protections provided by the rule, including the integrity of the pricing mechanism employed and oversight by each Fund's Board. Applicants also note that no brokerage commission, fee or other remuneration will be paid in connection with the transactions. Applicants, therefore, believe that Cross Transactions will be reasonable and fair, will not involve overreaching, and will be consistent with the purposes of the Act and the investment policy of each Fund.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. PGI will not implement an initial decision to invest the assets of a Fund in PDPF unless prior to the Fund's initial investment in PDPF, the Board, including a majority of the Independent Directors, has determined that: (i) Investment in PDPF (and indirectly in PCP REIT) is an appropriate means to implement an investment decision made by PGI for the Fund to seek real estate exposure; (ii) investment in PDPF (and indirectly in PCP REIT) is in the best interests of the Fund and its shareholders, taking into account, among other things, the management and administration fees of PDPF and PCP REIT; (iii) the management and administration fees to be charged by PDPF and PCP REIT are for services in addition to, rather than duplicative of, services rendered to the Fund directly; and (iv) the management and administration fees to be charged by PDPF and PCP REIT are fair and reasonable in light of the usual and customary fees charged by others for services of the same nature and quality. The Board, including the Independent Directors, will review these determinations on at least an annual basis. The basis for each of the Board's determinations required by this condition will be recorded in its minutes. If the Board does not make the determinations in clauses (iii) and (iv) in a review subsequent to the initial investment, PGI will reimburse the Fund the amount of any management and administrative fee borne by the Fund as a direct investor in PDPF and an indirect investor in PCP REIT charged since the most recent date on which the Board did make these determinations.

2. Prior to any initial or additional investments in Units, PGI will determine that each Fund's investment in PDPF will be consistent with the Fund's investment policies, objective, strategies and restrictions, and purchases of Units will be determined either by the Fund's glide path or be limited such that total holdings remain within a range of permissible allocations approved in advance by the Board. For purposes of determining consistency with a Fund's investment policies, objective, strategies and restrictions, a Fund will look through its investment in PDPF (and indirectly in PCP REIT) and apply its investment policies, objective, strategies and restrictions (except for any restriction relevant to the direct ownership of real estate assets) in such a manner that the Fund will not do indirectly through PDPF and PCP REIT that which it cannot do directly. For purposes of applying its investment policies, objective, strategies and restrictions, a Fund will be considered as owning its *pro rata* portion of the portfolio holdings of PDPF and PCP REIT.

3. Each Fund that is an open-end investment company will treat its entire investments in PDPF and any Future LPs as investments that are not liquid for purposes of any applicable rules or guidance of the Commission or its staff regarding the management of liquidity. In addition, each Fund, including any open- or closed-end investment company, will, at all times, limit its holdings in PDPF (together with any Future LPs) to no more than 15% of its net assets.[18]

4. At all times that any Fund or other registered investment company holds an interest in PDPF, each of PDPF and PCP REIT: (a) Will determine its respective net asset value per Unit or membership interest, as applicable, each Business Day; and (b) will maintain and comply with policies and procedures for valuing its assets that are consistent with section 2(a)(41) of the Act except that PDPF Committee will, in reliance on independent appraisals obtained at least quarterly, make determinations that would otherwise be made by a board of directors (as if PDPF and PCP REIT were subject to section 2(a)(41)) and with

[17] In making a determination as to whether the rights, duties, and obligations of the Funds and Other Accounts under the terms of the limited partnership agreement are at least as favorable as those of Outside Investors, applicants will consider each right, duty and obligation individually and in the aggregate.

[18] Although closed-end Funds do not present the same concerns with respect to liquidity as open-end Funds, Applicants believe that it is nonetheless appropriate to limit the investments of these Funds in PDPF (and Future LPs) to address concerns that may arise regarding complex structures and the use of leverage, among other things.

applicable U.S. generally accepted accounting principles (''U.S. GAAP'') (or successor accounting standards). For these purposes, ''Business Day'' means each day on which the Funds or other registered investment company determine net asset value per share, as disclosed in the Funds' or other registered investment company's registration statement.

5. A Fund will hold Units of PDPF only if it will at all times have identical rights, duties and obligations under the limited partnership agreement as each other Fund limited partner and Other Account limited partner. If Other Accounts or Outside Investors are permitted to invest in PDPF, the Funds will be entitled to purchase, hold and redeem Units on terms that are at least as favorable, including (without limitation) the expenses associated with an investment in PDPF, as the terms on which any Outside Investor purchases, holds or redeems Units and on terms that are the same as the terms on which any Other Account purchases, holds or redeems Units.[19] Other than the Tax Holders' interests, which will be subject to the Tax Holder Limitations, PDPF will own at all times 100% of the voting and economic interests in PCP REIT.

6. PCP REIT and PDPF will be managed by an investment adviser that is registered as an investment adviser with the Commission. Any investment sub-adviser to PCP REIT or PDPF will be registered as an investment adviser with the Commission or, if not registered, will consent to examination by the Commission staff with respect to the services it would provide to PCP REIT or PDPF as if it were registered as an investment adviser.

7. The Funds' proposed investments in PDPF, and PDPF's investment in PCP REIT, will not be subject to any sales load, redemption fee, distribution fee analogous to a 12b–1 fee, or service fee analogous to a FINRA Rule 2830 service fee imposed by PDPF or PCP REIT.

8. PGI shall cause PDPGP, PDPF and PCP REIT to maintain books and records as is consistent with Internal Revenue Service guidance and U.S. GAAP, shall cause the books and records of PDPGP, PDPF and PCP REIT to be made available for inspection by the Commission staff as would be required by the Act if each of PDPGP, PDPF and PCP REIT was a registered investment company, and, if requested, shall furnish copies of the books and records to the Commission staff.

9. PDPF will prepare consolidated annual and semi-annual financial reports and, for each quarter for which a semi-annual or annual report is not required to be prepared, a consolidated schedule of investments for PDPF. The financial statements of PDPF will be prepared in accordance with Regulation S–X and U.S. GAAP, will be audited by an independent auditor (for annual financial statements), and, if practicable, will be prepared as of the same date and for the same periods as the investing Funds. PDPF will consolidate PCP REIT for financial reporting purposes. Any consolidated schedule of investments of PDPF will disclose each position that PDPF and PCP REIT hold. PFI and PVC on behalf of each Fund that has invested 5% or more of its net assets in PDPF[20] as of the end of a reporting period, will attach, as an exhibit to each of PFI's and PVC's shareholder reports with respect to such a Fund filed on Form N–CSR and each of PFI's and PVC's quarterly reports with respect to such a Fund filed on Form N–PORT, PDPF's audited or unaudited financial statements (which will consist of financial statements, footnotes thereto and a schedule of investments) or schedule of investments for the period most recently ended. PDPF will deliver such annual and semi-annual financial statements and schedules of investments to PFI and PVC in time to allow PFI and PVC to make such filings. The relevant Fund's shareholder reports and quarterly reports will cross-reference the PDPF financial statements (for annual and semi-annual reports) or schedule of investments (for other quarters) filed as an exhibit to the form. If a Fund is required to attach and cross-reference the financial statements of PDPF solely for purpose of complying with this condition 9, (a) the Fund may disclaim that (i) PDPF financial statements or schedule of investments constitute part of the Fund's financial statements, shareholder report or quarterly report, and (ii) PDPF financial statements or schedule of investments are incorporated therein by reference, and (b) the certifications for each principal executive and principal financial officer required by rule 30a–2(a) under the Act that accompany Form N–CSR or Form N–PORT filings with respect to such a Fund may make clear that PDPF financial statements or schedule of investments that accompany the Form N–CSR or Form N–PORT filings do not constitute part of the report to which the certificate relates.[21]

10. Neither PDPF nor PCP REIT will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that PDPF or PCP REIT: (a) Receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting PDPF or PCP REIT to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

11. A Fund will treat any leverage that PDPF or PCP REIT incurs as though such leverage were incurred by the Fund for purposes of determining compliance with applicable restrictions under the Act relevant to the Fund's use of leverage. Under no circumstances will a Fund guarantee, or otherwise be responsible for the satisfaction of, any loan or obligation incurred by PDPF or PCP REIT.

12. PDPF and PCP REIT will comply with the following sections of the Act as if PDPF and PCP REIT each were an open-end management investment company registered under the Act, except as noted: Section 9; section 12 (except that, to the extent necessary to implement the arrangements described herein, (i) the Funds may invest in Units issued by PDPF in accordance with condition 3, (ii) PDPF may issue Units to the investing Funds subject to the limits in condition 3, and (iii) PDPF may invest in PCP REIT beyond the limits of sections 12(d)(1)(A) and (B)); section 13 (provided that section 13(a)(4) will apply as though it read only ''change the nature of its business''; the interests issued by PDPF and PCP REIT will be regarded as voting securities under section 2(a)(42) of the Act for purposes of applying this condition; and the offering memoranda utilized by PDPF and PCP REIT to offer and sell their interests will be regarded as registration statements for purposes

[19] *See supra* footnote 17.

[20] Investments in any Future LPs will be aggregated with investments in PDPF to determine whether a Fund has invested 5% or more of its net assets. If the aggregate investments are 5% or more, then the disclosure requirements under this condition will apply (for that Fund) with respect to information about PDPF and each Future LP in which that Fund is invested.

[21] As noted above, the requested order does not include relief from any existing disclosure requirements. Accordingly, the disclaimer and clarification contemplated in clauses (a) and (b) could not be included if the Fund is required to disclose information regarding the financial statements of PDPF for any purpose other than complying with this condition 9.

of applying this condition); section 17(a) (except insofar as relief is provided by the order requested herein); section 17(d) (except insofar as relief is provided by the order requested herein); section 17(e); section 17(f); section 17(h); section 18 (although (a) the interests issued by PDPF and PCP REIT will be regarded as voting securities under section 2(a)(42) of the Act for purposes of applying this condition, (b) PCP REIT will be permitted to incur loans from Non-bank Commercial Lenders, subject to the asset coverage limit, (c) PCP REIT will not be required to restore 300% asset coverage within three days, as required under section 18(f), if such asset coverage falls below 300% solely as a result of a decline in the value of PCP REIT's real estate holdings, and (d) each Fund and Other Account limited partner of PDPF will have identical rights, duties, and obligations under the limited partnership agreement as each other Fund and Other Account limited partner, and if Outside Investors are permitted to invest in PDPF, PDPF may distinguish between Fund and Other Account limited partners, on the one hand, and Outside Investors, on the other, by entitling the Funds and Other Accounts to purchase, hold, and redeem Units with more favorable rights, duties and obligations pursuant to the terms of the limited partnership agreement with respect to the following issues: (1) Utilization of redemption gates; (2) limitation of rights of redemption; and/or (3) the level of expenses charged in connection with an investment in PDPF);[22] section 21; section 36; and sections 37–53. In addition, PDPF and PCP REIT will comply with the rules under section 17(f) and section 17(g) of the Act, as well as rule 22c–1 under the Act as if each of PDPF and PCP REIT were an open-end management investment company registered under the Act.

PGI will cause PDPGP, PDPF and PCP REIT to, and PDPGP, PDPF and PCP REIT will, adopt policies and procedures designed to ensure that each of PDPF and PCP REIT complies with the aforementioned sections of the Act and rules under the Act. PGI will cause PDPGP, PDPF and PCP REIT to, and PDPGP, PDPF and PCP REIT will, periodically review and periodically update as appropriate such policies and procedures, maintain books and records describing such policies and procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii) and 31a–1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurs, the first two years in an easily accessible place, and will be subject to examination by the Commission and its staff.

For purposes of implementing condition 12, any action that the above-referenced statutory and regulatory provisions require to be taken or made by the directors, officers and/or employees of a registered investment company will be performed by PDPGP with respect to PDPF, and by PGI, as managing member with respect to PCP REIT. As noted in this Application, the PDPF Committee will oversee the valuation of the assets of PDPF and PCP REIT for which market quotations are not readily available, which also will be relevant to the implementation of condition 12.

13. To engage in Cross Transactions, the Funds will comply with rule 17a–7 under the Act in all respects other than the requirement that the parties to the transaction be affiliated persons (or affiliated persons of affiliated persons) of each other solely by reason of having a common investment adviser or investment advisers which are affiliated persons of each other, common officers, and/or common directors, solely because a Fund and Other Account might become affiliated persons within the meaning of section 2(a)(3)(A), (B) or (C) of the Act due to their investments in PDPF.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08824 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[22] *See supra,* footnote 12.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88708; File No. SR–Phlx–2020–25]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Equity 7, Section 3

April 21, 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 14, 2020, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the Exchange's pricing schedule at Equity 7, Section 3.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

Presently, the Exchange has a pricing schedule, at Equity 7, Section 3, which sets forth several different credits that it provides for orders in securities priced at $1 or more per share that add liquidity to the Exchange. The pricing schedule also provides a supplemental credit to member organizations that make significant contributions to improving the market during each month. The Exchange proposes to amend this pricing schedule to lower the volume threshold for receiving a credit when a member organization adds liquidity to the Exchange.

Presently, the Exchange provides a $0.0026 per share executed credit for quotes/orders entered by member organizations that provide 0.15% or more of Consolidated Volume[3] during a

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

[2] 17 CFR 240.19b–4.

[3] As used in Equity 7, Section 3, the term ''Consolidated Volume'' means the total

month. The Exchange proposes to decrease the percentage of Consolidated Volume to 0.10%. The purpose of this change, which will make it easier for a member organization to receive the credit, is to incentivize member organizations to maintain or increase their liquidity adding activity on the Exchange, which in turn will help to improve overall market quality. The Exchange also proposes to add the word ''total'' prior to the words ''Consolidated Volume'' in the description of credit to member organizations providing liquidity. This is a non-substantive change intended to provide clarity and to the description of Consolidated Volume.

The Exchange also proposes to make changes to its Qualified Market Maker (''QMM'') Program. More specifically, the Exchange proposes to adjust downward the average number of securities for which a member organization must quote at the national best bid and offer (''NBBO'') during a month to qualify as a QMM. Presently, a member organization must quote at the NBBO at least 10% of the time during market hours -, for an average of at least 500 securities per day during a month to qualify as a QMM and to receive a supplemental credit of $0.0001 per share executed with respect to all of its displayed orders priced at $1.00 or more per share that provide liquidity. The Exchange proposes to reduce the threshold number of securities to 400. Additionally, the Exchange proposes to adjust downward the average number of securities for which a member organization must quote at the NBBO at least 10% of the time during market hours during a month to receive a supplemental credit of $0.0002 per share executed. Currently, a member organization must quote at the NBBO at least 10% of the time during market hours for an average of at least 650 securities per day to qualify for the $0.0002 per share executed supplemental credit. The Exchange proposes to reduce this number to 500 securities. Reducing the average number of securities in which a member organization must quote at the NBBO for at least 10% of the time during market hours during a month will fortify existing participation in the QMM Program by easing the burden on members to qualify as QMMs and to better enable existing QMMs to maintain their qualifications as such. It will also ease the burden on QMMs to qualify for the supplemental credits.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Proposal is Reasonable

The Exchange's proposed changes to its schedule of credits and QMM Program are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .''[6]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[7]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.[8]

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules.[9] Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to increase its market share relative to its competitors.

Generally, the Exchange's proposal to decrease the required percentage of total consolidated volume for liquidity provided by member organizations improves the overall incentive to member organizations to increase their liquidity addition activity on the Exchange. An increase in overall liquidity addition activity on the Exchange, in turn, will improve the quality of the Exchange's equity market and increase its attractiveness to existing and prospective participants. Moreover, the proposed credits will be comparable to, if not favorable to, those provided by its competitors.[10]

The proposed changes to the Exchange's QMM Program is also a reasonable attempt to improve market quality by broadening its QMM Program. By lowering the quoting threshold for member organizations to qualify as QMMs and to receive supplemental credits for quoting at the NBBO for a significant percentage of the trading day, the Exchange will encourage new member organizations to

consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot. For purposes of calculating Consolidated Volume and the extent of a member's trading activity, the date of the annual reconstitution of the Russell Investments Indexes are excluded from both total Consolidated Volume and the member's trading activity.

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

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

[6] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] *See* Cboe EDGX U.S. Equities Exchange Fee Schedule, available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/.*

[9] The Exchange perceives no regulatory, structural, or cost impediments to market participants shifting order flow away from it. In particular, the Exchange notes that such shifts in liquidity and market share occur within the context of market participants' existing duties of Best Execution and obligations under the Order Protection Rule under Regulation NMS.

[10] *See* Cboe EDGX U.S. Equities Exchange Fee Schedule at n. 1 (Add Volume Tiers), available at *https://markets.cboe.com/us/equities/membership/fee_schedule/edgx/.*

become QMMs and help ensure that existing QMMs continue to qualify as such.

The Proposals Are an Equitable Allocation of Credits

The Exchange believes its proposals will allocate its proposed credits fairly among its market participants. The proposals will provide a member organization with an easier opportunity to receive a credit for adding liquidity to the Exchange than it does now. It is equitable for the Exchange to make it easier to receive a credit for member organizations whose orders add liquidity to the Exchange as a means of incentivizing increased liquidity addition activity. An increase in overall liquidity addition activity on the Exchange will improve the quality of the Exchange's equity market and increase its attractiveness to existing and prospective participants.

Finally, the Exchange believes its proposal to adjust the qualification and supplemental credit criteria applicable to its QMM program is equitable because the modified qualification criteria will continue to require member organizations to quote significantly at the NBBO for a large number of securities and will continue to contribute to market quality in a meaningful way. In fact, by lowering the thresholds for member organizations to qualify as QMMs and to receive supplemental credits, the Exchange will encourage new member organizations to become QMMs and help ensure that existing QMMs continue to qualify as such, which will further improve market quality.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposals are not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it incentivizes customer activity that increases liquidity, enhances price discovery, and improves the overall quality of the equity markets.

The Exchange intends for the proposal to improve market quality for all members on the Exchange and by extension attract more liquidity to the market, improving market wide quality and price discovery. Although net adders of liquidity will benefit most from the proposed lower total consolidated volume percentage requirement, this result is fair insofar as an uptick in liquidity addition activity will help to improve market quality and the attractiveness of the Exchange's equity market to all existing and prospective participants.

The Exchange's proposal to modify the QMM program is not unfairly discriminatory because any member organization may quote at the NBBO at the levels required by the modified qualification criteria of the QMM Program and, in fact, the modified criteria will allow qualification as a QMM easier for member organizations to achieve.

Additionally, the Exchange's inclusion of the word ''total'' is a non-substantive change solely intended to add clarification to the term Consolidated Volume.

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.

Intramarket Competition

The Exchange does not believe that its proposals will place any category of Exchange participants at a competitive disadvantage. As noted above, all members of the Exchange will benefit from an increase in the addition of liquidity by those that choose to meet the criteria. Members may grow their businesses so that they have the capacity to receive credits for providing liquidity. Moreover, members are free to trade on other venues to the extent they believe that the credits provided are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. The Exchange notes that the tier structure is consistent with broker-dealer fee practices as well as the other industries, as described above.

Moreover, the Exchange's proposal to modify its QMM program will not burden intramarket competition because the QMM Program, as modified, will continue to provide all member organizations with an opportunity to obtain supplemental credits for transactions if they improve the market by providing significant quoting at the NBBO in a large number of securities which the Exchange believes will improve market quality. By relaxing the qualification criteria, the modifications will make the Program more accessible to new member organizations and easier for existing QMMs to remain in the Program.

Intermarket Competition

Addressing whether the proposed fee could impose a burden on competition on other SROs that is not necessary or appropriate, the Exchange believes that its proposed modifications to its schedule of credits and charges will not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from the other 12 live exchanges and from off-exchange venues, which include 33 alternative trading systems that trade national market system stock. 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, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed credit for adding liquidity and the proposed modifications to the QMM Program are reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which

comprised more than 38% of industry volume for the month of February 2020.

In sum, the Exchange intends for the proposed credit and modified QMM Program to increase member incentives to add liquidity to the Exchange and to contribute to market quality, which is reflective of fierce competition for order flow noted above; however, if the proposed credit and QMM Program incentives are unattractive to market participants, it is likely that the Exchange will either fail to increase its market share or even lose market share as a result. Accordingly, the Exchange does not believe that the proposed new fees and credits will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[11]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2020–25 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–Phlx–2020–25. 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 No. SR–Phlx–2020–25, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08821 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 12:00 p.m. on Wednesday, April 29, 2020.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topic:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims;

General counsel matter; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: April 22, 2020.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2020–08977 Filed 4–23–20; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88715; File No. SR–CboeBZX–2020–021]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Shares of the Agility Shares Managed Risk Equity ETF, a Series of the Northern Lights Fund Trust, Under Rule 14.11(i)

April 21, 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 15, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes a rule change to list and trade shares of the Agility Shares Managed Risk Equity ETF (the ''Fund''), a series of the Northern Lights Fund Trust (the ''Trust''), under Rule 14.11(i) (''Managed Fund Shares''). The shares of the Fund are referred to herein as the ''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.

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

1. Purpose

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[5] The Fund will be an actively managed exchange-traded fund that seeks to provide income and long-term growth of capital. A secondary objective of the Fund is to limit risk during unfavorable market conditions. The Exchange submits this proposal in order to allow the Fund to hold listed derivatives, in particular options and futures on the S&P 500 Index, in a manner that does not comply with Rule 14.11(i)(4)(C)(iv)(b).[6] The Exchange notes that this proposal is very similar to a previously approved proposal to list and trade a series of Managed Fund Shares on the Exchange with similar exposures to a single underlying reference asset and U.S. exchange-listed equity securities.[7] Otherwise, the Fund will comply with all other listing requirements on an initial and continued listing basis under Rule 14.11(i).

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on January 19, 2005. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[8] The Fund's adviser, Toews Corporation (the ''Adviser''), is not registered as a broker-dealer and is not affiliated with a broker-dealer. Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or 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 such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

Agility Shares Managed Risk Equity ETF

In order to achieve its investment objective of seeking to provide income and long-term growth of capital, while limiting risk, under Normal Market Conditions,[9] the Fund will generally invest at least 80% of its net assets in S&P 500 Derivatives (as defined below),

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[6] Rule 14.11(i)(4)(C)(iv)(b) provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt from both the 30% and 65% requirements of Rule 14.11(i)(4)(C)(iv)(b).

[7] The Exchange notes that this proposal is very similar to several previously submitted proposals to list and trade a series of Index Fund Shares and Managed Fund Shares with similar exposures to a single underlying reference asset, especially S&P 500 Index derivatives, and U.S. exchange-listed equity securities that were either approved by the Commission or effective upon filing. *See* Securities Exchange Act Release Nos. 83146 (May 1, 2018), 83 FR 20103 (May 7, 2018) (SR–CboeBZX–2018–029); 83679 (July 20, 2018), 83 FR 35505 (July 26, 2018); 82906 (March 20, 2018), 83 FR 12992 (March 26, 2018) (SR–CboeBZX–2017–012); 77045 (February 3, 2016), 81 FR 6916 (February 9, 2016) (SR–NYSEArca–2015–113) (the ''Amendment''); and 74675 (April 8, 2015), 80 FR 20038 (April 14, 2015) (SR–NYSEArca–2015–05) (collectively, with the Amendment, the ''Arca Filing'').

[8] The Trust filed a post-effective amendment to the Registration Statement on December 18, 2017. *See* Registration Statement on Form N–1A for the Trust (File Nos. 333–179562 and 811–22668). The descriptions of the Fund and the Shares contained herein are based, in part, on information included in the Registration Statement. The Commission has issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) applicable to the activities of the Fund. *See* Investment Company Act Release No. 32777 (August 8, 2017) (File No. 812–14787).

[9] As defined in Rule 14.11(i)(3)(E), the term ''Normal Market Conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

options on ETFs,[10] U.S. Component Stocks,[11] and U.S. exchange-listed ETFs that principally invest in U.S. Component Stocks (''U.S. ETFs'' and, collectively, with U.S. Component Stocks ''U.S. Equities''). The Fund generally will invest in U.S. Component Stocks in order to gain exposure to large cap U.S. equity securities. The Exchange notes that each of S&P 500 Index futures and options, options on S&P 500 Index futures, and options on ETFs are U.S. exchange-listed. Under Normal Market Conditions, the Fund may also invest its remaining assets in fixed income securities (including ETFs that primarily invest in fixed income securities), cash, and Cash Equivalents [12] and such holdings will meet the requirements applicable under Rules 14.11(i)(4)(C)(ii) and (iii).

As noted above, Rule 14.11(i)(4)(C)(iv)(b) does not allow the aggregate gross notional value of the Fund's holdings in listed derivatives based on any five or fewer underlying reference assets to exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset to exceed 30% of the weight of its portfolio (including gross notional exposures).[13] The Exchange is proposing to allow the Fund to hold up to 100% of the weight of its portfolio (including gross notional exposures) in listed derivatives based on the S&P 500 Index, specifically futures traded on the Chicago Mercantile Exchange (''S&P 500 Futures'') and options traded on Cboe Exchange, Inc. (''S&P 500 Options,''), as well as options on S&P 500 Futures (''Options on S&P 500 Futures'' and, collectively with S&P 500 Futures and S&P 500 Options, ''S&P 500 Derivatives'').[14] The Fund primarily expects to utilize S&P 500 Derivatives to implement its strategy. The Fund will utilize short or long S&P 500 Derivatives to the extent needed to reduce or augment, respectively, the Fund's exposure relative to the exposure resulting from investments in the U.S. Equities described above in order to achieve the desired net exposure. S&P 500 Derivatives are an efficient means for reducing or augmenting exposure to U.S. Equities, as described above. Allowing the Fund to hold a greater portion of its portfolio in S&P 500 Derivatives would mitigate the Fund's dependency on holding over-the-counter (''OTC'') instruments, which would reduce the Fund's operational burden by allowing the Fund to use listed futures and options contracts to achieve its investment objective and would further reduce counter-party risk associated with holding OTC instruments. The Exchange notes that the Fund may also hold certain fixed income securities, cash and Cash Equivalents, and ETFs that primarily invest in fixed income securities in compliance with Rules 14.11(i)(4)(C)(ii), (iii), and (i), respectively, as part of its strategy and in order to collateralize its S&P 500 Derivatives positions.

The combination of U.S. Equities, fixed income securities, cash, Cash Equivalents, and the cash value of derivatives positions will constitute the entirety of the Fund's holdings and the cash value of these holdings will be used to form the basis for any calculation that is based on net assets. The Exchange notes that this is different than the calculation used to measure the Fund's holdings in S&P 500 Derivatives as it relates to the Fund holding up to 100% of the weight of its portfolio, which, as noted above, is calculated using gross notional exposures gained through the S&P 500 Derivatives in both the numerator and denominator, which is consistent with the derivatives exposure calculation under Rule 14.11(i)(4)(C)(iv). The Exchange represents that, except for the 30% and 65% limitations in Rule 14.11(i)(4)(C)(iv)(b) related to S&P 500 Derivatives, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i).

The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Fund. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares, which includes the dissemination of key information such as the Disclosed Portfolio,[15] Net Asset Value,[16] and the Intraday Indicative Value,[17] suspension of trading or removal,[18] trading halts,[19] surveillance,[20] minimum price variation for quoting and order entry,[21] the information circular,[22] and firewalls [23] as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. Moreover, all of the exchange-listed instruments held by the Fund, including S&P 500 Futures, S&P 500 Options, Options on S&P 500 Futures, U.S. Equities, options on ETFs, and ETFs that primarily invest in fixed income instruments will trade on markets that are a member of Intermarket Surveillance Group (''ISG'') or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[24] 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 reference asset and intraday indicative values (as applicable), or the applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for the securities listed on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any

[10] For purposes of this proposal, the term ETF means Portfolio Depositary Receipts, Index Fund Shares, and Managed Fund Shares as defined in Rule 14.11(b), 14.11(c), and 14.11(i), respectively, and their equivalents on other national securities exchanges as well as ETFs operating in reliance on Rule 6c–11 of the Investment Company Act of 1940.

[11] Pursuant to BZX Rule 14.11(c)(1)(D), the term ''U.S. Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[12] As defined in Rule 14.11(i)(4)(C)(iii), Cash Equivalents are short-term instruments with maturities of less than three months that are: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[13] The Exchange notes that the 80% and 20% investment numbers above are based on the Fund's net assets, while Rule 14.11(i)(4)(C)(iv)(b) is calculated on the basis of aggregate gross notional value.

[14] While the Adviser does not anticipate the gross notional exposure of its holdings in S&P 500 Derivatives to approach 100% of the weight of the Fund's portfolio, the Adviser would like to have the flexibility to do so in the event that the Adviser determines that it is in the best interest of the Fund. The Exchange also notes that while the Fund may invest in options on ETFs, such holdings will be in compliance with Rule 14.11(i)(4)(C)(iv)(b).

[15] *See* Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[16] *See* Rule 14.11(i)(4)(A)(ii).

[17] *See* Rule 14.11(i)(4)(B)(i).

[18] *See* Rule 14.11(i)(4)(B)(iii).

[19] *See* Rule 14.11(i)(4)(B)(iv).

[20] *See* Rule 14.11(i)(2)(C).

[21] *See* Rule 14.11(i)(2)(B).

[22] *See* Rule 14.11(i)(6).

[23] *See* Rule 14.11(i)(7).

[24] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

failure by the Fund or Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange Rule 14.12.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [25] in general and Section 6(b)(5) of the Act [26] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest in that the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) with the exception Rule 14.11(i)(4)(C)(iv)(b), which requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).[27] The Exchange believes that the liquidity in the S&P 500 Futures, S&P 500 Options, and Options on S&P 500 Futures markets mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would prevent the Shares from being susceptible to manipulation.[28] Further, allowing the Fund to hold a greater portion of its portfolio in S&P 500 Derivatives would mitigate the Fund's dependency on holding OTC instruments, which would reduce the Fund's operational burden by allowing the Fund to primarily use listed futures and options contracts to achieve its investment objective and would further reduce counter-party risk associated with holding OTC instruments. The Exchange further believes that the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index are sufficient to protect against market manipulation of both the Fund's holdings and the Shares as it relates to the S&P 500 Derivatives holdings.

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. All of the futures contracts, options, ETFs, and component stocks held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange may obtain information regarding trading in the Shares and the underlying futures contracts, options, component stocks, and other ETFs held by the Fund via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[29] The Exchange further notes that the Fund will meet and be subject to all other requirements of the generic listing rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls as set forth in Exchange rules applicable to Managed Fund 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 additional 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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [30] and Rule 19b–4(f)(6) thereunder.[31]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [32] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [33] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission to waive the 30-day operative delay so that the

[25] 15 U.S.C. 78f.

[26] 15 U.S.C. 78f(b)(5).

[27] As noted above, the Exchange is proposing that the Fund be exempt from the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets from exceeding 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). The Exchange is proposing to allow the Fund to hold up to 100% of the weight of its portfolio (including gross notional exposures) in S&P 500 Derivatives.

[28] The Exchange notes that there was an average of more than $3 billion in notional volume traded on a daily basis in S&P 500 Options in 2019. S&P 500 Futures generally trade over one million contracts per day in the front month contract. More than 1,000,000 Options on S&P 500 Futures contracts traded per day in February 2020.

[29] *See* note 21, supra [sic].

[30] 15 U.S.C. 78s(b)(3)(A).

[31] 17 CFR 240.19b–4(f)(6). In addition, Rule19b–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.

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6)(iii).

proposal may become operative upon filing.

The Exchange states that, while the proposal seeks to allow the Fund to hold listed derivatives, in particular options and futures on the S&P 500 Index, in a manner that does not comply with BZX Rule 14.11(i)(4)(C)(iv)(b), the proposal is similar to another previously approved proposal to list and trade a series of Managed Fund Shares with similar exposures to a single underlying reference asset and U.S. exchange-listed equity securities.[34] The Exchange represents that, except for the 30% and 65% limitations in BZX Rule 14.11(i)(4)(C)(iv)(b) related to S&P 500 Derivatives, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under BZX Rule 14.11(i).[35] In addition, the Exchange further represents that all of the exchange-listed instruments held by the Fund, including S&P 500 Futures, S&P 500 Options, Options on S&P 500 Futures, U.S. Equities, options on ETFs, and ETFs that primarily invest in fixed income instruments will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Commission believes that the proposal raises no novel or unique regulatory issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[36]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–021 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–2020–021. 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–2020–021 and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

J. Matthew DeLesDernier,

Assistant Secretary.

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[34] *See supra* note 7.

[35] In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares, which includes the dissemination of key information such as the Disclosed Portfolio, Net Asset Value, and the Intraday Indicative Value, suspension of trading or removal, trading halts, surveillance, minimum price variation for quoting and order entry, the information circular, and firewalls, as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules. *See supra* notes 15–23 and accompanying text.

[36] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88707; File No. SR–CboeEDGA–2020–011]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 13.4(a) To Add LTSE as a Source for Market Data for Certain Purposes

April 21, 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 6, 2020, Cboe EDGA Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe EDGA Exchange, Inc. proposes to amend Rule 13.4(a), stating it will utilize LTSE market data from the CQS/UQDF for purposes of order handling, routing, execution, and related compliance processes. 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.

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

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 update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the LTSE as a registered national securities exchange.

On May 10, 2019, the Commission approved LTSE's application to register as a national securities exchange.[5] As part of its transition to exchange status, LTSE announced that it plans to commence the entry of orders in test symbols on April 24, 2020 and plans to gradually phase in non-test securities no earlier than May 15, 2020, which may continue for a period of at least four weeks.[6] The Exchange, therefore, proposes to update Rule 13.4(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of [sic] LTSE as a registered national securities exchange beginning on April 24, 2020. Specifically, the Exchange proposes to amend Rule 13.4(a) to include LTSE by stating it will utilize LTSE market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes.

Additionally, the Exchange proposes to update the names of the Chicago Stock Exchange, NSX, Nasdaq OMX PHLX, and Nasdaq OMX BX noted in Rule 13.4(a) to NYSE Chicago, NYSE National, Nasdaq PSX, and Nasdaq BX, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 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.

The Exchange believes that its proposal to update Exchange Rule 13.4(a) to include LTSE and update the names of other exchanges will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with 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 the Exchange to implement the proposed rule change in anticipation of LTSE's launch, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, 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

[5] *See supra* note 2 [sic].

[6] *See supra* note 3 [sic].

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposal operative upon filing.[15]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGA–2020–011 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–2020–011. 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–CboeEDGA–2020–011, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08823 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[15] 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).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88705; File No. SR–NYSE–2020–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add Commentary .04 to Rule 7.35A To Provide DMMs, for a Temporary Period, With Limited Remote Access to Floor-Based Systems

April 21, 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 17, 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 .04 to Rule 7.35A to provide that, for a temporary period that begins April 17, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, the Exchange would provide a DMM remote access to Floor-based systems for the sole purpose of effecting a manual (1) IPO Auction, or (2) Core Open Auction in connection with a listed company's post-IPO public offering. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes to add Commentary .04 to Rule 7.35A to provide that, for a temporary period that begins April 17, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, the Exchange would provide a DMM remote access to Floor-based systems for the sole purpose of effecting a manual (1) IPO Auction, or (2) Core Open Auction in connection with a listed company's post-IPO public offering.

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

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

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

[3] 17 CFR 240.19b–4.

electronic trading.[4] Pursuant to Rule 7.1(e), the CEO notified the Board of Directors of the Exchange of this determination.

On March 26, 2020, the Exchange amended Rule 7.35A to add Commentary .02,[5] which provides:

For a temporary period that begins on March 26, 2020 and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, the Exchange will permit a DMM limited entry to the Trading Floor to effect an IPO Auction manually. For such an IPO Auction, the Exchange will disseminate the following Auction Imbalance Information provided by the DMM via Trader Update: the Imbalance Reference Price; the Paired Quantity; the Unpaired Quantity; and the Side of the Unpaired Quantity. The Exchange will publish such Trader Update(s) promptly after each publication by the DMM of a pre-opening indication for such security. The Trader Update will also include the pre-opening indication range.

As described in the Rule 7.35A Filing, the Exchange added this Commentary because, while the Trading Floor is temporarily closed, Designated Market Makers (''DMMs'') cannot engage in any manual actions, such as facilitating an Auction manually or publishing pre-opening indications before a Core Open or Trading Halt Auction. Commentary .02 to Rule 7.35A permits entry to the Trading Floor to a single employee from the DMM member organization assigned to such security so that this DMM can access the Floor-based systems used to effect an Auction manually, and specifies the information that would be included in a Trader Update in advance of such IPO Auction.

On March 27, 2020, the Exchange effected an IPO Auction pursuant to Commentary .02 to Rule 7.35A.

On April 2, 2020, the Exchange amended Rule 7.35A to add Commentary .03,[6] which provides:

For a temporary period that begins on April 2, 2020 and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, the Exchange will permit a DMM limited entry to the Trading Floor to effect manually a Core Open Auction in connection with a listed company's post-IPO public offering.

Similar to the rationale described in the Rule 7.35A Filing, the Exchange added this Commentary because, while the Trading Floor is temporarily closed, DMMs cannot engage in a manual Core Open Auction for a post-IPO public offering.

On April 2, 2020, the Exchange effected a post-IPO public offering pursuant to Commentary .03 to Rule 7.35A

Proposed Rule Change

The Exchange proposes to add Commentary .04 to Rule 7.35A to provide that, for a temporary period that begins April 17, 2020, and ends on the earlier of the reopening of the Trading Floor facilities or after the Exchange closes on May 15, 2020, the Exchange would provide a DMM remote access to Floor-based systems for the sole purpose of effecting a manual (1) IPO Auction, or (2) Core Open Auction in connection with a listed company's post-IPO public offering.

As noted above, during the temporary period while the Trading Floor is closed, the Exchange has permitted limited reentry to the Trading Floor for the purposes of effecting an IPO Auction and a post-IPO public offering. However, during this period, the business continuity plans implemented by different DMM member organizations may not permit one of their employees to travel to the Trading Floor for the purpose of effecting an IPO or post-IPO public offering pursuant to Commentary .02 or .03 to Rule 7.35A.

Accordingly, the Exchange has developed technology that can be used as a stopgap during the period when the Trading Floor is temporarily closed to enable a DMM to manually effect an Auction without being present on the Trading Floor. This technology is intended to be a temporary solution to respond to the unique circumstances during the period when the Trading Floor is closed as a precaution to prevent the spread of COVID–19.

This proposed temporary technology solution would provide a DMM with remote access to NYSE trading systems that are located on the Trading Floor that DMMs use to facilitate auctions manually. This interim technology solution requires manual intervention by both the DMM and Exchange staff for each Auction, and therefore the Exchange does not believe it would be feasible to deploy this remote-access technology to all securities. However, for those IPO Auctions and Core Open Auctions for post-IPO public offerings that the Exchange believes should be effected manually during the temporary period when the Trading Floor is closed, this remote-access technology provides an alternative to a DMM whose firm may determine that travel to and entry to the Trading Floor would not be advisable or possible during this temporary period.

Because this limited scope remote-access technology is now available to all DMM firms, the Exchange proposes to add Commentary .04 to Rule 7.35A to specify that the Exchange would provide a DMM remote access to Floor-based systems for the sole purpose of effecting a manual (1) IPO Auction, or (2) Core Open Auction for a listed company's post-IPO public offering.

Similar to an IPO Auction that would be effected under current Commentary .02 to Rule 7.35A, if a DMM uses this remote-access technology to manually effect an IPO Auction or Core Open Auction for a post-IPO public offering, the Exchange would arrange for a Floor Governor to be available to the DMM via telephone for such Auctions to approve the publication of any pre-opening indications.[7] In addition, Exchange staff would be in communication via telephone with the lead underwriter for such IPO Auction or Core Open Auction for a post-IPO public offering and would separately convey to the DMM via telephone information that the underwriter would normally convey to the DMM via a Floor broker, such as when the underwriter has entered all interest for such Auction.[8] The Exchange staff person providing this communication link would use separate telephone lines to communicate with the underwriter and to communicate with the DMM.[9] The Exchange will arrange for any such calls to be

[4] 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.*

[5] *See* Securities Exchange Act Release No. 88488 (March 26, 2020) (SR–NYSE–2020–23), 85 FR 18286 (April 1, 2020) (Notice of filing and immediate effectiveness of proposed rule change) (''Rule 7.35A Filing'').

[6] *See* Securities Exchange Act Release No. 88546 (April 2, 2020) (SR–NYSE–2020–28), 85 FR 19782 (April 8, 2020) (Notice of filing and immediate effectiveness of proposed rule change).

[7] *See* Rule 7.35A(d)(4)(A) (''Publication of a pre-opening indication requires the supervision and approval of a Floor Governor.'') The Exchange will arrange for a qualified ICE employee that has been designated as a Floor Governor to perform this function. *See* Rule 46(b)(v).

[8] Rule 36.30 provides that a DMM unit may maintain a telephone line at its stock trading post to the off-Floor offices of the DMM unit, the unit's clearing firm, or to persons providing non-trading related services. Accordingly, pursuant to this Rule, on the Trading Floor, a DMM cannot have a telephone line that connects to an underwriter for an IPO. With this proposed remote-access functionality, the Exchange proposes that DMMs would similarly not communicate directly with the underwriter.

[9] Depending on the circumstances of when the relief in this proposed rule change would be required, it is likely that the Exchange staff person facilitating the remote access for the DMM would also be working remotely and not on Exchange premises. In addition, the Exchange staff person providing such access may also be the Exchange staff person communicating with the underwriter and serving as the Floor Governor for this transaction.

conducted via an Exchange-authorized secure teleconferencing service.

Similar to an IPO Auction effected pursuant to Commentary .02 to Rule 7.35A, if a DMM manually effects an IPO Auction pursuant to proposed Commentary .04 to Rule 7.35A, the Exchange would disseminate the following Auction Imbalance Information provided by the DMM via Trader Update: The Imbalance Reference Price; the Paired Quantity; the Unpaired Quantity; and the Side of the Unpaired Quantity. The Exchange would publish such Trader Update(s) promptly after each publication by the DMM of a pre-opening indication for such security. The Trader Update would also include the pre-opening indication range.

Because publishing such Trader Updates would be a manual process, the Exchange proposes to disseminate a Trader Update following each publication of a pre-opening indication by the DMM.[10] The Exchange proposes to include in the Trader Update information that a DMM would convey on the Trading Floor during normal operations:

- The Imbalance Reference Price, which is the reference price that is used for the applicable Auction to determine the Auction Imbalance Information.[11] However, unlike the Imbalance Reference Price used for the Core Open Auction, which is a static number, the Imbalance Reference Price that would be included in a Trader Update for an IPO Auction would be a prospective opening price manually selected by the DMM based on the interest in the Book at that time. The Imbalance Reference Price would be updated by the DMM as buy and sell interest in the Book updates.
- The Paired Quantity, which is the volume of better-priced and at-priced buy shares that can be paired with better-priced and at-priced sell shares at the Imbalance Reference Price.[12]
- The Unpaired Quantity, which is the volume of at-priced buy or sell shares that cannot be paired at the Imbalance Reference Price.
- The Side of the Unpaired Quantity, which is the side (buy or sell) that cannot be paired at the Imbalance Reference Price.

The Exchange believes that, in the absence of Floor brokers, this proposed rule change would promote transparency in advance of an IPO Auction that would be manually effected by the DMM remotely while the Trading Floor is closed.

The Exchange has tested with each active DMM firm and relevant Exchange staff the proposed interim technology to provide DMMs remote access to the Floor-based systems that would be used to effect a manual (1) IPO Auction; or (2) Core Open Auction in connection with a listed company's post-IPO public offering. Accordingly, the Exchange would be able to implement the proposed rule change immediately upon effectiveness of this filing.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] 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.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote fair and orderly IPO Auctions or Core Open Auctions in connection with a listed company's post-IPO public offering. The Exchange believes that it would promote fair and orderly markets to provide the DMM with mechanisms to facilitate such Core Open Auctions manually because it would provide flexibility for the DMM to consider information from the underwriter when determining when to conduct the Core Open Auction and at what price.

The Exchange believes that providing DMMs with limited remote access to Floor-based trading systems to manually effect an IPO Auction or Core Open Auction for a listed company's post-IPO public offering would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide flexibility to DMMs who may determine that travel to and entry to the Trading Floor would not be advisable or possible during this temporary period. The Exchange believes that providing this stopgap would promote fair and orderly markets by providing the DMM with a limited-use mechanism to facilitate such Auctions manually so the DMM could consider information from the underwriter when determining when to conduct the IPO Auction or specified Core Open Auction and at what price.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would promote fair and orderly IPO Auctions on the Exchange by allowing the Exchange to disseminate specified Auction Imbalance Information in advance of such auctions. The proposed rule change would therefore promote transparency in advance of an IPO Auction that would be manually effected by a DMM remotely while the Trading Floor is closed.

The Exchange believes that, by clearly stating that this relief will be in effect through the earlier of the reopening of the Trading Floor facilities or the close of the Exchange on May 15, 2020, market participants will have advance notice that an IPO Auction or Core Open Auction in connection with a post-IPO public offering may be effected manually by the DMM during this period, and therefore may not be conducted at 9:30 a.m.

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 ensure fair and orderly IPO Auctions or Core Open Auctions in connection with a listed company's post-IPO public offering by providing a DMM with remote access to Floor-based systems for the sole purpose of effecting such Auctions manually during a temporary period when the Exchange Trading Floor has been closed

[10] Pre-opening indications are disseminated on both proprietary and SIP data feeds. *See* Rule 7.35A(d).

[11] *See* Rule 7.35(a)(10).

[12] *See* Rule 7.35(a)(4)(B).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

in response to social-distancing measures designed to reduce the spread of the COVID–19 virus.

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 [15] and Rule 19b–4(f)(6) thereunder.[16] 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 [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative for 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with 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 states that the proposed rule change is designed to ensure fair and orderly IPO Auctions and Core Open Auctions in connection with a listed company's post-IPO public offering during this temporary period. The Exchange believes that the proposed rule change would provide greater certainty to prospective listed companies that an IPO Auction could be conducted by the DMM manually in a company's security either on the Trading Floor or remotely, and that, in either case, the DMM would be able to receive up-to-date information about the offering from the underwriter and manually price the IPO Auction. The Commission believes that the proposed rule change would provide flexibility to a DMM who cannot travel to the Trading Floor to effect a manual IPO Auction or Core Open Auction. The Commission notes that the Exchange represented that it has already tested its remote access technology and that the Exchange is able to implement the proposed rule change immediately. Further, the Commission notes that the Exchange proposes to include in the Trader Update information that a DMM would normally convey on the Trading Floor during regular operations. Lastly, 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.[21]

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–2020–35 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–2020–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2020–35, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08818 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

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

[16] 17 CFR 240.19b–4(f)(6).

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

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 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).

[22] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88711; File No. SR–CboeBZX–2020–031]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.26(a) To Add LTSE as a Source for Market Data for Certain Purposes

April 21, 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 6, 2020, Cboe BZX Exchange, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

Cboe BZX Exchange, Inc. proposes to amend Rule 11.26(a) to reflect the operation of the Long-Term Stock Exchange, Inc. (LTSE) as a registered national securities exchange. 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/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.

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

1. Purpose

The Exchange proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the LTSE as a registered national securities exchange.

On May 10, 2019, the Commission approved LTSE's application to register as a national securities exchange.[5] As part of its transition to exchange status, LTSE announced that it plans to commence the entry of orders in test symbols on April 24, 2020 and plans to gradually phase in non-test securities no earlier than May 15, 2020, which may continue for a period of at least four weeks.[6] The Exchange, therefore, proposes to update Rule 11.26(a) regarding the public disclosure of the sources of data that the Exchange utilizes when performing: (i) Order handling; (ii) order routing; (iii) order execution; and (iv) related compliance processes to reflect the operation of the test phase of LTSE as a registered national securities exchange beginning on April 24, 2020. Specifically, the Exchange proposes to amend Rule 11.26(a) to include LTSE by stating it will utilize LTSE market data from the Consolidated Quotation System (''CQS'')/UTP Quotation Data Feed (''UQDF'') for purposes of order handling, routing, execution, and related compliance processes.

Additionally, the Exchange proposes to update the names of the Chicago Stock Exchange, NSX, Nasdaq OMX PHLX, and Nasdaq OMX BX noted in Rule 11.26(a) to NYSE Chicago, NYSE National, Nasdaq PSX, and Nasdaq BX, respectively.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] 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 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.

The Exchange believes that its proposal to update Exchange Rule 11.26(a) to include LTSE and update the names of other exchanges will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. The proposed rule changes also remove impediments to and perfects the mechanism of a free and open market and protects investors and the public interest because it provides additional specificity, clarity and transparency.

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

The Exchange believes its proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal would enhance competition because including all of the exchanges enhances transparency and enables investors to better assess the quality of the Exchange's execution and routing services.

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

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[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] *See supra* note 2 [sic].

[6] *See supra* note 3 [sic].

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6)(iii) thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with 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 the Exchange to implement the proposed rule change in anticipation of LTSE's launch, thereby providing clarity to market participants with respect to the specific network processor and proprietary data feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance checks related to each of those functions. For this reason, 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.[15]

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2020–031 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–2020–031. 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–2020–031, and should be submitted on or before May 18, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08811 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of 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.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88709; File No. SR–NYSEARCA–2020–33]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

April 21, 2020.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 14, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to (1) eliminate an alternative method to qualify for Tier 2, (2) eliminate the incremental credit applicable under Tape B Tier 2, and (3) eliminate the Cross-Asset Tier 1 and Tape C Tier 3 pricing tiers. The Exchange proposes to implement the fee changes effective May 1, 2020. 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

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

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

[3] 17 CFR 240.19b–4.

and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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

1. Purpose

The Exchange proposes to amend the Fee Schedule to (1) eliminate an alternative method to qualify for Tier 2, (2) eliminate the incremental credit applicable under Tape B Tier 2, and (3) eliminate the Cross-Asset Tier 1 and Tape C Tier 3 pricing tiers. The Exchange proposes to implement the fee changes effective May 1, 2020.

ETP Holders [4] currently qualify for Tier 2 fees and credits by providing liquidity an average daily share volume per month of 0.30% or more, but less than 0.70% of US consolidated average daily volume (''US CADV'').[5] In June 2016, the Exchange adopted an alternative way for ETP Holders to qualify for Tier 2 fees and credits. Pursuant to the alternative method, an ETP Holder could also qualify for Tier 2 fees and credits if the ETP Holder provides liquidity of 0.10% or more of the US CADV per month, and is affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 1.50% of total Customer equity and ETF option ADV as reported by The Options Clearing Corporation (''OCC'').[6] The Exchange proposes to eliminate the alternative method for ETP Holders to qualify for Tier 2 fees and credits and remove it from the Fee Schedule. The Exchange has observed that historically, few ETP Holders have qualified under the alternative method, with little associated volume, and the alternative method has not served to meaningfully increase activity on the Exchange or improve the quality of the market. Since July 2019, no ETP Holder affiliated with an OTP Holder or OTP Firm has qualified for Tier 2 fees and credits under the alternative method.[7] The Exchange is not proposing any other change to the fees and credits applicable under Tier 2.

Additionally, in June 2018, the Exchange adopted an incremental credit under Tape B Tier 2 pricing tier pursuant to which ETP Holders can receive an incremental credit of $0.0001 per share for orders that provide liquidity to the order book in Tape B securities when such ETP Holder meets the requirements of Tape B Tier 2 and executes adding ADV in Tape B securities during a billing month equal to at least 0.40% of Tape B CADV over the ETP Holder's Q1 2018 Tape B adding ADV taken as a percentage of Tape B CADV.[8] The Exchange proposes to eliminate the incremental credit applicable under Tape B Tier 2 and remove it from the Fee Schedule. Since July 2019, no ETP Holder has qualified for the incremental credit under Tape B Tier 2.[9] The Exchange is not proposing any other change to the fees and credits applicable under Tape B Tier 2.

Finally, the Exchange proposes to eliminate the Cross-Asset Tier 1 and the Tape C Tier 3 pricing tiers.

Under Cross-Asset Tier 1, ETP Holders can receive a per share credit of $0.0030 per share in Tape A, Tape B and Tape C securities when an ETP Holder (1) provides liquidity of 0.30% or more of the US CADV per month, (2) is affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, and (3) executes an ADV of Retail Orders [10] that provide liquidity during the month that is 0.10% or more of the US CADV.[11]

Under Tape C Tier 3, ETP Holders can receive a credit of $0.0002 per share in Tape C securities when an ETP Holder (1) directly executes providing volume in Tape C securities during the billing month that is equal to at least 0.40% of US Tape C CADV over the ETP Holder's fourth quarter 2016 Tape C Adding ADV taken as a percentage of Tape C CADV, and (2) executes providing volume in Tape B securities during the billing month that is equal to at least 3.5% of Tape B CADV. Under the Tape C Tier 3 pricing tier, ETP Holders are also charged a fee of $0.0029 per share for orders that take liquidity from the Book in Tape C securities.[12]

The Exchange proposes to eliminate each of the Cross-Asset Tier 1 and Tape C Tier 3 pricing tiers and remove it from the Fee Schedule because each of the pricing tiers have been underutilized by ETP Holders. The Exchange has observed that historically, few ETP Holders have qualified for the fees and credits under each of these pricing tiers. These pricing tiers have not served to meaningfully increase activity on the Exchange or improve the quality of the market. Since July 2019, not a single ETP Holder has qualified under any of the two pricing tiers that the Exchange proposes to eliminate.[13]

With the proposed elimination of Cross-Asset Tier 1, the Exchange proposes to rename current Cross-Asset Tier 2 as Cross-Asset Tier 1 and rename current Cross-Asset Tier 3 as Cross-Asset Tier 2.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and(5) of the Act,[15] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members,

[4] All references to ETP Holders in connection with this proposed fee change include Market Makers.

[5] US CADV means United States Consolidated Average Daily Volume for transactions reported to the Consolidated Tape, excluding odd lots through January 31, 2014 (except for purposes of Lead Market Maker pricing), and excludes volume on days when the market closes early and on the date of the annual reconstitution of the Russell Investments Indexes. Transactions that are not reported to the Consolidated Tape are not included in US CADV.

[6] *See* Securities Exchange Act Release No. 78065 (June 14, 2016), 81 FR 39976 (June 20, 2016) (SR–NYSEArca–2016–85).

[7] There are currently 53 firms that are both ETP Holders and OTP Holders.

[8] *See* Securities Exchange Act Release No. 83418 (June 12, 2018), 83 FR 28282 (June 18, 2018) (SR–NYSEArca–2018–41).

[9] There are currently 5 ETP Holders that could qualify for the incremental credit under Tape B Tier 2.

[10] A Retail Order is an agency order that originates from a natural person and is submitted to the Exchange by an ETP Holder, provided that no change is made to the terms of the order to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. *See* Securities Exchange Act Release No. 67540 (July 30, 2012), 77 FR 46539 (August 3, 2012) (SR–NYSEArca–2012–77).

[11] *See* Securities Exchange Act Release No. 76084 (October 6, 2015), 80 FR 61529 (October 13, 2015) (SR–NYSEArca–2015–87).

[12] *See* Securities Exchange Act Release No. 80665 (May 11, 2017), 82 FR 22687 (May 17, 2017) (SR–NYSEArca–2017–51).

[13] As noted above, there are currently 53 firms that are both ETP Holders and OTP Holders that could qualify for the Cross-Asset Tier 1 pricing tier and 2 ETP Holders that could qualify for the Tape C Tier 3 pricing tier.

[14] 15 U.S.C. 78f(b).

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

issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed rule change to eliminate the alternative method to qualify for Tier 2, eliminate the incremental credit under Tape B Tier 2, and eliminate the Cross-Asset Tier 1 and Tape C Tier 3 pricing tiers is reasonable because each of the pricing tiers that are the subject of this proposed rule change have been underutilized and have generally not incentivized ETP Holders to bring liquidity and increase trading on the Exchange. Since July 2019, no ETP Holder has availed itself of any of the pricing tiers that the Exchange is proposing to eliminate. The Exchange does not anticipate any ETP Holder in the near future to qualify for any of the tiers that are the subject of this proposed rule change. The Exchange believes it is reasonable to eliminate requirements and credits, and even entire pricing tiers when such incentives become underutilized. The Exchange believes eliminating underutilized incentive programs would also simplify the Fee Schedule. The Exchange further believes that removing reference to the pricing tiers that the Exchange proposes to eliminate from the Fee Schedule would also add clarity to the Fee Schedule. The Exchange believes that eliminating requirements and credits, and even entire pricing tiers from the Fee Schedule when such incentives become ineffective is equitable and not unfairly discriminatory because the requirements, and credits, and even entire pricing tiers would be eliminated in their entirety and would no longer be available to any ETP Holder.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

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

In accordance with Section 6(b)(8) of the Act,[16] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange's proposal to eliminate certain requirements and credits, and pricing tiers in their entirety, will not place any undue burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act given that, since July 2019, not a single ETP Holder has qualified for any of the fees and credits under any of the pricing tiers that are the subject of this proposed rule change. To the extent the proposed rule change places a burden on competition, any such burden would be outweighed by the fact that none of the pricing tiers proposed for deletion have served their intended purpose of incentivizing ETP Holders to more broadly participate on the Exchange. Moreover, ETP Holders can choose to trade on other venues to the extent they believe that the credits provided are too low or the qualification criteria are not attractive.

Intermarket Competition. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. Market share statistics provide ample evidence that price competition between exchanges is fierce, with liquidity and market share moving freely from one execution venue to another in reaction to pricing changes. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe this proposed fee change would impose any burden on intermarket competition.

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

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

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

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

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

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2020–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2020–33. 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.

[16] 15 U.S.C. 78f(b)(8).

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

[18] 17 CFR 240.19b–4(f)(2).

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

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–NYSEARCA–2020–33 and should be submitted on or before May 18, 2020.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08809 Filed 4–24–20; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release 33844; File No. 812–15061]

Invesco Advisers, Inc., et al.

April 21, 2020.

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

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain closed-end management investment companies and business development companies (''BDCs'') to co-invest in portfolio companies with each other and with certain affiliated investment funds and accounts.

Applicants: Invesco Dynamic Credit Opportunities Fund (''Fund''), Invesco Senior Income Trust (''Trust''), Invesco Advisers, Inc. (''IAI''), Invesco Senior Secured Management, Inc. (''ISSM,'' and together with IAI, the ''Existing Advisers'').

Filing Dates: Applicants filed the application on August 23, 2019, and amended it on December 20, 2019 and February 28, 2020.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving applicants with a copy of the request by email. Hearing requests should be received by the Commission by 5:30 p.m. on May 18, 2020, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: The Fund, the Trust, and IAI: *Joseph.Benedetti@Invesco.com.*

FOR FURTHER INFORMATION CONTACT: Benjamin Kalish, Senior Counsel, at (202) 551–7361 or David Nicolardi, Branch Chief at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Introduction

1. The applicants request an order of the Commission under sections 17(d) and 57(i) and rule 17d–1 thereunder (the ''Order'') to permit, subject to the terms and conditions set forth in the application (the ''Conditions''), a Regulated Fund [1] and one or more other Regulated Funds and/or one or more Affiliated Funds [2] to enter into Co-Investment Transactions with each other. ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Sub (as defined below)) participated together with one or more Affiliated Funds and/or one or more other Regulated Funds in reliance on the Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Sub) could not participate together with one or more Affiliated Funds and/or one or more other Regulated Funds without obtaining and relying on the Order.[3]

Applicants

2. The Fund and the Trust are each a diversified closed-end management investment company incorporated in Delaware and registered as an investment company under the Act.

3. IAI is a Delaware corporation and a wholly-owned subsidiary of Invesco Ltd. IAI is registered with the Commission as an investment adviser under the Advisers Act. ISSM is a Delaware corporation and a wholly-owned subsidiary of IAI. ISSM is registered with the Commission as an investment adviser under the Advisers Act.

4. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[4] Such a subsidiary may be prohibited from investing in a Co-Investment Transaction with a Regulated Fund (other than its parent)

[1] ''Regulated Funds'' means the Fund, the Trust, and any Future Regulated Funds. ''Future Regulated Fund'' means a closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser (and sub-adviser(s), if any) is an Adviser, and (c) that intends to participate in the Co-Investment Program.

''Adviser'' means each Existing Adviser together with any future investment adviser that (i) controls, is controlled by or is under common control with an Existing Adviser, (ii) is registered as an investment adviser under the Advisers Act and (iii) is not a Regulated Fund (defined below) or a subsidiary of a Regulated Fund.

[2] ''Affiliated Fund'' means any existing or any Future Affiliated Fund. ''Future Affiliated Fund'' means any entity (i) whose investment adviser (and sub-adviser(s), if any) are Advisers, (ii) that either (a) would be an investment company but for Section 3(c)(1), 3(c)(5)(C) or 3(c)(7) of the Act, (b) relies on Rule 3a-7 under the Act, or (c) does not meet the definition of investment company under the Act and qualifies as a real estate investment trust (''REIT'') within the meaning of Section 856 of Sub-Chapter M of the Internal Revenue Code of 1986, as amended (the ''Code''), because substantially all of its assets would consist of real properties, and (iii) that intends to participate in the Co-Investment Program.

[3] All existing entities that currently intend to rely on the Order have been named as applicants and any existing or future entities that may rely on the Order in the future will comply with its terms and Conditions set forth in the application.

[4] ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with such Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of such Regulated Fund (and, in the case of an SBIC Subsidiary (defined below), maintains a license under the SBA Act (defined below) and issues debentures guaranteed by the SBA (defined below)); (iii) with respect to which such Regulated Fund's Board has the sole authority to make all determinations with respect to the entity's participation under the Conditions to this application; and (iv) that (a) would be an investment company but for Section 3(c)(1), 3(c)(5)(C), or 3(c)(7) of the Act, (b) relies on Rule 3a–7 under the Act, or (c) qualifies as a REIT within the meaning of Section 856 of the Code because substantially all of its assets would consist of real properties. The term ''SBIC Subsidiary'' means a Wholly-Owned Investment Sub that is licensed by the Small Business Administration (the ''SBA'') to operate under the Small Business Investment Act of 1958, as amended, (the ''SBA Act'') as a small business investment company.

or any Affiliated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the applicable parent Regulated Fund that owns it and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Fund were participating directly.

Applicants' Representations

A. Allocation Process

5. Applicants represent that the Advisers have established rigorous processes for allocating initial investment opportunities, opportunities for subsequent investments in an issuer and dispositions of securities holdings reasonably designed to treat all clients fairly and equitably. Further, applicants represent that these processes will be extended and modified in a manner reasonably designed to ensure that the additional transactions permitted under the Order will both (i) be fair and equitable to the Regulated Funds and the Affiliated Funds and (ii) comply with the Conditions.

6. Opportunities for Potential Co-Investment Transactions may arise when investment advisory personnel of an Adviser becomes aware of investment opportunities that may be appropriate for a Regulated Fund and one or more other Regulated Funds and/or one or more Affiliated Funds. If the requested Order is granted, the Advisers will establish, maintain and implement policies and procedures reasonably designed to ensure that, when such opportunities arise, the Advisers to the relevant Regulated Funds are promptly notified and receive the same information about the opportunity as any other Advisers considering the opportunity for their clients. In particular, consistent with Condition 1, if a Potential Co-Investment Transaction falls within the then-current Objectives and Strategies [5] and any Board-Established Criteria [6] of a Regulated Fund, the policies and procedures will require that the Adviser to such Regulated Fund receive sufficient information to allow such Adviser's investment committee to make its independent determination and recommendations under the Conditions. The Adviser to each applicable Regulated Fund will then make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances. If the Adviser to a Regulated Fund deems the Regulated Fund's participation in such Potential Co-Investment Transaction to be appropriate, then it will formulate a recommendation regarding the proposed order amount for the Regulated Fund.

7. Applicants state that, for each Regulated Fund and Affiliated Fund whose Adviser recommends participating in a Potential Co-Investment Transaction, the Adviser's investment committee will approve an investment amount. Prior to the External Submission (as defined below), each proposed order amount may be reviewed and adjusted, in accordance with the applicable Advisers' written allocation policies and procedures, by the applicable Adviser's investment committee.[7] The order of a Regulated Fund or Affiliated Fund resulting from this process is referred to as its ''Internal Order.'' The Internal Order will be submitted for approval by the Required Majority of any participating Regulated Funds in accordance with the Conditions.[8]

8. If the aggregate Internal Orders for a Potential Co-Investment Transaction do not exceed the size of the investment opportunity immediately prior to the submission of the orders to the underwriter, broker, dealer or issuer, as applicable (the ''External Submission''), then each Internal Order will be fulfilled as placed. If, on the other hand, the aggregate Internal Orders for a Potential Co-Investment Transaction exceed the size of the investment opportunity immediately prior to the External Submission, then the allocation of the opportunity will be made pro rata on the basis of the size of the Internal Orders.[9] If, subsequent to such External Submission, the size of the opportunity is increased or decreased, or if the terms of such opportunity, or the facts and circumstances applicable to the Regulated Funds' or the Affiliated Funds' consideration of the opportunity, change, the participants will be permitted to submit revised Internal Orders in accordance with written allocation policies and procedures that the Advisers will establish, implement and maintain.[10]

B. Follow-On Investments

9. Applicants state that from time to time the Regulated Funds and Affiliated Funds may have opportunities to make Follow-On Investments [11] in an issuer in which a Regulated Fund and one or more other Regulated Funds and/or Affiliated Funds previously have invested and continue to hold an investment.

10. Applicants propose that Follow-On Investments would be divided into

[5] ''Objectives and Strategies'' means a Regulated Fund's investment objectives and strategies, as described in its most current registration statement on Form N–2, other current filings with the Commission under the Securities Act of 1933 (the ''Securities Act'') or under the Securities Exchange Act of 1934, as amended, and its most current report to stockholders.

[6] ''Board-Established Criteria'' means criteria that the Board of a Regulated Fund may establish from time to time to describe the characteristics of Potential Co-Investment Transactions regarding which the Adviser to such Regulated Fund should be notified under Condition 1. The Board-Established Criteria will be consistent with the Regulated Fund's Objectives and Strategies. If no Board-Established Criteria are in effect, then the Regulated Fund's Adviser will be notified of all Potential Co-Investment Transactions that fall within the Regulated Fund's then-current Objectives and Strategies. Board-Established Criteria will be objective and testable, meaning that they will be based on observable information, such as industry/sector of the issuer, minimum EBITDA of the issuer, asset class of the investment opportunity or required commitment size, and not on characteristics that involve a discretionary assessment. The Adviser to the Regulated Fund may from time to time recommend criteria for the Board's (defined below) consideration, but Board-Established Criteria will only become effective if approved by a majority of the Independent Directors (defined below). The Independent Directors of a Regulated Fund may at any time rescind, suspend or qualify its approval of any Board-Established Criteria, though Applicants anticipate that, under normal circumstances, the Board would not modify these criteria more often than quarterly.

[7] The reason for any such adjustment to a proposed order amount will be documented in writing and preserved in the records of each Adviser.

[8] ''Required Majority'' means a required majority, as defined in Section 57(o) of the Act. In the case of a Regulated Fund that is a registered closed-end fund, the Board (defined below) members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

[9] The Advisers will maintain records of all proposed order amounts, Internal Orders and External Submissions in conjunction with Potential Co-Investment Transactions. Each applicable Adviser will provide the Eligible Directors with information concerning the Affiliated Funds' and Regulated Funds' order sizes to assist the Eligible Directors with their review of the applicable Regulated Fund's investments for compliance with the Conditions.

''Eligible Directors'' means, with respect to a Regulated Fund and a Potential Co-Investment Transaction, the members of the Regulated Fund's Board (defined below) eligible to vote on that Potential Co-Investment Transaction under section 57(o) of the Act (treating any registered investment company or series thereof as a BDC for this purpose.

[10] The Board (defined below) of the Regulated Fund will then either approve or disapprove of the investment opportunity in accordance with Condition 2, 6, 7, 8 or 9, as applicable.

[11] ''Follow-On Investment'' means an additional investment in the same issuer, including, but not limited to, through the exercise of warrants, conversion privileges or other rights to purchase securities of the issuer.

two categories depending on whether the prior investment was a Co-Investment Transaction or a Pre-Boarding Investment.[12] If the Regulated Funds and Affiliated Funds had previously participated in a Co-Investment Transaction with respect to the issuer, then the terms and approval of the Follow-On Investment would be subject to the Standard Review Follow-Ons described in Condition 8. If the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer but hold a Pre-Boarding Investment, then the terms and approval of the Follow-On Investment would be subject to the Enhanced-Review Follow-Ons described in Condition 9. All Enhanced Review Follow-Ons require the approval of the Required Majority. For a given issuer, the participating Regulated Funds and Affiliated Funds would need to comply with the requirements of Enhanced-Review Follow-Ons only for the first Co-Investment Transaction. Subsequent Co-Investment Transactions with respect to the issuer would be governed by the requirements of Standard Review Follow-Ons.

11. A Regulated Fund would be permitted to invest in Standard Review Follow-Ons either with the approval of the Required Majority under Condition 8(c) or without Board[13] approval under Condition 8(b) if it is (i) a Pro Rata Follow-On Investment[14] or (ii) a Non-Negotiated Follow-On Investment.[15] Applicants believe that these Pro Rata and Non-Negotiated Follow-On Investments do not present a significant opportunity for overreaching on the part of any Adviser and thus do not warrant the time or the attention of the Board. Pro Rata Follow-On Investments and Non-Negotiated Follow-On Investments remain subject to the Board's periodic review in accordance with Condition 10.

C. Dispositions

12. Applicants propose that Dispositions[16] would be divided into two categories. If the Regulated Funds and Affiliated Funds holding investments in the issuer had previously participated in a Co-Investment Transaction with respect to the issuer, then the terms and approval of the Disposition would be subject to the Standard Review Dispositions described in Condition 6. If the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer but hold a Pre-Boarding Investment, then the terms and approval of the Disposition would be subject to the Enhanced Review Dispositions described in Condition 7. Subsequent Dispositions with respect to the same issuer would be governed by Condition 6 under the Standard Review Dispositions.[17]

13. A Regulated Fund may participate in a Standard Review Disposition either with the approval of the Required Majority under Condition 6(d) or without Board approval under Condition 6(c) if (i) the Disposition is a Pro Rata Disposition[18] or (ii) the securities are Tradable Securities[19] and the Disposition meets the other requirements of Condition 6(c)(ii). Pro Rata Dispositions and Dispositions of a Tradable Security remain subject to the Board's periodic review in accordance with Condition 10.

D. Delayed Settlement

14. Applicants represent that under the terms and Conditions of the application, all Regulated Funds and Affiliated Funds participating in a Co-Investment Transaction will invest at the same time, for the same price and with the same terms, conditions, class, registration rights and any other rights, so that none of them receives terms more favorable than any other. However, the settlement date for an Affiliated Fund in a Co-Investment Transaction may occur up to ten business days after the settlement date for the Regulated Fund, and vice versa. Nevertheless, in all cases, (i) the date on which the commitment of the Affiliated Funds and Regulated Funds is made will be the same even where the settlement date is not and (ii) the earliest settlement date and the latest settlement date of any Affiliated Fund or Regulated Fund participating in the transaction will occur within ten business days of each other.

E. Holders

15. Under Condition 15, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Affiliated Funds (collectively, the

[12] ''Pre-Boarding Investments'' are investments in an issuer held by a Regulated Fund as well as one or more Affiliated Funds and/or one or more other Regulated Funds that were acquired prior to participating in any Co-Investment Transaction: (i) In transactions in which the only term negotiated by or on behalf of such funds was price in reliance on one of the JT No-Action Letters (defined below); or (ii) in transactions occurring at least 90 days apart and without coordination between the Regulated Fund and any Affiliated Fund or other Regulated Fund.

[13] ''Board'' means the board of directors (or the equivalent) of the applicable Regulated Fund.

[14] A ''Pro Rata Follow-On Investment'' is a Follow-On Investment (i) in which the participation of each Affiliated Fund and each Regulated Fund is proportionate to its outstanding investments in the issuer or security, as appropriate, immediately preceding the Follow-On Investment, and (ii) in the case of a Regulated Fund, a majority of the Board has approved the Regulated Fund's participation in the pro rata Follow-On Investments as being in the best interests of the Regulated Fund. The Regulated Fund's Board may refuse to approve, or at any time rescind, suspend or qualify, its approval of Pro Rata Follow-On Investments, in which case all subsequent Follow-On Investments will be submitted to the Regulated Fund's Eligible Directors in accordance with Condition 8(c).

[15] A ''Non-Negotiated Follow-On Investment'' is a Follow-On Investment in which a Regulated Fund participates together with one or more Affiliated Funds and/or one or more other Regulated Funds (i) in which the only term negotiated by or on behalf of the funds is price and (ii) with respect to which, if the transaction were considered on its own, the funds would be entitled to rely on one of the JT No-Action Letters.

''JT No-Action Letters'' means SMC Capital, Inc., SEC No-Action Letter (pub. avail. Sept. 5, 1995) and Massachusetts Mutual Life Insurance Company, SEC No-Action Letter (pub. avail. June 7, 2000).

[16] ''Disposition'' means the sale, exchange or other disposition of an interest in a security of an issuer.

[17] However, with respect to an issuer, if a Regulated Fund's first Co-Investment Transaction is an Enhanced Review Disposition, and the Regulated Fund does not dispose of its entire position in the Enhanced Review Disposition, then before such Regulated Fund may complete its first Standard Review Follow-On in such issuer, the Eligible Directors must review the proposed Follow-On Investment not only on a stand-alone basis but also in relation to the total economic exposure in such issuer (*i.e.,* in combination with the portion of the Pre-Boarding Investment not disposed of in the Enhanced Review Disposition), and the other terms of the investments. This additional review would be required because such findings would not have been required in connection with the prior Enhanced Review Disposition, but they would have been required had the first Co-Investment Transaction been an Enhanced Review Follow-On.

[18] A ''Pro Rata Disposition'' is a Disposition (i) in which the participation of each Affiliated Fund and each Regulated Fund is proportionate to its outstanding investment in the security subject to Disposition immediately preceding the Disposition; and (ii) in the case of a Regulated Fund, a majority of the Board has approved the Regulated Fund's participation in pro rata Dispositions as being in the best interests of the Regulated Fund. The Regulated Fund's Board may refuse to approve, or at any time rescind, suspend or qualify, its approval of Pro Rata Dispositions, in which case all subsequent Dispositions will be submitted to the Regulated Fund's Eligible Directors.

[19] ''Tradable Security'' means a security that meets the following criteria at the time of Disposition: (i) It trades on a national securities exchange or designated offshore securities market as defined in rule 902(b) under the Securities Act; (ii) it is not subject to restrictive agreements with the issuer or other security holders; and (iii) it trades with sufficient volume and liquidity (findings as to which are documented by the Advisers to any Regulated Funds holding investments in the issuer and retained for the life of the Regulated Fund) to allow each Regulated Fund to dispose of its entire position remaining after the proposed Disposition within a short period of time not exceeding 30 days at approximately the value (as defined by section 2(a)(41) of the Act) at which the Regulated Fund has valued the investment.

''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Fund (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the Condition. Applicants believe that this Condition will ensure that the Independent Directors [20] will act independently in evaluating Co-Investment Transactions, because the ability of an Adviser or its principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. The Independent Directors shall evaluate and approve any independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit participation by a registered investment company and an affiliated person in any ''joint enterprise or other joint arrangement or profit-sharing plan,'' as defined in the rule, without prior approval by the Commission by order upon application. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Similarly, with regard to BDCs, section 57(a)(4) of the Act generally prohibits certain persons specified in section 57(b) from participating in joint transactions with the BDC or a company controlled by the BDC in contravention of rules as prescribed by the Commission. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs.

3. Co-Investment Transactions are prohibited by either or both of rule 17d–1 and section 57(a)(4) without a prior exemptive order of the Commission to the extent that the Affiliated Funds and the Regulated Funds participating in such transactions fall within the category of persons described by rule 17d–1 and/or section 57(b), as modified by rule 57b–1 thereunder, as applicable, vis-à-vis each participating Regulated Fund. Each of the participating Regulated Funds and Affiliated Funds may be deemed to be affiliated persons vis-à-vis a Regulated Fund within the meaning of section 2(a)(3) by reason of common control because (i) an Adviser, that is either IAI or an entity that controls, is controlled by, or under common control with IAI, will be the investment adviser (and sub-adviser, if any) to each of the Regulated Funds and the Affiliated Funds; (ii) the Adviser manages each of the Regulated Funds pursuant to its investment advisory or sub-advisory agreement. Thus, each of the Affiliated Funds could be deemed to be a person related to the Regulated Funds in a manner described by section 57(b) and related to Future Regulated Funds in a manner described by rule 17d–1; and therefore the prohibitions of rule 17d–1 and section 57(a)(4) would apply respectively to prohibit the Affiliated Funds from participating in Co-Investment Transactions with the Regulated Funds.

4. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

5. Applicants state that in the absence of the requested relief, in many circumstances the Regulated Funds would be limited in their ability to participate in attractive and appropriate investment opportunities. Applicants state that, as required by rule 17d–1(b), the Conditions ensure that the terms on which Co-Investment Transactions may be made will be consistent with the participation of the Regulated Funds being on a basis that it is neither different from nor less advantageous than other participants, thus protecting the equity holders of any participant from being disadvantaged. Applicants further state that the Conditions ensure that all Co-Investment Transactions are reasonable and fair to the Regulated Funds and their shareholders and do not involve overreaching by any person concerned, including the Advisers. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions in accordance with the Conditions will be consistent with the provisions, policies, and purposes of the Act and would be done in a manner that is not different from, or less advantageous than, that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following Conditions:

1. *Identification and Referral of Potential Co-Investment Transactions*

(a) The Advisers will establish, maintain and implement policies and procedures reasonably designed to ensure that each Adviser is promptly notified of all Potential Co-Investment Transactions that fall within the then-current Objectives and Strategies and Board-Established Criteria of any Regulated Fund the Adviser manages.

(b) When an Adviser to a Regulated Fund is notified of a Potential Co-Investment Transaction under Condition 1(a), the Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. *Board Approvals of Co-Investment Transactions*

(a) If an Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the Advisers to be invested in the Potential Co-Investment Transaction by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in section III.A.1.b. of the application. Each Adviser to a participating Regulated Fund will promptly notify and provide the Eligible Directors with information concerning the Affiliated Funds' and Regulated Funds' order sizes to assist the Eligible Directors with their review of the applicable Regulated Fund's investments for compliance with these Conditions.

(c) After making the determinations required in Condition 1(b) above, each Adviser to a participating Regulated Fund will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and each participating Affiliated Fund) to the Eligible Directors of its participating Regulated Fund(s) for their consideration. A Regulated Fund will

[20] ''Independent Director'' means a member of the Board of any relevant entity who is not an ''interested person'' as defined in Section 2(a)(19) of the Act. No Independent Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

enter into a Co-Investment Transaction with one or more other Regulated Funds or Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its equity holders and do not involve overreaching in respect of the Regulated Fund or its equity holders on the part of any person concerned;

(ii) the transaction is consistent with:

(A) The interests of the Regulated Fund's equity holders; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Fund(s) or Affiliated Fund(s) would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from, or less advantageous than, that of any other Regulated Fund(s) or Affiliated Fund(s) participating in the transaction; provided that the Required Majority shall not be prohibited from reaching the conclusions required by this Condition 2(c)(iii) if:

(A) The settlement date for another Regulated Fund or an Affiliated Fund in a Co-Investment Transaction is later than the settlement date for the Regulated Fund by no more than ten business days or earlier than the settlement date for the Regulated Fund by no more than ten business days, in either case, so long as: (x) The date on which the commitment of the Affiliated Funds and Regulated Funds is made is the same; and (y) the earliest settlement date and the latest settlement date of any Affiliated Fund or Regulated Fund participating in the transaction will occur within ten business days of each other; or

(B) any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors, the right to have a board observer or any similar right to participate in the governance or management of the portfolio company so long as: (x) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any; (y) the Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and (z) any fees or other compensation that any other Regulated Fund or Affiliated Fund or any affiliated person of any other Regulated Fund or Affiliated Fund receives in connection with the right of one or more Regulated Funds or Affiliated Funds to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among any participating Affiliated Funds (who may, in turn, share their portion with their affiliated persons) and any participating Regulated Fund(s) in accordance with the amount of each such party's investment; and

(iv) the proposed investment by the Regulated Fund will not involve compensation, remuneration or a direct or indirect [21] financial benefit to the Advisers, any other Regulated Fund, the Affiliated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by Condition 14, (B) to the extent permitted by section 17(e) or 57(k), as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in Condition 2(c)(iii)(B)(z).

3. *Right to Decline.* Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. *General Limitation.* Except for Follow-On Investments made in accordance with Conditions 8 and 9 below,[22] a Regulated Fund will not invest in reliance on the Order in any issuer in which a Related Party has an investment.[23]

5. *Same Terms and Conditions.* A Regulated Fund will not participate in any Potential Co-Investment Transaction unless (i) the terms, conditions, price, class of securities to be purchased, date on which the commitment is entered into and registration rights (if any) will be the same for each participating Regulated Fund and Affiliated Fund and (ii) the earliest settlement date and the latest settlement date of any participating Regulated Fund or Affiliated Fund will occur as close in time as practicable and in no event more than ten business days apart. The grant to one or more Regulated Funds or Affiliated Funds, but not the respective Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this Condition 5, if Condition 2(c)(iii)(B) is met.

6. *Standard Review Dispositions.*

(a) *General.* If any Regulated Fund or Affiliated Fund elects to sell, exchange or otherwise dispose of an interest in a security and one or more Regulated Funds and Affiliated Funds have previously participated in a Co-Investment Transaction with respect to the issuer, then:

(i) The Adviser to such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds an investment in the issuer of the proposed Disposition at the earliest practical time; and

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to participation by such Regulated Fund in the Disposition.

(b) *Same Terms and Conditions.* Each Regulated Fund will have the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Affiliated Funds and any other Regulated Fund.

(c) *No Board Approval Required.* A Regulated Fund may participate in such a Disposition without obtaining prior approval of the Required Majority if:

(i) (A) The participation of each Regulated Fund and Affiliated Fund in such Disposition is proportionate to its then-current holding of the security (or securities) of the issuer that is (or are) the subject of the Disposition; [24] (B) the

[21] For example, procuring the Regulated Fund's investment in a Potential Co-Investment Transaction to permit an affiliate to complete or obtain better terms in a separate transaction would constitute an indirect financial benefit.

[22] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

[23] ''Related Party'' means (i) any Close Affiliate and (ii) in respect of matters as to which any Adviser has knowledge, any Remote Affiliate.

''Close Affiliate'' means the Advisers, the Regulated Funds, the Affiliated Funds and any other person described in section 57(b) (after giving effect to rule 57b–1) in respect of any Regulated Fund (treating any registered investment company or series thereof as a BDC for this purpose) except for limited partners included solely by reason of the reference in section 57(b) to section 2(a)(3)(D).

''Remote Affiliate'' means any person described in section 57(e) in respect of any Regulated Fund (treating any registered investment company or series thereof as a BDC for this purpose) and any limited partner holding 5% or more of the relevant limited partner interests that would be a Close Affiliate but for the exclusion in that definition.

[24] In the case of any Disposition, proportionality will be measured by each participating Regulated

Continued

Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such Dispositions on a pro rata basis (as described in greater detail in the application); and (C) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Dispositions made in accordance with this Condition; or

(ii) each security is a Tradable Security and (A) the Disposition is not to the issuer or any affiliated person of the issuer; and (B) the security is sold for cash in a transaction in which the only term negotiated by or on behalf of the participating Regulated Funds and Affiliated Funds is price.

(d) *Standard Board Approval.* In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors and the Regulated Fund will participate in such Disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

7. *Enhanced Review Dispositions.*

(a) *General.* If any Regulated Fund or Affiliated Fund elects to sell, exchange or otherwise dispose of a Pre-Boarding Investment in a Potential Co-Investment Transaction and the Regulated Funds and Affiliated Funds have not previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds an investment in the issuer of the proposed Disposition at the earliest practical time;

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to participation by such Regulated Fund in the Disposition; and

(iii) the Advisers will provide to the Board of each Regulated Fund that holds an investment in the issuer all information relating to the existing investments in the issuer of the Regulated Funds and Affiliated Funds, including the terms of such investments and how they were made, that is necessary for the Required Majority to make the findings required by this Condition.

(b) *Enhanced Board Approval.* The Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Disposition solely to the extent that a Required Majority determines that:

(i) The Disposition complies with Condition 2(c)(i), (ii), (iii)(A), and (iv); and

(ii) the making and holding of the Pre-Boarding Investments were not prohibited by section 57 or rule 17d–1, as applicable, and records the basis for the finding in the Board minutes.

(c) *Additional Requirements:* The Disposition may only be completed in reliance on the Order if:

(i) *Same Terms and Conditions.* Each Regulated Fund has the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and Conditions as those applicable to the Affiliated Funds and any other Regulated Fund;

(ii) *Original Investments.* All of the Affiliated Funds' and Regulated Funds' investments in the issuer are Pre-Boarding Investments;

(iii) *Advice of counsel.* Independent counsel to the Board advises that the making and holding of the investments in the Pre-Boarding Investments were not prohibited by section 57 (as modified by rule 57b–1) or rule 17d–1, as applicable;

(iv) *Multiple Classes of Securities.* All Regulated Funds and Affiliated Funds that hold Pre-Boarding Investments in the issuer immediately before the time of completion of the Co-Investment Transaction hold the same security or securities of the issuer. For the purpose of determining whether the Regulated Funds and Affiliated Funds hold the same security or securities, they may disregard any security held by some but not all of them if, prior to relying on the Order, the Required Majority is presented with all information necessary to make a finding, and finds, that: (x) Any Regulated Fund's or Affiliated Fund's holding of a different class of securities (including for this purpose a security with a different maturity date) is immaterial[25] in amount, including immaterial relative to the size of the issuer; and (y) the Board records the basis for any such finding in its minutes. In addition, securities that differ only in respect of issuance date, currency, or denominations may be treated as the same security; and

(v) *No control.* The Affiliated Funds, the other Regulated Funds and their affiliated persons (within the meaning of section 2(a)(3)(C) of the Act), individually or in the aggregate, do not control the issuer of the securities (within the meaning of section 2(a)(9) of the Act).

8. *Standard Review Follow-Ons.*

(a) *General.* If any Regulated Fund or Affiliated Fund desires to make a Follow-On Investment in an issuer and the Regulated Funds and Affiliated Funds holding investments in the issuer previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to each such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds securities of the portfolio company of the proposed transaction at the earliest practical time; and

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Fund.

(b) *No Board Approval Required.* A Regulated Fund may participate in the Follow-On Investment without obtaining prior approval of the Required Majority if:

(i) (A) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer or the security at issue, as appropriate,[26] immediately preceding the Follow-On Investment; and (B) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); or

(ii) it is a Non-Negotiated Follow-On Investment.

(c) *Standard Board Approval.* In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a

Fund's and Affiliated Fund's outstanding investment in the security in question immediately preceding the Disposition.

[25] In determining whether a holding is ''immaterial'' for purposes of the Order, the Required Majority will consider whether the nature and extent of the interest in the transaction or arrangement is sufficiently small that a reasonable person would not believe that the interest affected the determination of whether to enter into the transaction or arrangement or the terms of the transaction or arrangement.

[26] To the extent that a Follow-On Investment opportunity is in a security or arises in respect of a security held by the participating Regulated Funds and Affiliated Funds, proportionality will be measured by each participating Regulated Fund's and Affiliated Fund's outstanding investment in the security in question immediately preceding the Follow-On Investment using the most recent available valuation thereof. To the extent that a Follow-On Investment opportunity relates to an opportunity to invest in a security that is not in respect of any security held by any of the participating Regulated Funds or Affiliated Funds, proportionality will be measured by each participating Regulated Fund's and Affiliated Fund's outstanding investment in the issuer immediately preceding the Follow-On Investment using the most recent available valuation thereof.

Required Majority makes the determinations set forth in Condition 2(c). If the only previous Co-Investment Transaction with respect to the issuer was an Enhanced Review Disposition the Eligible Directors must complete this review of the proposed Follow-On Investment both on a stand-alone basis and together with the Pre-Boarding Investments in relation to the total economic exposure and other terms of the investment.

(d) *Allocation.* If, with respect to any such Follow-On Investment:

(i) The amount of the opportunity proposed to be made available to any Regulated Fund is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments in the issuer or the security at issue, as appropriate, immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Advisers to be invested in the Follow-On Investment by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity, then the Follow-On Investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in section III.A.1.b. of the application.

(e) *Other Conditions.* The acquisition of Follow-On Investments as permitted by this Condition will be considered a Co-Investment Transaction for all purposes and subject to the other Conditions set forth in the application.

9. *Enhanced Review Follow-Ons.*

(a) *General.* If any Regulated Fund or Affiliated Fund desires to make a Follow-On Investment in an issuer that is a Potential Co-Investment Transaction and the Regulated Funds and Affiliated Funds holding investments in the issuer have not previously participated in a Co-Investment Transaction with respect to the issuer:

(i) The Adviser to each such Regulated Fund or Affiliated Fund will notify each Regulated Fund that holds securities of the portfolio company of the proposed transaction at the earliest practical time;

(ii) the Adviser to each Regulated Fund that holds an investment in the issuer will formulate a recommendation as to the proposed participation, including the amount of the proposed investment, by such Regulated Fund; and

(iii) the Advisers will provide to the Board of each Regulated Fund that holds an investment in the issuer all information relating to the existing investments in the issuer of the Regulated Funds and Affiliated Funds, including the terms of such investments and how they were made, that is necessary for the Required Majority to make the findings required by this Condition.

(b) *Enhanced Board Approval.* The Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority reviews the proposed Follow-On Investment both on a stand-alone basis and together with the Pre-Boarding Investments in relation to the total economic exposure and other terms and makes the determinations set forth in Condition 2(c). In addition, the Follow-On Investment may only be completed in reliance on the Order if the Required Majority of each participating Regulated Fund determines that the making and holding of the Pre-Boarding Investments were not prohibited by section 57 (as modified by rule 57b–1) or rule 17d–1, as applicable. The basis for the Board's findings will be recorded in its minutes.

(c) *Additional Requirements.* The Follow-On Investment may only be completed in reliance on the Order if:

(i) *Original Investments.* All of the Affiliated Funds' and Regulated Funds' investments in the issuer are Pre-Boarding Investments;

(ii) *Advice of counsel.* Independent counsel to the Board advises that the making and holding of the investments in the Pre-Boarding Investments were not prohibited by section 57 (as modified by rule 57b–1) or rule 17d–1, as applicable;

(iii) *Multiple Classes of Securities.* All Regulated Funds and Affiliated Funds that hold Pre-Boarding Investments in the issuer immediately before the time of completion of the Co-Investment Transaction hold the same security or securities of the issuer. For the purpose of determining whether the Regulated Funds and Affiliated Funds hold the same security or securities, they may disregard any security held by some but not all of them if, prior to relying on the Order, the Required Majority is presented with all information necessary to make a finding, and finds, that: (x) Any Regulated Fund's or Affiliated Fund's holding of a different class of securities (including for this purpose a security with a different maturity date) is immaterial in amount, including immaterial relative to the size of the issuer; and (y) the Board records the basis for any such finding in its minutes. In addition, securities that differ only in respect of issuance date, currency, or denominations may be treated as the same security; and

(iv) *No control.* The Affiliated Funds, the other Regulated Funds and their affiliated persons (within the meaning of section 2(a)(3)(C) of the Act), individually or in the aggregate, do not control the issuer of the securities (within the meaning of section 2(a)(9) of the Act).

(d) *Allocation.* If, with respect to any such Follow-On Investment:

(i) The amount of the opportunity proposed to be made available to any Regulated Fund is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments in the issuer or the security at issue, as appropriate, immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Advisers to be invested in the Follow-On Investment by the participating Regulated Funds and any participating Affiliated Funds, collectively, exceeds the amount of the investment opportunity, then the Follow-On Investment opportunity will be allocated among them pro rata based on the size of the Internal Orders, as described in section III.A.1.b. of the application.

(e) *Other Conditions.* The acquisition of Follow-On Investments as permitted by this Condition will be considered a Co-Investment Transaction for all purposes and subject to the other Conditions set forth in the application.

10. *Board Reporting, Compliance and Annual Re-Approval*

(a) Each Adviser to a Regulated Fund will present to the Board of each Regulated Fund, on a quarterly basis, and at such other times as the Board may request, (i) a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or any of the Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies and Board-Established Criteria that were not made available to the Regulated Fund, and an explanation of why such investment opportunities were not made available to the Regulated Fund; (ii) a record of all Follow-On Investments in and Dispositions of investments in any issuer in which the Regulated Fund holds any investments by any Affiliated Fund or other Regulated Fund during the prior quarter; and (iii) all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the

Independent Directors, may determine whether all Potential Co-Investment Transactions and Co-Investment Transactions during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the Conditions.

(b) All information presented to the Regulated Fund's Board pursuant to this Condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

(c) Each Regulated Fund's chief compliance officer, as defined in rule 38a–1(a)(4), will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Fund's compliance with the terms and Conditions of the application and the procedures established to achieve such compliance.

(d) The Independent Directors will consider at least annually whether continued participation in new and existing Co-Investment Transactions is in the Regulated Fund's best interests.

11. *Record Keeping.* Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these Conditions were approved by the Required Majority under section 57(f).

12. *Director Independence.* No Independent Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise be an ''affiliated person'' (as defined in the Act) of any Affiliated Fund.

13. *Expenses.* The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Regulated Funds and the Affiliated Funds, be shared by the Regulated Funds and the participating Affiliated Funds in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

14. *Transaction Fees.*[27] Any transaction fee (including break-up, structuring, monitoring or commitment fees but excluding brokerage or underwriting compensation permitted by section 17(e) or 57(k)) received in connection with any Co-Investment Transaction will be distributed to the participants on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1), and the account will earn a competitive rate of interest that will also be divided pro rata among the participants. None of the Advisers, the Affiliated Funds, the other Regulated Funds or any affiliated person of the Affiliated Funds or the Regulated Funds will receive any additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction other than (i) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in Condition 2(c)(iii)(B)(z), (ii) brokerage or underwriting compensation permitted by section 17(e) or 57(k) or (iii) in the case of the Advisers, investment advisory compensation paid in accordance with investment advisory agreements between the applicable Regulated Fund(s) or Affiliated Fund(s) and its Adviser.

15. *Independence.* If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–08825 Filed 4–24–20; 8:45 am]

BILLING CODE 8001–01–P

[27] Applicants are not requesting and the Commission is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2020–0420]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: National Flight Data Center Web Portal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves aeronautical information detailing the physical description and operational status of all components of the National Airspace System (NAS). The information to be collected will be used to update government, military, and private aeronautical database, charts, publications, and flight management systems.

DATES: Written comments should be submitted by June 26, 2020.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: John Graybill, FAA, Aeronautical Information Services, AJV–A35, Station 5150, 1305 East-West Highway, SSMC4, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: John Graybill by email at: *John.Graybill@faa.gov;* phone: 202–267–3742.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0754.

Title: National Flight Data Center Web Portal.

Form Numbers: AD1–ADCP, AD3–ACC.

Type of Review: Renewal of an information collection.

Background: 49 U.S.C. 40103, ''Sovereignty and Use of Airspace,'' authorizes and directs the FAA to develop plans and policy for the use of the navigable airspace. The National Flight Data Center (NFDC) is the authoritative government source for collecting, validating, storing, maintaining, and disseminating aeronautical data concerning the United States and its territories to support real-time aviation activities. The information collected ensures the safe and efficient navigation of the national airspace. The information collected is maintained in the National Airspace System Resources (NASR) database which serves as the official repository for NAS data and is provided to government, military, and private producers of aeronautical charts, publications, and flight management systems. Information will be collected via digital forms.

Respondents: Approximately 5,092 representatives of U.S. public airports. Average of 6,709 responses annually.

Frequency: Information to be collected on occasion.

Estimated Average Burden per Response: 20 minutes.

Estimated Total Annual Burden: 2,236 hours.

Issued in Washington, DC, on April 21, 2020.

John L. Graybill,

Aeronautical Information Specialist, Data Systems Team, Aeronautical Information Services, AJV–A35.

[FR Doc. 2020–08836 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a proposed highway project, known as the SR–91 Corridor Operations Project (COP) portion of the Ultimate SR–91 Corridor Improvement Project (CIP), where the project limits extend approximately 2 miles along westbound SR–91, from Green River Road onramp to SR–241 in the Counties of Orange and Riverside, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 24, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Shawn Oriaz, Senior Environmental Planner, Caltrans District 8; 464 W 4th St., San Bernardino, CA 92401; 9:00 a.m.–5:00 p.m.; (909) 383–7034; *shawn.oriaz@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024, or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Construct a general purpose lane approximately 2 miles in length in the westbound direction on SR–91 from Green River Road westbound onramp to SR–241. Outside widening is proposed along the north side of westbound SR–91 to accommodate the new general purpose lane. Other project features include widening the County Line Creek Undercrossing, construction of new retaining walls on the north side of SR–91, reconstructing a portion of Green River Road, replacing overhead signs, and adding high mast lighting.

[Project Number 0800000136]

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) approved on August 10, 2012, in the Revalidation was completed to address design changes and update the project review approved on March 20, 2020, the ROD for the project approved on April 13, 2020, and in other documents in the FHWA project records. The FEIS, Revalidation, ROD, and other project records are available by contacting Caltrans at the address provided above. The Caltrans FEIS, Revalidation, and ROD can also be viewed and downloaded from the project website at *https://www.rctc.org/state-route-91-corridor-operations-project/.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. E.O. 12372, Intergovernmental Review;
2. E.O. 11990, Protection of Wetlands;
3. E.O. 12088, Pollution Control Standards;
4. E.O. 13112, Invasive Species;
5. E.O. 11988, Floodplain Management;
6. Council on Environmental Quality regulations;
7. National Environmental Policy Act (NEPA);
8. Department of Transportation Act of 1996;
9. Federal Aid Highway Act of 1970;
10. Clean Air Act Amendments of 1990;
11. Department of Transportation Act of 1966; Section 4(f);
12. Clean Water Act of 1977 and 1987;
13. Endangered Species Act of 1973;
14. Migratory Bird Treaty Act;
15. National Historic Preservation Act of 1966, as amended; and
16. Historic Sites Act of 1935.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: April 20, 2020.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, California Division.

[FR Doc. 2020–08888 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans, that are final. The actions relate to a

proposed highway project on State Route 55 (Post Miles 10.4 to R17.9) in the Cities of Orange, Tustin, Santa Ana, and Anaheim in the County of Orange, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 24, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Brian Liu, Caltrans Division of Environmental Analysis, Specialist Branch, Caltrans District 12, 1750 East 4th Street, Suite 100, Santa Ana, CA, 92705; (657) 328–6135, *Brian.Liu@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *David.Tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the Federal Highway Administration (FHWA) assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The State Route 55 Improvement Project Between Interstate 5 and State Route 91 proposes capacity and operational improvements on the State Route (SR) 55 in both directions from just north of the Interstate 5 (I–5)/State Route 55 (SR55) interchange to just south of SR 91 between Post Miles 10.4 and R17.9 in the cities of Tustin, Santa Ana, Orange, and Anaheim in Orange County, California. Caltrans has identified the Build Alternative as the Preferred Alternative. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment/Finding of No Significant Impact (EA/FONSI) for the project, approved on March 30, 2020 and in other documents in the FHWA project records. The EA/FONSI, and other project records are available by contacting Caltrans at the addresses provided above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4351)
3. Department of Transportation Act of 1966
4. Federal Aid Highway Act of 1970, 23 U.S.C. 109
5. Clean Air Act Amendments (42 U.S.C. 7401–7671 [q])
6. 23 CFR part 772 FHWA Noise Standards, Policies and Procedures;
7. Department of Transportation Act of 1966, Section 4(f) (49 U.S.C. 303)
8. Clean Water Act of 1977 and 1987
9. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
10. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
11. Safe Drinking Water Act of 1944, as amended
12. Endangered Species Act of 1973
13. Executive Order 11990, Protection of Wetlands
14. Executive Order 13112, Invasive Species
15. Executive Order 13186, Migratory Birds
16. Fish and Wildlife Coordination Act of 1934, as amended
17. Migratory Bird Treaty Act
18. National Historic Preservation Act of 1966, as amended
19. Historic Sites Act of 1935, and
20. Executive Order 11988, Floodplain Management
21. Title VI of the Civil Rights Act of 1964, as amended
22. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: April 20, 2020.

Tashia J. Clemons,

Director, Planning and Environment, Federal Highway Administration, California Division.

[FR Doc. 2020–08889 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0066]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BOMAC (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 27, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0066 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0066 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0066, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey

Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BOMAC is:

—*Intended Commercial Use of Vessel:* ''I have my OUPV/six pack captain license and would like be able to do some charters and sport fish charters part time.''

—*Geographic Region Including Base of Operations:* ''Rhode Island, Massachusetts, New Hampshire, Maine, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York (excluding New York Harbor), Connecticut '' (Base of Operations: Boston, MA)

—*Vessel Length and Type:* 35′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2020–0066 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0066 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: April 22, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–08864 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0065]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TIME OUT (Catamaran); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 27, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0065 by any one of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0065 and follow the instructions for submitting comments.

• *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0065, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TIME OUT is:

—*Intended Commercial Use of Vessel:* ''Charter''

—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: San Diego, CA)

—Vessel Length and Type: 34′ catamaran

The complete application is available for review identified in the DOT docket as MARAD–2020–0065 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0065 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: April 22, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–08861 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0067]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel AQUARII (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before May 27, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0067 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2020–0067 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0067, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel AQUARII is:

—*Intended Commercial Use of Vessel:* ''Coastwise Trade''

—*Geographic Region Including Base of Operations:* ''Puerto Rico'' (Base of Operations: Fajardo, PR)

—*Vessel Length and Type:* 58′ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2020–0067 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the

commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2020–0067 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Department of Transportation, Maritime Administration, Office of Legislation and Regulations, MAR–225, W24–220, 1200 New Jersey Avenue SE, Washington, DC 20590. Include a cover letter setting forth with specificity the basis for any such claim and, if possible, a summary of your submission that can be made available to the public.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

Dated: April 22, 2020.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2020–08863 Filed 4–24–20; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing updates to the identifying information of persons and a vessel currently included in the Specially Designated Nationals and Blocked Persons List (the SDN List). All property and interests in property of these persons or relating to this vessel that are subject to U.S. jurisdiction continue to be blocked, and U.S. persons generally continue to be prohibited from engaging in transactions with these persons or relating to this vessel.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On April 22, 2020, OFAC published the following revised identifying information for the following persons on the SDN List whose property and interests in property continue to be blocked pursuant to Executive Order (E.O.) 13566 of February 25, 2011, ''Blocking Property and Prohibiting Certain Transactions Related to Libya.''

Individuals

1. QADHAFI, Ayesha (a.k.a. AL–GADDAFI, Ayesha; a.k.a. AL–QADHAFI, Aisha; a.k.a. ELKADDAFI, Aisha; a.k.a. EL–QADDAFI, Aisha; a.k.a. GADDAFI, Ayesha; a.k.a. GADHAFI, Aisha; a.k.a. GHADAFFI, Aisha; a.k.a. GHATHAFI, Aisha; a.k.a. GHATHAFI, Aisha Muammer; a.k.a. QADDAFI, Aisha; a.k.a. QADHAFI, Aisha; a.k.a. QADHAFI, Aisha Muammar Muhammed Abu Minyar), Oman; DOB 1977; alt. DOB 1976; alt. DOB 01 Jan 1978; POB Tripoli, Libya; Gender Female; Passport 215215 (Libya); alt. Passport 428720 (Libya); alt. Passport B/011641; alt. Passport 03824970 (Oman) issued 04 May 2014 expires 03 May 2024; National ID No. 98606612 (individual) [LIBYA2].

2. DORDA, Abu Zaid (a.k.a. ABUZED OE, Dorda; a.k.a. DORDA, Abouzid Omar; a.k.a. DORDA, Abu Zayd Umar; a.k.a. DORDA, Bu Zaid; a.k.a. DOURDA, Abu Zaid Omar; a.k.a. DURDA, Abu Zeid Omar), Libya; Egypt; DOB 04 Apr 1944; Gender Male; Passport FK117RK0 (Libya) issued 25 Nov 2018 expires 24 Nov 2026; alt. Passport FK117RKO (Libya) issued 25 Nov 2018 expires 24 Nov 2026; Director of the External Security Organization (individual) [LIBYA2].

B. On April 22, 2020, OFAC published the following revised identifying information for the following persons and vessel on the SDN List. All property and interests in property of these persons or relating to this vessel continue to be blocked pursuant to Executive Order 13726 of April 19, 2016, ''Blocking Property and Suspending Entry Into the United States of Persons Contributing to the Situation in Libya.''

Individuals

1. DABBASHI, Ahmed (a.k.a. AL DABBASHI, Ahmad Mohammed Omar Al Fituri; a.k.a. AL-FITOURI, Ahmad Oumar Imhamad (Arabic: احمد عمر امحمد الفيتوري); a.k.a. "Amu"), Sabratha, Libya; DOB 05 Jul 1988; alt. DOB 07 May 1988; nationality Libya; Gender Male; Passport LY53FP76 issued 29 Sep 2015; National ID No. 119880387067 (Libya) (individual) [LIBYA3].

2. KOSHLAF, Mohamed (Arabic: محمد كشلاف) (a.k.a. KASHLAF, Mohamed; a.k.a. KASHLAF, Mohammed Al Amin Al-Arabi (Arabic: محمد الأمين العربي كشلاف); a.k.a. KHUSHLAF, Mohamed; a.k.a. KOSHLAF, Mohamed al-Aameen al-Arabi; a.k.a. "Al Qasseb"), Zawiya, Libya; DOB 12 Dec 1985; alt. DOB 02 Dec 1985; POB Zawiya, Libya; nationality Libya; Gender Male; Passport C17HLRL3 issued 30 Dec 2015 (individual) [LIBYA3].

3. JADHRAN, Ibrahim (a.k.a. AL JADHRAN, Ibrahim Saeed Salem Awad Aissa Hamed Dawoud; a.k.a. AL-JADRAN AL-MAGHRIBI, Ibrahim Saad; a.k.a. JADHRAN, Ibrahim Saeed Salim; a.k.a. JATHRAN, Ibrahim), Libya; DOB 29 Oct 1982; alt. DOB 1979 to 1982; POB Ajdabia, Libya; nationality Libya; Gender Male; Passport S/263963 issued 08 Nov 2012; National ID No. 119820043341; Personal ID Card 137803 (individual) [LIBYA3].

Vessel

1. ZEUS (9H5319) Fishing Vessel Malta flag; Vessel Registration Identification IMO 8799619 (vessel) [LIBYA3] (Linked To: ANDREA MARTINA LIMITED).

Dated: April 22, 2020.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2020–08884 Filed 4–24–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked and who have been removed from the list of Specially Designated Nationals and Blocked Persons.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On April 22, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are unblocked and they have been removed from the SDN List under the relevant sanctions authorities listed below.

Individuals

1. HERRERA GARCIA, Otto Roberto (a.k.a. VILLAGRAN, Francisco), Guatemala; DOB 14 Mar 1965; citizen Guatemala (individual) [SDNTK].

2. NOVA CARVAJAL, Mary Luz, c/o SOCIEDAD SUPERDEPORTES LTDA., Bogota, Colombia; c/o ABS HEALTH CLUB SA, Bogota, Colombia; DOB 19 Dec 1974; nationality Colombia; citizen Colombia; Cedula No. 52253223 (Colombia) (individual) [SDNT].

3. OCHOA MESA, Reinaldo (a.k.a. ''NATILLA''); DOB 10 May 1957; POB Envigado, Antioquia, Colombia; Cedula No. 70546722 (Colombia) (individual) [SDNTK] (Linked To: SEMILLANOS S.A.).

4. ROSENTHAL COELLO, Yankel Antonio, Contiguo Rio Santa Ana, Lote Residencial Fina Vieja, San Pedro Sula, Cortes, Honduras; Blvd. Santa Ana, Residencial Fina Vieja No 5, San Pedro Sula, Cortes, Honduras; 1395 Brickell Ave 3404, Miami, FL 33131, United States; DOB 31 Oct 1968; POB Honduras; Passport B139300 (Honduras); National ID No. 0501196808151 (Honduras); RTN 05011968081512 (Honduras) (individual) [SDNTK] (Linked To: SHELIMAR INVESTMENTS, LTD; Linked To: SHELIMAR REAL ESTATE HOLDINGS II, INC; Linked To: SHELIMAR REAL ESTATE HOLDINGS III, INC; Linked To: DESLAND OVERSEAS, LTD; Linked To: PREYDEN INVESTMENTS, LTD).

Entities

1. DESLAND OVERSEAS, LTD, 3rd Floor, Geneva Place, Waterfront Drive, Road Town, Tortola, Virgin Islands, British [SDNTK].

2. PREYDEN INVESTMENTS, LTD, 3rd Floor, Geneva Place, Waterfront Drive, Road Town, Tortola, Virgin Islands, British [SDNTK].

3. SHELIMAR INVESTMENTS, LTD, Vanterpool Plaza 2nd Floor, Wickhams Cay, Road Town, Tortola, Virgin Islands, British [SDNTK].

4. SHELIMAR REAL ESTATE HOLDINGS II, INC, Miami, FL, United States [SDNTK].

5. SHELIMAR REAL ESTATE HOLDINGS III, INC, Golden Beach, FL, United States; Tax ID No. 270800357 (United States) [SDNTK].

6. SEMILLANOS S.A., Carrera 43 A 1 Sur 100 Of 1705, Medellin, Antioquia, Colombia; Hacienda El Cedro, Km 5 Via Rabolargo, Cerete, Cordoba, Colombia; NIT # 811034178–0 (Colombia) [SDNTK].

Dated: April 22, 2020.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2020–08880 Filed 4–24–20; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

2020 Report on the Effectiveness of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comment.

SUMMARY: The Terrorism Risk Insurance Act of 2002, as amended (TRIA), established the Terrorism Risk Insurance Program (TRIP or Program). TRIA requires the Secretary of the Treasury (Secretary) to submit a report to Congress by June 30, 2020 concerning the overall effectiveness of TRIP and other related matters. To assist the Secretary in formulating the report, the Federal Insurance Office (FIO) within the Department of the Treasury (Treasury) is seeking comments from the industry and other stakeholders on the statutory factors that the report must analyze, as well as any other feedback about the effectiveness of TRIP.

DATES: Submit comments on or before June 11, 2020.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov,* in accordance with the instructions on that site, or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments concerning the 2020 report on the effectiveness of the Program should be captioned with ''2020 TRIP Effectiveness Report.'' In general, Treasury will post all comments to *www.regulations.gov* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

Additional Instructions. Responses should also include: (1) The data or rationale, including examples, supporting any opinions or conclusions; and (2) any specific legislative, administrative, or regulatory proposals for carrying out recommended approaches or options.

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–2922, or Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, (202) 622–3220. Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

TRIA [1] requires participating insurers to make insurance available for losses resulting from acts of terrorism, and provides a federal government backstop for the insurers' resulting financial exposure. TRIA established TRIP within Treasury, and TRIP is administered by the Secretary with the assistance of FIO. TRIA Section 104(h)(2) requires the Secretary to prepare and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on, among other things, the impact and effectiveness of TRIP (the Effectiveness Report). TRIA was reauthorized in December 2019 with an additional requirement that Treasury analyze in the Effectiveness Report the availability and affordability of terrorism risk insurance, including specifically for houses of worship.[2] The Effectiveness Report that is to be submitted by June 30, 2020 will also include an analysis of information that is being collected by Treasury through the 2020 TRIP Data Call (including information relating specifically to houses of worship),[3] as well as data that Treasury collected in prior TRIP Data Calls.[4] Treasury structures its data calls to obtain information appropriate to analyze the effectiveness of TRIP and the competitiveness of small insurers in the terrorism risk insurance marketplace,[5] as well as to assist Treasury more generally in the administration of TRIP.

II. Solicitation for Comments

Treasury seeks comments on each of the following factors, which Treasury is required under TRIA Section 104(h)(2) to consider in the Effectiveness Report:

1. The overall effectiveness of TRIP;
2. The availability and affordability of terrorism risk insurance, including specifically for places of worship;
3. Any changes or trends you have observed relating to the data Treasury collects in its annual TRIP Data Calls;
4. Whether any aspects of TRIP have the effect of discouraging or impeding insurers from providing commercial property and casualty insurance coverage or coverage for acts of terrorism; and
5. Any impact of TRIP on workers' compensation insurers in particular.

By collecting information and views on the factors listed above, Treasury will enhance the accuracy and value of the Effectiveness Report to Congress. This request for comment will provide stakeholders the opportunity to provide qualitative feedback and analysis that may not be otherwise observable through the results of the TRIP Data Calls. Comments from insurers providing data, other stakeholders, and the public will assist the Secretary in the formulation of the Effectiveness Report and more generally in the administration of TRIP.

In addition to seeking comments on the above factors outlined in Section 104(h)(2) of TRIA, Treasury also seeks comments on the following topics:

1. Whether any lines of insurance or coverages within certain lines of insurance currently subject to the

[1] Public Law 107–297, 116 Stat. 2322 (2002), as amended. The provisions of TRIA appear in a note of the United States Code (15 U.S.C. 6701 note), and, therefore, references to the provisions of TRIA are identified by the sections of the law [*e.g.,* ''TRIA § 102(1) (definition of an ''act of terrorism'')'']. [2] Public Law 116–94, 133 Stat. 2534.

[3] 2020 Terrorism Risk Insurance Program Data Call, 85 FR 15036 (March 16, 2020).

[4] The requirements for TRIP Data Calls are set forth in TRIA § 104(h)(1) and in Treasury regulations. See 31 CFR Subpart F.

[5] TRIA § 108(h) requires the Secretary to submit a report to Congress every other year studying small insurers participating in the Program, and identifying any competitive challenges small insurers face in the terrorism risk insurance marketplace.

Program do not require the support of TRIP;

2. The market for standalone terrorism risk insurance that is written outside of TRIP, including the reasons such coverage is offered and obtained, and whether the existence of such insurance provides any insights into the effectiveness of the Program;

3. The availability and affordability of private reinsurance, or capital markets support, for terrorism risk insurance exposures (both those exposures currently subject to TRIP as well as those otherwise held by insurers participating in TRIP);

4. The extent to which reinsurance for terrorism risk is being obtained as part of overall catastrophe reinsurance programs, the reasons for obtaining reinsurance for terrorism risk in this manner, and how—if at all—this has affected market capacity for terrorism risk reinsurance generally;

5. Any factors that impede private reinsurance or capital markets support for terrorism risk insurance;

6. The availability of terrorism risk insurance coverage for losses arising from nuclear, biological, chemical, or radiological (NBCR) exposures, and the availability of private reinsurance or capital markets support for such terrorism risk insurance;

7. Terrorism risk insurance issues presented by cyber-related losses, and the impact of TRIP in connection with such exposures, including your views as to the nature of the cyber-related terrorism losses that are included within TRIP; [6]

8. Any potential changes that would encourage the take up of insurance for cyber-related losses arising from acts of terrorism as defined under TRIA, including but not limited to the modification of the lines of insurance covered by TRIP, revisions to the current sharing mechanisms for cyber-related losses, and further changes to the certification process as it would apply to a cyber-related terrorism loss;

9. Private reinsurance or capital markets support for cyber-related losses arising from acts of terrorism as defined under TRIA; and

10. Any other issues relating to TRIP, terrorism risk insurance, or reinsurance that may be relevant to FIO's assessment of the effectiveness of TRIP in the Effectiveness Report.

[6] Treasury has previously addressed the application of TRIP to policies covering cyber-related losses. 81 FR 95312 (December 27, 2016).

Dated: April 21, 2020.

Steven E. Seitz,

Director, Federal Insurance Office.

[FR Doc. 2020–08817 Filed 4–24–20; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Financial Crimes Enforcement Network Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before May 27, 2020 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Molly Stasko by emailing *PRA@treasury.gov,* calling (202) 622–8922, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

1. Title: Registration of Money Services Business.

OMB Control Number: 1506–0013.

Type of Review: Extension without change of a currently approved collection.

Description: Under 31 U.S.C. 5330 and its implementing regulation (31 CFR 1022.380), money services businesses must file an initial registration report with FinCEN, renew their registration every two years, re-register under certain circumstances, and maintain a list of their agents.

Form: FinCEN Report 107.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 36,408.

Frequency of Response: As required, Every two years, and Annually.

Estimated Total Number of Annual Responses: 36,408.

Estimated Time per Response: Varies from 30–70 minutes depending on type of registration.

Estimated Total Annual Burden Hours: 22,007.

2. Title: Imposition of Special Measure concerning the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern.

OMB Control Number: 1506–0074.

Type of Review: Extension without change of a currently approved collection.

Description: FinCEN issued a final rule on November 4, 2019, imposing the fifth special measure to prohibit U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, Iranian banking institutions. (84 FR 59302). The rule further prohibits U.S. financial institutions from processing transactions for the correspondent account of a foreign bank in the United States if such a transaction involves an Iranian financial institution, and requires institutions to apply special due diligence to guard against such use by Iranian financial institutions. See 31 CFR 1010.661.

Form: None.

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 23,615.

Frequency of Response: One-time notification.

Estimated Total Number of Annual Responses: 23,615.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 23,615.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 21, 2020.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2020–08827 Filed 4–24–20; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Advisory Committee on Risk-Sharing Mechanisms

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces that the U.S. Department of the Treasury's Advisory Committee on Risk-Sharing

Mechanisms (ACRSM or Committee) will meet via teleconference on Monday, May 11, 2020 from 10:30 a.m.–12:30 p.m. Eastern Time. The meeting is open to the public.

DATES: The meeting will be held via teleconference on Monday, May 11, from 10:30 a.m.–12:30 p.m. Eastern Time.

ADDRESSES: The Committee meeting will be held via teleconference and is open to the public. The public can attend remotely via live webcast at *www.yorkcast.com/treasury/events/2020/05/11/acrsm.* The webcast will also be available through the Committee's website at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/advisory-committee-on-risk-sharing-mechanisms-acrsm.* Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or *mariam.harvey@do.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–2922. Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

Public Comment: Members of the public wishing to comment on the business of the ACRSM are invited to submit written statements by any of the following methods:

Electronic Statements

• Send electronic comments to *acrsm@treasury.gov.*

Paper Statements

• Send paper statements in triplicate to the Advisory Committee on Risk-Sharing Mechanisms, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the U.S. Department of the Treasury will post all statements on its website *https://www.treasury.gov/initiatives/fio/acrsm/Pages/default.aspx* without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The U.S. Department of the Treasury will also make such statements available for public inspection and copying in the U.S. Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days during normal building operations between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Background: The ACRSM provides advice and recommendations to the Federal Insurance Office (FIO) with respect to the creation and development of non-governmental, private market risk-sharing mechanisms for protection against losses arising from acts of terrorism.

Tentative Agenda/Topics for Discussion: This will be the second ACRSM meeting of 2020. In this meeting, the ACRSM will address, consistent with its charter's mandate, topics related to the role of nongovernmental mechanisms in supporting the terrorism risk insurance market. Specifically, the ACRSM will discuss a draft report containing its initial recommendations to FIO generated by its various subcommittees, and vote on whether to adopt that draft report as the report of the full ACRSM, or make revisions to the draft report before voting upon it. Due to scheduling challenges, this meeting may be announced with less than 15 days notice (see 41 CFR 102–3.150(b)).

Dated: April 21, 2020.

Steven E. Seitz,

Director, Federal Insurance Office.

[FR Doc. 2020–08820 Filed 4–24–20; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a virtual meeting of the Advisory Committee on Cemeteries and Memorials will be held on May 5, 2020–May 6, 2020. The meeting sessions will be held as follows:

Date	Time
May 5, 2020	1:00 p.m. to 4:30 p.m. EST.
May 6, 2020	1:00 p.m. to 4:30 p.m. EST.

The meeting sessions are open to the public. If you are interested in attending the meeting virtually, the dial-in number for both days is 1–800–767–1750, 02668#.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of national cemeteries, soldiers' lots and plots, the selection of new national cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee will make recommendations to the Secretary regarding such activities.

On Tuesday, May 5, 2020, the agenda will include remarks by VA Leadership, a briefing from the Advisory Committee Management Office, discussion on burial benefits for Native American and Alaskan Veterans, status update on October 2019 Recommendations, and public comments.

On Wednesday, May 6, 2020, the agenda will include workgroup reports on the recommendations for Emblems of Belief, Outreach Ambassador Program, and Outreach Materials and Strategic Plan, review of any new recommendations, charges and next steps, remarks from departed and departing members, and public comments.

Any member of the public wishing to attend the meeting should contact Ms. Christine Hamilton, Designated Federal Officer, at (202) 461–5681. Please leave a voice message. The Committee will also accept written comments. Comments may be transmitted electronically to the Committee at *christine.hamilton1@va.gov.* In the public's communications with the Committee, the writers must identify themselves and state the organizations, associations, or persons they represent.

Dated: April 22, 2020.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2020–08887 Filed 4–24–20; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0029]

Agency Information Collection Activity: VA Form 26–6705, Offer To Purchase and Contract of Sale, VA Form 26–6705b, Credit Statement of Prospective Purchaser, and VA Form 26–6705d, Addendum to VA Form 26–6705 (VIRGINIA)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 26, 2020.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov* Please refer to ''OMB Control No. 2900–0029'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green, (202) 421–1354 or email *Danny.Green2@va.gov.* Please refer to ''OMB Control No. 2900–0029'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: FANNIE MAE FMNA FORM 1003, UNIFORM RESIDENTIAL LOAN APPLICATION AND VA FORM 26–6705, OFFER TO PURCHASE AND CONTRACT OF SALE, VA FORM 26–6705b, CREDIT STATEMENT OF PROSPECTIVE PURCHASER, AND VA FORM 26–6705d, ADDENDUM TO VA FORM 26–6705 (VIRGINIA).

OMB Control Number: 2900–0029.

Type of Review: Extension of a currently approved collection.

Abstract: Under the authority of 38 U.S.C. 3720(a)(5) and (6) the Department of Veterans Affairs (VA) acquires properties for sale to the general public utilizing a private Service Provider. The Service Provider utilizes private listings and sales brokers to sell VA properties.

Affected Public: Individuals and households.

Estimated Annual Burden: 17,458 hours.

Estimated Average Burden Per Respondent: 20 minutes and 5 minutes (average 15 minutes between the three forms).

Frequency of Response: One time.

Estimated Number of Respondents: 53,500.

By direction of the Secretary.

Danny S. Green,

VA PRA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020–08891 Filed 4–24–20; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 85 Monday,

No. 81 April 27, 2020

Part II

The President

Proclamation 10014—Suspension of Entry of Immigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak

Federal Register
Vol. 85, No. 81
Monday, April 27, 2020

Presidential Documents

Title 3—

The President

Proclamation 10014 of April 22, 2020

Suspension of Entry of Immigrants Who Present a Risk to the United States Labor Market During the Economic Recovery Following the 2019 Novel Coronavirus Outbreak

By the President of the United States of America

A Proclamation

The 2019 Novel Coronavirus (COVID–19) has significantly disrupted the livelihoods of Americans. In Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak), I declared that the COVID–19 outbreak in the United States constituted a national emergency, beginning March 1, 2020. Since then, the American people have united behind a policy of mitigation strategies, including social distancing, to flatten the curve of infections and reduce the spread of SARS–CoV–2, the virus that causes COVID–19. This needed behavioral shift has taken a toll on the United States economy, with national unemployment claims reaching historic levels. In the days between the national emergency declaration and April 11, 2020, more than 22 million Americans have filed for unemployment.

In the administration of our Nation's immigration system, we must be mindful of the impact of foreign workers on the United States labor market, particularly in an environment of high domestic unemployment and depressed demand for labor. We must also conserve critical State Department resources so that consular officers may continue to provide services to United States citizens abroad. Even with their ranks diminished by staffing disruptions caused by the pandemic, consular officers continue to provide assistance to United States citizens, including through the ongoing evacuation of many Americans stranded overseas.

I have determined that, without intervention, the United States faces a potentially protracted economic recovery with persistently high unemployment if labor supply outpaces labor demand. Excess labor supply affects all workers and potential workers, but it is particularly harmful to workers at the margin between employment and unemployment, who are typically ''last in'' during an economic expansion and ''first out'' during an economic contraction. In recent years, these workers have been disproportionately represented by historically disadvantaged groups, including African Americans and other minorities, those without a college degree, and the disabled. These are the workers who, at the margin between employment and unemployment, are likely to bear the burden of excess labor supply disproportionately.

Furthermore, lawful permanent residents, once admitted, are granted ''open-market'' employment authorization documents, allowing them immediate eligibility to compete for almost any job, in any sector of the economy. There is no way to protect already disadvantaged and unemployed Americans from the threat of competition for scarce jobs from new lawful permanent residents by directing those new residents to particular economic sectors with a demonstrated need not met by the existing labor supply. Existing immigrant visa processing protections are inadequate for recovery from the COVID–19 outbreak. The vast majority of immigrant visa categories do not require employers to account for displacement of United States workers.

While some employment-based visas contain a labor certification requirement, because visa issuance happens substantially after the certification is completed, the labor certification process cannot adequately capture the status of the labor market today. Moreover, introducing additional permanent residents when our healthcare resources are limited puts strain on the finite limits of our healthcare system at a time when we need to prioritize Americans and the existing immigrant population. In light of the above, I have determined that the entry, during the next 60 days, of certain aliens as immigrants would be detrimental to the interests of the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 212(f) and 215(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(f) and 1185(a), and section 301 of title 3, United States Code, hereby find that the entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 of this proclamation, be detrimental to the interests of the United States, and that their entry should be subject to certain restrictions, limitations, and exceptions. I therefore hereby proclaim the following:

Section 1. *Suspension and Limitation on Entry.* The entry into the United States of aliens as immigrants is hereby suspended and limited subject to section 2 of this proclamation.

Sec. 2. *Scope of Suspension and Limitation on Entry.* (a) The suspension and limitation on entry pursuant to section 1 of this proclamation shall apply only to aliens who:

(i) are outside the United States on the effective date of this proclamation;

(ii) do not have an immigrant visa that is valid on the effective date of this proclamation; and

(iii) do not have an official travel document other than a visa (such as a transportation letter, an appropriate boarding foil, or an advance parole document) that is valid on the effective date of this proclamation or issued on any date thereafter that permits him or her to travel to the United States and seek entry or admission.

(b) The suspension and limitation on entry pursuant to section 1 of this proclamation shall not apply to:

(i) any lawful permanent resident of the United States;

(ii) any alien seeking to enter the United States on an immigrant visa as a physician, nurse, or other healthcare professional; to perform medical research or other research intended to combat the spread of COVID–19; or to perform work essential to combating, recovering from, or otherwise alleviating the effects of the COVID–19 outbreak, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees; and any spouse and unmarried children under 21 years old of any such alien who are accompanying or following to join the alien;

(iii) any alien applying for a visa to enter the United States pursuant to the EB–5 Immigrant Investor Program;

(iv) any alien who is the spouse of a United States citizen;

(v) any alien who is under 21 years old and is the child of a United States citizen, or who is a prospective adoptee seeking to enter the United States pursuant to the IR–4 or IH–4 visa classifications;

(vi) any alien whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees, based on a recommendation of the Attorney General or his designee;

(vii) any member of the United States Armed Forces and any spouse and children of a member of the United States Armed Forces;

(viii) any alien seeking to enter the United States pursuant to a Special Immigrant Visa in the SI or SQ classification, subject to such conditions as the Secretary of State may impose, and any spouse and children of any such individual; or

(ix) any alien whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security, or their respective designees.

Sec. 3. *Implementation and Enforcement.* (a) The consular officer shall determine, in his or her discretion, whether an immigrant has established his or her eligibility for an exception in section 2(b) of this proclamation. The Secretary of State shall implement this proclamation as it applies to visas pursuant to such procedures as the Secretary of State, in consultation with the Secretary of Homeland Security, may establish in the Secretary of State's discretion. The Secretary of Homeland Security shall implement this proclamation as it applies to the entry of aliens pursuant to such procedures as the Secretary of Homeland Security, in consultation with the Secretary of State, may establish in the Secretary of Homeland Security's discretion.

(b) An alien who circumvents the application of this proclamation through fraud, willful misrepresentation of a material fact, or illegal entry shall be a priority for removal by the Department of Homeland Security.

(c) Nothing in this proclamation shall be construed to limit the ability of an individual to seek asylum, refugee status, withholding of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, consistent with the laws of the United States.

Sec. 4. *Termination.* This proclamation shall expire 60 days from its effective date and may be continued as necessary. Whenever appropriate, but no later than 50 days from the effective date of this proclamation, the Secretary of Homeland Security shall, in consultation with the Secretary of State and the Secretary of Labor, recommend whether I should continue or modify this proclamation.

Sec. 5. *Effective Date.* This proclamation is effective at 11:59 p.m. eastern daylight time on April 23, 2020.

Sec. 6. *Additional Measures.* Within 30 days of the effective date of this proclamation, the Secretary of Labor and the Secretary of Homeland Security, in consultation with the Secretary of State, shall review nonimmigrant programs and shall recommend to me other measures appropriate to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers.

Sec. 7. *Severability.* It is the policy of the United States to enforce this proclamation to the maximum extent possible to advance the interests of the United States. Accordingly:

(a) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this proclamation and the application of its provisions to any other persons or circumstances shall not be affected thereby; and

(b) if any provision of this proclamation, or the application of any provision to any person or circumstance, is held to be invalid because of the lack of certain procedural requirements, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 8. *General Provisions.* (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

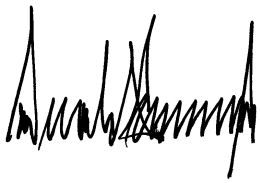
(i) the authority granted by law to an executive department or agency, or the head thereof; or,

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.



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