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Federal Register

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

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2020-0008; Airspace Docket No. 19-ASO-10]

RIN 2120-AA66

Amendment of VOR Federal Airways V-7, V-52, and V-178 in the Vicinity of Central City, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends three VHF Omnidirectional Range (VOR) Federal airways, V-7, V-52, and V-178, in the vicinity of Central City, KY. The modifications are necessary due to the planned decommissioning of the VOR portion of the Central City, KY, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the affected airways. The Central City VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and

Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email: fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT:

Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA-2020-0008 in the **Federal Register** (85 FR 3286; January 21, 2020), amending VOR Federal airways V-7, V-52, and V-178 in the vicinity of Central City, KY, due to the planned decommissioning of the VOR portion of the Central City, KY, VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA published a rule for Docket No. FAA-2019-0686 in the **Federal Register** (85 FR 10055; February 21, 2020), amending VOR Federal airway V-7 by re-describing the PETTY fix in the airway description as the intersection of the Chicago Heights, IL, VORTAC 358° and Badger, WI, VOR/Distance Measuring Equipment (VOR/DME) 117° radials and

removing the airway segment between the intersection of the Chicago Heights, IL, VORTAC 358° and Badger, WI, VOR/DME 117° radials (PETTY fix) and the Green Bay, WI, VORTAC. Those airway amendments, effective May 21, 2020, are included in this rule.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11D dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be subsequently published in the Order.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Differences From the Proposal

The V-52 airway description information in "The Proposal" section of the NPRM contained an editorial error. The V-52 airway description information for the existing airway was correct as published, but the V-18 airway identification listed with the airway description information was incorrect. The correct airway identification for the existing airway information that was listed is V-52. As such, the airway identification listed for the airway description information should reflect "V-52" instead of "V-18". This editorial correction to the V-52 airway description information in "The Rule" section below is included in this action.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying VOR Federal airways V-7, V-52, and V-178. The planned decommissioning of the VOR portion of the Central City, KY, VORTAC NAVAID has made this action necessary. The

VOR Federal airway changes are outlined below.

V-7: V-7 extends between the Dolphin, FL, VORTAC and the Muscle Shoals, AL, VORTAC; between the Central City, KY, VORTAC and the intersection of the Chicago Heights, IL, VORTAC 358° and Badger, WI, VOR/DME 117° radials; and between the Green Bay, WI, VORTAC and the Sawyer, MI, VOR/DME. The airspace below 2,000 feet mean sea level (MSL) outside the United States is excluded and the portion outside the United States has no upper limit. The airway segment overlying the Central City, KY, VORTAC between the Central City, KY, VORTAC and the Pocket City, IN, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-52: V-52 extends between the Des Moines, IA, VORTAC and the Livingston, TN, VOR/DME. The airway segment overlying the Central City, KY, VORTAC between the Pocket City, IN, VORTAC and the Bowling Green, KY, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V-178: V-178 extends between the Hallsville, MO, VORTAC and the Bluefield, WV, VOR/DME. The airway segment overlying the Central City, KY, VORTAC between the Cunningham, KY, VOR/DME and the New Hope, KY, VOR/DME is removed. The unaffected portions of the existing airway remain as charted.

All radials in the VOR Federal airway descriptions below are unchanged and stated in True degrees.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V-7, V-52, and V-178, due to the planned decommissioning of the VOR portion of the Central City, KY, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

- 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019 and effective September 15, 2019, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V-7 [Amended]

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; Vulcan, AL; to Muscle Shoals, AL. From Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; to INT Chicago Heights 358° and Badger, WI, 117° radials. From Green Bay, WI; Menominee, MI; to Sawyer, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V-52 [Amended]

From Des Moines, IA; Ottumwa, IA; Quincy, IL; St. Louis, MO; Troy, IL; INT Troy 099° and Pocket City, IN, 311° radials; to Pocket City. From Bowling Green, KY; to Livingston, TN.

* * * * *

V-178 [Amended]

From Hallsville, MO; INT Hallsville 183° and Vichy, MO, 321° radials; Vichy; Farmington, MO; Cape Girardeau, MO; to Cunningham, KY. From New Hope, KY; Lexington, KY; to Bluefield, WV.

* * * * *

Issued in Washington, DC.

Scott M. Rosenbloom,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2020-09265 Filed 5-4-20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2019-1043; Airspace Docket No. 19-AGL-29]

RIN 2120-AA66

Amendment of Class E Airspace; Ely, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E surface area airspace and the Class E airspace extending upward from 700 feet above the surface at Ely Municipal Airport, Ely, MN. This action is the result of an airspace review caused by the decommissioning of the Ely VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The name and

geographic coordinates of the airport is also being updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E surface area airspace and the Class E airspace extending upward from 700 feet above the surface at Ely Municipal Airport, Ely, MN, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 5354; January 30, 2020)

for Docket No. FAA-2019-1043 to amend the Class E surface area airspace and the Class E airspace extending upward from 700 feet above the surface at Ely Municipal Airport, Ely, MN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71:

Amends the Class E surface area airspace at Ely Municipal Airport, Ely, MN, by updating the name and geographic coordinates of the airport to coincide with the FAA's aeronautical database; removes the Ely VOR/DME and all associated extensions from the airspace legal description; adds an extension 1 mile each side of the 120° bearing from the airport extending from the 4-mile radius to 4.6 miles southeast of the airport; and updates the outdated term "Airport/Facility Directory" with "Chart Supplement;"

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (decreased from a 7.7-mile radius) of the Ely Municipal Airport; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

These actions are the result of an airspace review caused by the decommissioning of the Ely VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AGL MN E2 Ely, MN [Amended]

Ely Municipal Airport, MN
(Lat. 47°49'26" N, long. 91°49'46" W)

Within a 4-mile radius of the Ely Municipal Airport and within 1 mile each side of the 120° bearing from the airport extending from the 4-mile radius to 4.6 miles southeast of the airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter the continuously published in the Chart Supplement.

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

* * * * *

AGL MN E5 Ely, MN [Amended]

Ely Municipal Airport, MN
(Lat. 47°49'26" N, long. 91°49'46" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ely Municipal Airport, excluding that airspace within Prohibited Area P-204.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2020-09487 Filed 5-4-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2019-1039; Airspace
Docket No. 19-ACE-15]

RIN 2120-AA66

**Amendment of Class E Airspace;
Coffeyville, KS**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Coffeyville Municipal Airport, Coffeyville, KS. This action is due to an airspace review caused by the decommissioning of the Coffeyville non-directional beacon (NDB), which provided navigation information to the instrument procedures at this airport. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to

the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at http://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Coffeyville Municipal Airport, Coffeyville, KS, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 5349; January 30, 2020) for Docket No. FAA-2019-1039 to amend the Class E airspace extending upward from 700 feet above the surface at Coffeyville Municipal Airport, Coffeyville, KS. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019,

and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile radius (decreased from a 7.6-mile radius) of the Coffeyville Municipal Airport, Coffeyville, KS; and updates the name (previously Coffeyville Municipal Airport) and geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is the result of an airspace review caused by the decommissioning of the Coffeyville NDB which provided navigation information for the instrument procedures at this airport.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

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

* * * * *

ACE KS E5 Coffeyville, KS [Amended]

Coffeyville Municipal Airport, KS
(Lat. 37°05'38" N, long. 95°34'19" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Coffeyville Municipal Airport.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–09481 Filed 5–4–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2019–1044; Airspace Docket No. 19–ASW–19]

RIN 2120–AA66

Amendment of Class E Airspace; McAlester, Henryetta, and Poteau, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E surface area airspace at McAlester Regional Airport, McAlester, OK, and the Class E airspace extending upward from 700 feet above the surface at Henryetta Municipal Airport, Henryetta, OK; McAlester Regional Airport; and Robert S. Kerr Airport, Poteau, OK. These actions are the result of airspace reviews caused by the decommissioning of the McAlester VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at these airports. The geographic coordinates of the McAlester Regional Airport are also being updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101

Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E surface area airspace at McAlester Regional Airport, McAlester, OK, and the Class E airspace extending upward from 700 feet above the surface at Henryetta Municipal Airport, Henryetta, OK; McAlester Regional Airport; and Robert S. Kerr Airport, Poteau, OK, to support IFR operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 5350; January 30, 2020) for Docket No. FAA–2019–1044 to amend the Class E surface area airspace at McAlester Regional Airport, McAlester, OK, and the Class E airspace extending upward from 700 feet above the surface at Henryetta Municipal Airport, Henryetta, OK; McAlester Regional Airport; and Robert S. Kerr Airport, Poteau, OK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists

Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71:

Amends the Class E surface area airspace at McAlester Regional Airport, McAlester, OK, by adding an extension within 1 mile each side of the 020° bearing from the airport extending from the 4-mile radius to 4.1 miles north of the airport; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

Amends the Class E airspace area extending upward from 700 feet above the surface to within a 6.3-mile radius (decreased from a 7.1-mile radius) at Henryetta Municipal Airport, Henryetta, OK; and removes the Henryetta Medical Center Heliport and associated airspace from the Henryetta, OK, airspace legal description as the instrument procedures at the heliport have been cancelled and the airspace is no longer required;

Amends the Class E airspace area extending upward from 700 feet above the surface at McAlester Regional Airport, McAlester, OK, by removing the McAlester VORTAC and associated extensions from the airspace legal description; removes the Wampa LOM and associated extension from the airspace legal description as it is no longer required; removes the McAlester Regional Health Center Heliport and associated airspace contained within the McAlester, OK, airspace legal description as the instrument procedures at the heliport have been cancelled and the airspace is no longer required; removes the exclusionary language from the airspace legal description as it is no longer required; adds an extension 2 miles each side of the 020° bearing from the airport extending from the 6.5-mile radius to 10.4 miles north of the airport; and adds an extension 2 miles each side of the 200° bearing from the airport extending from the 6.5-mile radius to 10.5 miles south of the airport; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database;

And amends the Class E airspace area extending upward from 700 feet above the surface at Robert S. Kerr Airport, Poteau, OK, by removing the Rich Mountain VORTAC and associated extension from the airspace legal description as it is no longer required; removes the Eastern Oklahoma Medical Center Heliport and associated airspace contained within the Poteau, OK, airspace legal description as the

instrument procedures at the heliport have been cancelled and the airspace is no longer required; and removes the city associated with Robert S. Kerr Airport in the header of the airspace legal description to comply with changes to FAA Order 7400.2M, Procedures for Handling Airspace Matters.

These actions are the result of airspace reviews caused by the decommissioning of the McAlester VOR, which provided navigation information for the instrument procedures at these airports.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area.

* * * * *

ASW OK E2 McAlester, OK [Amended]

McAlester Regional Airport, OK
(Lat. 34°52'57" N, long. 95°47'01" W)

Within a 4-mile radius of McAlester Regional Airport, and within 1 mile each side of the 020° degree bearing from the airport extending from the 4-mile radius to 4.1 miles north of the airport.

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

* * * * *

ASW OK E5 Henryetta, OK [Amended]

Henryetta Municipal Airport, OK
(Lat. 35°24'25" N, long. 96°00'57" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Henryetta Municipal Airport.

* * * * *

ASW OK E5 McAlester, OK [Amended]

McAlester Regional Airport, OK
(Lat. 34°52'57" N, long. 95°47'01" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of McAlester Regional Airport, and within 2 miles each side of the 020° bearing from the airport extending from the 6.5-mile radius to 10.4 miles north of the airport, and within 2 miles each side of the 200° bearing from the airport extending from the 6.5-mile radius to 10.5 miles south of the airport.

* * * * *

ASW OK E5 Poteau, OK [Amending]

Robert S. Kerr Airport, OK
(Lat. 35°01'18" N, long. 94°37'17" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Robert S. Kerr Airport.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–09486 Filed 5–4–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71****[Docket No. FAA-2019-1042; Airspace
Docket No. 19-AGL-28]****RIN 2120-AA66****Amendment of Class E Airspace;
Siren, WI****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Burnett County Airport, Siren, WI. This action is the result of an airspace review caused by the decommissioning of the Siren VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airport is also being updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Burnett County Airport, Siren, WI, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 10102; February 21, 2020) for Docket No. FAA-2019-1042 to amend the Class E airspace extending upward from 700 feet above the surface at Burnett County Airport, Siren, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment, supporting this action, was received. As the comment supported this action, no response is provided.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increased from a 6.4-mile radius) of the Burnett County Airport, Siren, WI; removes the

city associated with the airport to comply with a change to FAA Order 7400.2M, Procedures for Handling Airspace Matters; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; removes the exclusionary language from the airspace legal description as it is no longer required; adds an extension 2 miles each side of the 045° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northeast of the airport; adds an extension 2 miles each side of the 137° bearing from the airport extending from the 6.5-mile radius to 9.9 miles southeast of the airport; adds an extension 2 miles each side of the 225° bearing from the airport extending from the 6.5-mile radius to 9.5 miles southwest of the airport; and adds an extension 2 miles each side of the 317° bearing extending from the 6.5-mile radius to 9.5 miles northwest of the airport.

This action is the result of an airspace review caused by the decommissioning of the Siren VOR, which provided navigation information for the instrument procedures at this airport, as part of the VOR MON Program.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action

is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

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

* * * * *

AGL WI E5 Siren, WI [Amended]

Burnett County Airport, WI
(Lat. 45°49'24" N, long. 92°22'25" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Burnett County Airport, and within 2 miles each side of the 045° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northeast of the airport, and within 2 miles each side of the 137° bearing from the airport extending from the 6.5-mile radius to 9.9 miles southeast of the airport, and within 2 miles each side of the 225° bearing from the airport extending from the 6.5-mile radius to 9.5 miles southwest of the airport, and within 2 miles each side of the 317° bearing from the airport extending from the 6.5-mile radius to 9.5 miles northwest of the airport.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–09478 Filed 5–4–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0079; Airspace Docket No. 19–AGL–30]

RIN 2120–AA66

Amendment of Class E Airspace; Baraboo and Boscobel, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Reedsburg Municipal Airport, Reedsburg, WI, contained within the Baraboo, WI, airspace legal description, and Boscobel Airport, Boscobel, WI. This action is the result of an airspace review caused by the decommissioning of the Lone Rock VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The name and geographic coordinates of Baraboo-Wisconsin Dells Regional Airport, Baraboo, WI, and geographic coordinates of Boscobel Airport are also being updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation

Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Reedsburg Municipal Airport, Reedsburg, WI, contained within the Baraboo, WI, airspace legal description, and Boscobel Airport, Boscobel, WI, to support IFR operations at this airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 7474; February 10, 2020) for Docket No. FAA–2020–0079 to amend the Class E airspace extending upward from 700 feet above the surface at Reedsburg Municipal Airport, Reedsburg, WI, contained within the Baraboo, WI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71:

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (decreased from a 9.6-mile radius) of Reedsburg Municipal Airport, Reedsburg, WI; amends the extension to the south of the airport to extend to 10.8 miles (increased from 10.5 miles); adds an extension 2 miles each side of the 330° bearing from TUSME extending from the 6.5-mile radius of Reedsburg Municipal Airport to 5.6 miles northwest of TUSME; and updates the name and geographic coordinates of Baraboo-Wisconsin Dells Regional Airport (previously Baraboo Wisconsin Dells Airport), Baraboo, WI, to coincide with the FAA's aeronautical database; And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.7-mile radius (increased from a 6.3-mile radius) of Boscobel Airport, Boscobel, WI; adds an extension 1 mile each side of the 247° bearing from the airport extending from the 6.7-mile radius to 6.8 miles southwest of the airport; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

These actions are the result of airspace reviews caused by the decommissioning of the Lone Rock VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

- 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

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

* * * * *

AGL WI E5 Baraboo, WI [Amended]

Baraboo-Wisconsin Dells Regional Airport, WI

(Lat. 43°31'19" N, long. 89°46'17" W)

Reedsburg Municipal Airport, WI

(Lat. 43°31'33" N, long. 89°59'00" W)

TUSME, WI

(Lat. 43°36'41" N, long. 89°58'52" W)

Portage Municipal Airport, WI

(Lat. 43°33'37" N, long. 89°28'58" W)

That airspace extending upward from 700 feet above the surface within a 9.6-mile radius of Baraboo-Wisconsin Dells Regional Airport, and within a 6.5-mile radius of Reedsburg Municipal Airport, and within 2 miles each side of the 180° bearing from Reedsburg Municipal Airport extending from the 6.5-mile radius to 10.8 miles south of the Reedsburg Municipal Airport, and within 2 miles each side of the 330° bearing from TUSME extending from the 6.5-mile radius to 5.6 miles northwest of TUSME, and within an 8.7-mile radius of Portage Municipal Airport.

* * * * *

AGL WI E5 Boscobel, WI [Amended]

Boscobel Airport, WI

(lat. 43°09'39" N, long. 90°40'25" W)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Boscobel Airport, and within 1 mile each side of the 247° bearing from the airport extending from the 6.7-mile radius to 6.8 miles southwest of the airport.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2020–09482 Filed 5–4–20; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2019–1041; Airspace Docket No. 19–AGL–27]

RIN 2120–AA66

Amendment of Class E Airspace; Cadiz, Caldwell, and Cambridge, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700 feet above the surface at Harrison County Airport, Cadiz, OH; Noble County Airport, Caldwell, OH; and Cambridge Municipal Airport, Cambridge, OH. These actions are the result of airspace reviews caused by the decommissioning of the Newcomerstown VHF omnidirectional range (VOR) navigation aid, which provided navigation information for the instrument procedures at these airports, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of Harrison County Airport and Noble County Airport are also being updated to coincide with the FAA's aeronautical database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at these airports.

DATES: Effective 0901 UTC, July 16, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11D, Airspace Designations and Reporting Points, and subsequent amendments can

be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11D at NARA, email fedreg.legal@nara.gov or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface at Harrison County Airport, Cadiz, OH; Noble County Airport, Caldwell, OH; and Cambridge Municipal Airport, Cambridge, OH, to support IFR operations at these airports.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 5342; January 30, 2020) for Docket No. FAA-2019-1041 to amend the Class E airspace extending upward from 700 feet above the surface at Harrison County Airport, Cadiz, OH; Noble County Airport, Caldwell, OH; and Cambridge Municipal Airport, Cambridge, OH. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11D, dated August 8, 2019, and effective September 15, 2019, which

is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019. FAA Order 7400.11D is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11D lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14 Code of Federal Regulations (14 CFR) part 71:

Amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (decreased from a 7-mile radius) of the Harrison County Airport, Cadiz, OH; removes the city associated with the airport to comply with a change to FAA Order 7400.2M, Procedures for Handling Airspace Matters; updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and removes the exclusionary language from the airspace legal description as it is no longer required;

Amends the Class E airspace extending upward from 700 feet above the surface at Noble County Airport, Caldwell, OH, by updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; removes the city associated with the airport to comply with a change to FAA Order 7400.2M; and removes the exclusionary language from the airspace legal description as it is no longer required;

And amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (decreased from a 7.5-mile radius) of Cambridge Municipal Airport, Cambridge, OH.

These actions are the result of airspace reviews caused by the decommissioning of the Newcomerstown VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

- 1. The authority citation for part 71 continues to read as follows:

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

§71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11D, Airspace Designations and Reporting Points, dated August 8, 2019, and effective September 15, 2019, is amended as follows:

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

* * * * *

AGL OH E5 Cadiz, OH [Amended]

Harrison County Airport, OH
(Lat. 40°14'18" N, long. 81°00'46" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Harrison County Airport.

AGL OH E5 Caldwell, OH [Amended]

Noble County Airport, OH
(Lat. 39°48'03" N, long. 81°32'11" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Noble County Airport.

AGL OH E5 Cambridge, OH [Amended]

Cambridge Municipal Airport, OH
(Lat. 39°58'30" N, long. 81°34'39" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Cambridge Municipal Airport.

Issued in Fort Worth, Texas, on April 27, 2020.

Steven Phillips,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2020-09485 Filed 5-4-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 97**

[Docket No. 31307; Amdt. No. 3901]

**Standard Instrument Approach
Procedures, and Takeoff Minimums
and Obstacle Departure Procedures;
Miscellaneous Amendments**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 5, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 5, 2020.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPs, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA forms are FAA Forms 8260-3, 8260-4, 8260-5, 8260-15A, and 8260-15B when required by an entry on 8260-15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find

that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on April 17, 2020.

Robert C. Carty,

Executive Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

- 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

- 2. Part 97 is amended to read as follows:

Effective 21 May, 2020

Troy, AL, Troy Muni at N Kenneth Campbell Field, ILS OR LOC RWY 7, Amdt 11A

Troy, AL, Troy Muni at N Kenneth Campbell Field, NDB RWY 7, Amdt 12B

Troy, AL, Troy Muni at N Kenneth Campbell Field, RADAR 1, Amdt 10B

Troy, AL, Troy Muni at N Kenneth Campbell Field, RNAV (GPS) RWY 7, Amdt 3A

Troy, AL, Troy Muni at N Kenneth Campbell Field, RNAV (GPS) RWY 14, Amdt 1C

Troy, AL, Troy Muni at N Kenneth Campbell Field, RNAV (GPS) RWY 32, Amdt 1C

Chico, CA, Chico Muni, ILS OR LOC RWY 13L, Amdt 13

Chico, CA, Chico Muni, RNAV (GPS) RWY 13L, Amdt 1

Chico, CA, Chico Muni, VOR/DME RWY 31R, Orig-F, CANCELLED

Hemet, CA, Hemet-Ryan, RNAV (GPS) RWY 5, Orig-C

Orland, CA, Haigh Field, RNAV (GPS)-A, Orig

Orland, CA, Haigh Field, Takeoff Minimums and Obstacle DP, Amdt 2

Orland, CA, Haigh Field, VOR OR GPS-A, Amdt 6A, CANCELLED

Sacramento, CA, Sacramento Intl, ILS OR LOC RWY 17L, ILS RWY 17L (SA CAT II), Amdt 4B

Sacramento, CA, Sacramento Intl, ILS OR LOC RWY 17R, ILS RWY 17R (SA CAT I), ILS RWY 17R (CAT II), ILS RWY 17R (CAT III), Amdt 16C

Sacramento, CA, Sacramento Intl, ILS OR LOC RWY 35L, Amdt 7H

Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 17L, Amdt 3A

Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 17R, Amdt 2C

Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 35L, Amdt 2B

Sacramento, CA, Sacramento Intl, RNAV (GPS) Y RWY 35R, Amdt 1B

Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 17L, Amdt 1A

Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 17R, Amdt 1A

Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 35L, Amdt 1A

Sacramento, CA, Sacramento Intl, RNAV (RNP) Z RWY 35R, Amdt 1A

Lamar, CO, Southeast Colorado Rgnl, RNAV (GPS) RWY 8, Amdt 1C

Lamar, CO, Southeast Colorado Rgnl, RNAV (GPS) RWY 18, Amdt 1D

Lamar, CO, Southeast Colorado Rgnl, RNAV (GPS) RWY 26, Orig-D

Lamar, CO, Southeast Colorado Rgnl, RNAV (GPS) RWY 36, Amdt 1C

Lamar, CO, Southeast Colorado Rgnl, VOR RWY 18, Amdt 10D

Lamar, CO, Southeast Colorado Rgnl, VOR RWY 36, Amdt 1C

Sterling, CO, Sterling Muni, RNAV (GPS) RWY 15, Orig-C

Sterling, CO, Sterling Muni, RNAV (GPS) RWY 33, Orig-B

Perry, FL, Perry-Foley, RNAV (GPS) RWY 18, Amdt 1A

Perry, FL, Perry-Foley, RNAV (GPS) RWY 36, Amdt 1A

Audubon, IA, Audubon County, RNAV (GPS) RWY 32, Orig-B

Jefferson, IA, Jefferson Muni, RNAV (GPS) RWY 14, Orig-B

Teterboro, NJ, Teterboro, ILS OR LOC RWY 19, Amdt 1

Teterboro, NJ, Teterboro, RNAV (GPS) RWY 24, Orig

Teterboro, NJ, Teterboro, RNAV (GPS) Y RWY 19, Amdt 1

Sebring, OH, Tri-City, VOR RWY 17, Amdt 4

Pierre, SD, Pierre Rgnl, RNAV (GPS) RWY 31, Amdt 1

Greeneville, TN, Greeneville Muni, NDB RWY 5, Amdt 5A, CANCELLED

Greeneville, TN, Greeneville Muni, RNAV (GPS) RWY 5, Amdt 1A

Greeneville, TN, Greeneville Muni, Takeoff Minimums and Obstacle DP, Amdt 5A

Nashville, TN, Nashville Intl, VOR RWY 13, Amdt 13E

Winchester, TN, Winchester Muni, RNAV (GPS) Y RWY 18, Orig-C

Winchester, TN, Winchester Muni, RNAV (GPS) Z RWY 18, Orig-C

Greenville, TX, Majors, ILS Z OR LOC Z RWY 17, Amdt 8B

Greenville, TX, Majors, RNAV (GPS) RWY 17, Amdt 2A

Greenville, TX, Majors, TACAN RWY 35, Orig-B

Kelso, WA, Southwest Washington Rgnl, NDB-A, Amdt 6, CANCELLED

Kelso, WA, Southwest Washington Rgnl, RNAV (GPS) RWY 12, Amdt 1

Sheboygan, WI, Sheboygan County Memorial, ILS OR LOC RWY 22, Amdt 6

RESCINDED: On March 23, 2020 (85 FR 16243), the FAA published an Amendment in Docket No. 31301 Amdt No. 3895, to Part 97 of the Federal Aviation Regulations under section 97.37. The following entries for Shreveport, LA, effective May 21, 2020, are hereby rescinded in their entirety:

Shreveport, LA, Shreveport Downtown, Takeoff Minimums and Obstacle DP, Amdt 4

RESCINDED: On April 13, 2020 (85 FR 20414), the FAA published an Amendment in Docket No. 31303 Amdt No. 3897, to Part 97 of the Federal Aviation Regulations under sections 97.29, 97.33 and 97.37. The following entries for Baudette, MN, and Hardin, MT, effective May 21, 2020, are hereby rescinded in their entirety:

Baudette, MN, Baudette Intl, ILS OR LOC RWY 30, Amdt 1

Hardin, MT, Big Horn County, RNAV (GPS) RWY 26, Orig

Hardin, MT, Big Horn County, Takeoff Minimums and Obstacle DP, Orig

[FR Doc. 2020-09421 Filed 5-4-20; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31308; Amdt. No. 3902]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective May 5, 2020. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 5, 2020.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590-0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on April 17, 2020.

Robert C. Carty,

Executive Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and

ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

AIRAC Date	State	City	Airport	FDC No.	FDC date	Subject
21–May–20	MN	Rochester	Rochester Intl	0/0228	4/3/20	VOR RWY 20, Amdt 14A.
21–May–20	SC	Manning	Santee Cooper Rgnl	0/0347	3/31/20	NDB OR GPS RWY 2, Amdt 2.
21–May–20	SC	Manning	Santee Cooper Rgnl	0/0348	3/31/20	VOR/DME OR GPS–A, Amdt 4.
21–May–20	FL	Orlando	Orlando Intl	0/0480	4/2/20	ILS OR LOC RWY 17R, Amdt 5D.
21–May–20	NY	Oneonta	Albert S Nader Rgnl	0/1258	3/27/20	RNAV (GPS) RWY 6, Orig-B.
21–May–20	NY	Oneonta	Albert S Nader Rgnl	0/1977	3/27/20	RNAV (GPS) RWY 24, Orig-B.
21–May–20	FL	Orlando	Orlando Intl	0/2147	4/2/20	VOR/DME RWY 18L, Amdt 5E.
21–May–20	FL	Orlando	Orlando Intl	0/2148	4/2/20	VOR/DME RWY 18R, Amdt 5E.
21–May–20	WI	Sheboygan	Sheboygan County Memorial.	0/2678	4/2/20	RNAV (GPS) RWY 13, Orig-B.
21–May–20	WI	Sheboygan	Sheboygan County Memorial.	0/2679	4/2/20	RNAV (GPS) RWY 4, Amdt 3B.
21–May–20	WI	Sheboygan	Sheboygan County Memorial.	0/2680	4/2/20	RNAV (GPS) RWY 31, Orig-B.
21–May–20	NY	New York	John F Kennedy Intl	0/2931	4/6/20	RNAV (GPS) Z RWY 13L, Orig.
21–May–20	OR	Klamath Falls	Crater Lake-Klamath Rgnl	0/3221	4/7/20	RNAV (GPS) RWY 32, Orig-A.
21–May–20	OR	Klamath Falls	Crater Lake-Klamath Rgnl	0/3222	4/7/20	ILS OR LOC/DME RWY 32, Amdt 20A.
21–May–20	CA	Palmdale	Palmdale USAF Plant 42	0/3223	4/7/20	RNAV (GPS) RWY 7, Orig.
21–May–20	NY	New York	John F Kennedy Intl	0/3260	4/7/20	ILS OR LOC RWY 22L, ILS RWY 22L (CAT II), ILS RWY 22L (CAT III), Amdt 25.
21–May–20	NY	New York	John F Kennedy Intl	0/3261	4/7/20	ILS OR LOC RWY 22R, Amdt 3.
21–May–20	CO	Pueblo	Pueblo Memorial	0/6604	4/1/20	ILS OR LOC RWY 8R, Amdt 1A.
21–May–20	CO	Pueblo	Pueblo Memorial	0/6605	4/1/20	RNAV (GPS) RWY 26L, Amdt 1.
21–May–20	CO	Pueblo	Pueblo Memorial	0/6607	4/1/20	RNAV (GPS) RWY 8R, Amdt 1.
21–May–20	IL	Greenville	Greenville	0/7691	3/18/20	RNAV (GPS) RWY 18, Amdt 1.

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG–2019–0460]

RIN 1625–AA00

Safety Zone; San Juan Harbor, San Juan, PR

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: By this final rule, the Coast Guard is making non-substantive changes to the final rule that published on March 19, 2020. The final rule became effective on April 20, 2020. However, the amendatory instruction in the rule issued on March 19, 2020 erroneously created a new section rather than amend the section that already existed in the CFR. We are reissuing this final rule with updated amendatory instructions in order to implement the changes that were intended to be implemented by the final rule that published on March 19, 2020.

DATES: This correction is effective on May 5, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0460 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 Lieutenant Commander Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management Division, U.S. Coast Guard; telephone 787–729–2374, email Pedro.L.Mendoza@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
LG	Liquefied Gas
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
NPRM	Notice of proposed rulemaking
§	Section
TFR	Temporary Final Rule
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this rule without prior final rule pursuant to authority under section 4(a) of the

Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.”

On December 17, 2019, a notice of proposed rulemaking (NPRM) entitled, “Safety Zone; San Juan Harbor, San Juan, PR” was published in the **Federal Register** under USCG–2019–0460 (84 FR 68860) with a 30 day comment period. The comment period ended on January 16, 2020. No comments were submitted during the NPRMs 30 day comment period. The Coast Guard published a final rule on March 19, 2020, 85 FR 15724, announcing the same changes to 33 CFR 165.754 that this rule implements. The final rule became effective on April 20, 2020. However, the amendatory instruction in the rule issued on March 19, 2020 erroneously created a new 33 CFR 165.754 rather than amend 33 CFR 165.754 that already existed in the CFR. We are reissuing this final rule with updated amendatory instructions in order to implement the changes that were intended to be implemented by the final rule that published on March 19, 2020. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that correcting the amendatory instructions on a final rulemaking action that had been completed, and published in the **Federal Register** with a 30 day delayed effective date; therefore, this technical amendment is exempt from notice and comment rulemaking requirements because the only amendment being made is to clarify in the amendatory instructions that existing 33 CFR 165.754 is being “revised” and not being added as a new section to the CFR. This revision is a non-substantive change. This change will have no substantive effect on the public; therefore, it is unnecessary to publish an NPRM.

For the same reasons provided in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** under 5 U.S.C. 553(d)(3).

III. Legal Authority, Need for Rule, and Discussion

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Coast Guard published a final rule on March 19, 2020, 85 FR 15724, announcing the same changes to 33 CFR 165.754 that this rule implements. The final rule was supposed to become effective on April 20, 2020. However,

the amendatory instruction in the rule issued on March 19, 2020 erroneously created a new 33 CFR 165.764. We are reissuing this final rule; correction document with updated amendatory instructions in order to implement the changes into the existing 33 CFR 165.754 that were intended by the final rule on March 19, 2020.

IV. 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.

Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See the OMB Memorandum titled “Guidance Implementing Executive Order 13771, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017). This rule involves a non-substantive change in the amendatory instruction; it will not impose any additional costs on the public. The benefit of the non-substantive change is 33 CFR 165.754 will be revised, and the addition of a second 33 CFR 165.754, which was erroneously added to the CFR will be removed.

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 did not receive any 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 safety zone 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 final rule involves a non-substantive technical amendment. Therefore, this rule is categorically excluded under paragraph L54 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. Paragraph L54 pertains to regulations which are editorial or procedural.

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 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.754 to read as follows:

§ 165.754 Safety Zone; San Juan Harbor, San Juan, PR.

(a) *Regulated area.* A moving safety zone is established in the following area:

(1) The waters around liquefied gas (LG) carriers entering San Juan Harbor in an area one half mile around each vessel, beginning one mile north of the Bahia de San Juan Lighted Buoy #3, in approximate position 18°28'17.8" N, 066°07'36.4" W and continuing until the vessel is moored at the Puma Energy dock, Cataño Oil dock, or Wharf B in approximate position 18°25'47" N, 066°6'32" W. All coordinates are North American Datum 1983.

(2) The waters around LG carriers in a 50-yard radius around each vessel when moored at the Puma Energy dock, Cataño Oil dock, or Wharf B.

(3) The waters around LG carriers departing San Juan Harbor in an area one half mile around each vessel beginning at the Puma Energy Dock, Cataño Oil dock, or Wharf B in approximate position 18°25'47" N, 066°6'32" W when the vessel gets underway, and continuing until the stern passes the Bahia de San Juan Lighted Buoy #3, in approximate position 18°28'17.8" N, 066°07'36.4" W. All coordinates referenced use datum: NAD 83.

(b) *Regulations.* (1) No person or vessel may enter, transit or remain in the safety zone unless authorized by the Captain of the Port (COTP), San Juan, Puerto Rico, or a designated Coast Guard commissioned, warrant, or petty officer. Those operating in the safety zone with the COTP's authorization must comply with all lawful orders or directions given to them by the COTP or his designated representative.

(2) Persons desiring to transit the area of the safety zones may contact the COTP San Juan or his designated representative to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his designated representative.

(3) Vessels encountering emergencies, which require transit through the moving safety zone, should contact the Coast Guard patrol craft or Duty Officer on VHF Channel 16. In the event of an emergency, the Coast Guard patrol craft may authorize a vessel to transit through the safety zone with a Coast Guard designated escort.

(4) The Captain of the Port and the Duty Officer at Sector San Juan, Puerto Rico, can be contacted at telephone number 787-289-2041. The Coast Guard Patrol Commander enforcing the safety zone can be contacted on VHF-FM channels 16 and 22A.

(5) Coast Guard Sector San Juan will, when necessary and practicable, notify the maritime community of periods during which the safety zones will be in effect by providing advance notice of scheduled arrivals and departure of liquefied gas carriers via a Marine Broadcast Notice to Mariners.

(6) All persons and vessels must comply with the instructions of on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, or petty officers of the U.S. Coast Guard. Coast Guard Auxiliary and local or state officials may be present to inform vessel operators of the requirements of this section, and other applicable laws.

Dated: April 24, 2020.

E.P. King,

Captain, U.S. Coast Guard, Captain of the Port San Juan.

[FR Doc. 2020-09162 Filed 5-4-20; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2019-0226; FRL-10007-58]

RIN 2070-AB27

Significant New Use Rules on Certain Chemical Substances (19-3.B)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances which are the subject of premanufacture notices (PMNs). This action requires persons to notify EPA least 90 days before commencing manufacture (defined by statute to include import) or processing of any of these chemical substances for an activity that is designated as a

significant new use by this rule. The required notification initiates EPA's evaluation of the chemical under the conditions of use within the applicable review period. Persons may not commence manufacture or processing for the significant new use until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required as a result of that determination.

DATES: This rule is effective on July 6, 2020. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on May 19, 2020.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: moss.kenneth@epa.gov.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.*, chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and Orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears

at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule on or after June 4, 2020 are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see 40 CFR 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the Agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) for chemical substances which were the subject of PMNs P-16-417, P-18-239, and P-18-240. These SNURs require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** of July 8, 2019 (84 FR 32366) (FRL-9996-13), EPA proposed a SNUR for these chemical substances in 40 CFR part 721, subpart E. More information on the specific chemical substances subject to this final rule can be found in the **Federal Register** documents proposing the SNUR. The record for the SNUR was established in the docket under docket ID number EPA-HQ-OPPT-2019-0226. That docket includes information considered by the Agency in developing the proposed and final rules.

EPA received a number of public comments on this rule. Those comments and EPA's responses are found in Unit IV.

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. As described in Unit V., the general SNUR provisions are found at 40 CFR part 721, subpart A.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to 40 CFR 721.1(c), persons subject to these SNURs must comply with the

same significant new use notice (SNUN) requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA must either determine that the significant new use is not likely to present an unreasonable risk of injury or take such regulatory action as is associated with an alternative determination before the manufacture or processing for the significant new use can commence. If EPA determines that the significant new use is not likely to present an unreasonable risk, EPA is required under TSCA section 5(g) to make public, and submit for publication in the **Federal Register**, a statement of EPA's findings.

III. Significant New Use Determination

TSCA section 5(a)(2) states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorizes EPA to consider any other relevant factors.

To determine what would constitute significant new uses for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, and potential human exposures and environmental releases that may be associated with the conditions of use of the substances, in the context of the four bulleted TSCA section 5(a)(2) factors listed in this unit. During its review of these chemicals, EPA identified certain conditions of use that are not intended by the submitters, but reasonably foreseen to occur. EPA proposed to designate those reasonably foreseen conditions of use as significant new uses.

IV. Public Comments on Proposed Rule and EPA Responses

EPA received public comments from two identifying entities on the proposed rule. The Agency's responses are described in a separate Response to Public Comments document contained in the public docket for this rule, EPA-HQ-OPPT-2019-0226.

V. Substances Subject to This Rule

EPA is establishing significant new use and recordkeeping requirements for three chemical substances in 40 CFR part 721, subpart E. In Unit IV of the proposed SNUR (84 FR 32366; July 8, 2019), EPA provided the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as confidential business information (CBI)).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the SNUR.
- Potentially Useful Information. This is information identified by EPA that would help characterize the potential health and/or environmental effects of the chemical substances if a manufacturer or processor is considering submitting a SNUN for a significant new use designated by the SNUR.
- CFR citation assigned in the regulatory text section of these rules. The regulatory text section of these rules specifies the activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated in the rules, may be claimed as CBI.

The chemical substances that are the subject of these SNURs completed premanufacture review. In addition to those conditions of use intended by the submitter, EPA has identified certain other reasonably foreseen conditions of use and/or other circumstances of use. EPA has preliminarily determined that the chemicals under their intended conditions of use are not likely to present an unreasonable risk. However, EPA has not assessed risks associated with the reasonably foreseen conditions of use for these chemicals. As such, EPA is designating these reasonably foreseen conditions of use and/or other potential circumstances of use as significant new uses. As a result, before any of those uses may occur, they must first go through a separate, subsequent EPA review and determination process associated with a SNUN.

VI. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are the subject of these SNURs, EPA identified certain reasonably foreseen conditions of use and/or other circumstances different from the intended conditions of use identified in the PMNs and determined that those changes could result in changes in the type or form of exposure to the chemical substances and/or increased exposures to the chemical substances and/or changes in the reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of the chemical substances.

B. Objectives

EPA is issuing these SNURs because the Agency wants to:

- Receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- Have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- Make a determination under TSCA section 5(a)(3) regarding the use described in the SNUN, under the conditions of use, before the significant new use may commence. The Agency will either determine under TSCA section 5(a)(3)(C) that the significant new use is not likely to present an unreasonable risk, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use, or make a determination under TSCA section 5(a)(3)(A) or (B) and take the required regulatory action associated with the determination, before manufacture or processing for the significant new use of the chemical substance can occur.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

VII. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not

ongoing. The chemical substances subject to this rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which a NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

EPA designated July 2, 2019 (the date of web posting of the proposed rule) as the cutoff date for determining whether the new use is ongoing. The objective of EPA's approach has been to ensure that a person could not defeat a SNUR by initiating a significant new use before the effective date of the final rule.

In the unlikely event that a person began commercial manufacture or processing of the chemical substances for a significant new use identified as of July 2, 2019, that person will have to cease any such activity upon the effective date of the final rule. To resume their activities, that person would have to first comply with all applicable SNUR notification requirements and wait until EPA has conducted a review of the notice, made an appropriate determination on the notice, and has taken such actions as are required with that determination.

VIII. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (e.g., generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4 (15 U.S.C. 2603), then TSCA section 5(b)(1)(A) (15 U.S.C. 2604(b)(1)(A)) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Unit IV of the proposed rule lists potentially useful information for all SNURs listed here. Descriptions are provided for informational purposes. The potentially useful information identified in Unit IV of the proposed

rule will be useful to EPA's evaluation in the event that someone submits a SNUN for the significant new use. Companies who are considering submitting a SNUN are encouraged, but not required, to develop the information on the substance.

EPA strongly encourages persons, before performing any testing, to consult with the Agency. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h).

The potentially useful information described in Unit IV of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer or processor must show that it has a *bona fide* intent to manufacture or process the

chemical substance and must identify the specific use for which it intends to manufacture or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers and processors can combine the *bona fide* submission under the procedure in 40 CFR 721.1725(b)(1) with that under 40 CFR 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, *i.e.*, the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2019-0226.

XII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations-and-executive-orders>.

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

This action establishes SNURs for several new chemical substances that were the subject of PMNs and TSCA section 5(e) Orders. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act (PRA)

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this action. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection activities in this action have already been approved by OMB pursuant to the PRA under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and

maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including using automated collection techniques, to the Director, Regulatory Support Division, Office of Mission Support (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

Pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that promulgation of this SNUR will not have a significant adverse economic impact on a substantial number of small entities. The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a "significant new use." Because these uses are "new," based on all information currently available to EPA, it appears that no small or large entities presently engage in such activities. A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was seven in Federal fiscal year (FY) 2013, 13 in FY2014, six in FY2015, 10 in FY2016, 14 in FY2017, and 18 in FY2018 and only a fraction of these were from small businesses. In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from \$16,000 to \$2,800. This lower fee reduces the total reporting and recordkeeping of cost of submitting a SNUN to about \$10,116 for qualifying small firms. Therefore, the potential economic impacts of complying with this SNUR are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684) (FRL-5597-1), the Agency presented its general determination that final SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this action. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132: Federalism

This action will not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

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

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This action does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 (65 FR 67249, November 9, 2000), do not apply to this action.

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

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

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

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

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

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

XII. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this 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 publication of the rule in

the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 3, 2020.

Tala Henry,

Deputy Director, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add entries for §§ 721.11295 through 721.11297 in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation

OMB control No.

* * * * *

Significant New Uses of Chemical Substances

<p>* * * * *</p> <p>721.11295 2070–0012</p> <p>721.11296 2070–0012</p> <p>721.11297 2070–0012</p> <p>* * * * *</p>	<p>* * * * *</p> <p>2070–0012</p> <p>2070–0012</p> <p>2070–0012</p> <p>* * * * *</p>
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PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add §§ 721.11295 to 721.11297 to subpart E to read as follows:

Subpart E—Significant New Uses for Specific Chemical Substances

* * * * *

Sec.

721.11295	Isocyanate terminated polyurethane resin (generic).	
721.11296	N-Alkyl propanamide (generic).	
721.11297	N-Alkyl acetamide (generic).	

* * * * *

§ 721.11295 Isocyanate terminated polyurethane resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as isocyanate terminated polyurethane resin (PMN P–16–417) is subject to reporting under this section

for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(l) and (o). It is a significant new use to manufacture (including import) the substance with isocyanate residuals greater than 7% and polymeric isocyanate residuals greater than 13%.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

§ 721.11296 N-Alkyl propanamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as N-alkyl propanamide (PMN P–18–239) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

§ 721.11297 N-Alkyl acetamide (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as N-alkyl acetamide (PMN P-18-240) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (c) and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(i) of this section.

[FR Doc. 2020-07795 Filed 5-4-20; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 200413-0110]

RIN 0648-BJ41

Pacific Island Fisheries; 2019–2021 Annual Catch Limits and Accountability Measures

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

ACTION: Final rule.

SUMMARY: This final rule establishes annual catch limits (ACLs) and accountability measures (AMs) in the main Hawaiian Islands (MHI) for deepwater shrimp, precious corals, and gray jobfish (uku) in 2019–2021, and for Kona crab in 2019. This rule supports the long-term sustainability of Pacific Island fisheries.

DATES: The final rule is effective June 4, 2020. The final rule is applicable in fishing years 2019, 2020, and 2021 for deepwater shrimp, precious corals, and gray jobfish, and fishing year 2019 for Kona crab.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaii Archipelago (Hawaii FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel. 808-522-8220, fax 808-522-8226, or www.wpcouncil.org.

Copies of the environmental analyses and other supporting documents for this action are available from <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-1024>, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT:

Brett Schumacher, NMFS PIRO Sustainable Fisheries, 808-725-5185.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around Hawaii under the Hawaii FEP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), with regulations at 50 CFR part 665. The FEP contains a process for the Council and NMFS to specify ACLs and AMs; that process is codified at 50 CFR 665.4. NMFS must specify an ACL and AM(s) for each stock and stock complex of management unit species (MUS) in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

This rule establishes ACLs and AMs for MHI deepwater shrimp, precious corals, and uku for 2019–2021, and for Kona crab for 2019 (see Table 1). The rule is consistent with recommendations made by the Council at its October 2017 and October 2018 meetings. The Council recommended that NMFS implement ACLs and AMs for 2019, 2020, and 2021 for all stocks, except for MHI Kona crab, which they recommended that NMFS implement an ACL and AM only for 2019 because a new stock assessment is available to support ACL recommendations for this stock for 2020 and beyond. The fishing year for each fishery begins on January 1 and ends on December 31, except for precious coral fisheries, which begin July 1 and end on June 30 of the next year.

TABLE 1—ACLs FOR STOCKS IN THIS FINAL RULE

Stock	ACL (lb)	Year(s)
Kona crab	3,500	2019
Deepwater shrimp	250,773	2019–2021
Uku	127,205	2019–2021
Auau Channel—Black coral	5,512	2019–2021
Makapuu Bed—Pink and red coral	2,205	2019–2021
Makapuu Bed—Bamboo coral	551	2019–2021
180 Fathom Bank—Pink and red coral	489	2019–2021
180 Fathom Bank—Bamboo coral	123	2019–2021
Brooks Bank—Pink and red coral	979	2019–2021
Brooks Bank—Bamboo coral	245	2019–2021
Kaena Point Bed—Pink and red coral	148	2019–2021
Kaena Point Bed—Bamboo coral	37	2019–2021
Keahole Bed—Pink and red coral	148	2019–2021
Keahole Bed—Bamboo coral	37	2019–2021

TABLE 1—ACLs FOR STOCKS IN THIS FINAL RULE—Continued

Stock	ACL (lb)	Year(s)
Hawaii Exploratory Area—precious corals	2,205	2019–2021

As an AM for each stock, NMFS and the Council will evaluate the catch after each fishing year to determine if the average catch of the three most recent years exceeds its ACL. If it does, the Council would recommend a reduction of the ACL of that fishery in the subsequent year equal to the amount of the overage. In the event that NMFS needs to reduce an ACL because a fishery exceeded its ACL, we would implement the AM through a separate rulemaking.

In addition to this post-season AM, this rule implements a new in-season AM for the uku fishery where, if NMFS projects that catch will reach the ACL, NMFS would close the commercial and non-commercial uku fisheries in Federal waters around the MHI for the remainder of the fishing year. This in-season AM will be implemented only for fishing years 2019 and 2020. The Council initially recommended this AM for uku, along with an ACL of 127,205 lb and the post-season AM, at the October 2017 meeting. That recommendation covered three fishing years: 2018, 2019, and 2020. At the October 2018 meeting, the Council updated the recommendations for uku for fishing years 2019 through 2021, but only recommended the ACL of 127,205 lb and the post-season AM. Because the October 2018 Council meeting did not address the in-season AM, this management measure will not be applied for fishing year 2021.

There is also an existing in-season AM for the precious coral fishery that will close individual coral beds if the ACL for that bed is projected to be reached. This rule makes housekeeping changes to the text pertaining to this AM that are described below.

For all stocks except uku, the ACLs and AMs are identical to those most recently specified, in 2017. The Council did not recommend, and NMFS did not implement, ACLs and AMs for any of the these fisheries in 2018, while the Council and NMFS developed the amendment to its fishery ecosystem plans to reclassify certain MUS as ecosystem component species (ECS), which do not require ACLs and AMs. This action is the first time that ACLs and AMs will be implemented for uku as a single-species stock.

In addition to codifying the ACLs, this rule makes housekeeping changes to the

regulations. First, the rule corrects a cross-reference in 50 CFR 665.4(c) that pertains to ACL requirements. The current regulation references a subsection under National Standard 1 that was changed on October 18, 2016 (81 FR 71858). This rule updates the CFR to refer to the correct subsection on exceptions to ACL requirements (§ 600.310(h)(1)), rather than the subsection on flexibility for endangered species and aquaculture operations (§ 600.310(h)(2)).

This rule makes three housekeeping changes related to management of Hawaii precious corals. This rule removes subsection (b) in § 665.269, which refers to nonselective harvest of precious coral in conditional beds, because nonselective harvest of precious coral is not permitted in any precious coral permit area (see § 665.264). This rule also removes references in §§ 665.267 and 665.268 to a two-year fishing period for Makapuu Bed and Auau Channel Bed, because NMFS now manages these beds on the same one-year fishing year as all other coral beds. This rule also replaces the term “quota” with “ACL” in §§ 665.263, 665.268, and 665.269, to make the language governing catch limits consistent throughout the regulations.

Comments and Responses

On February 10, 2020, NMFS published a proposed rule and request for public comments (85 FR 7521). The comment period ended March 2, 2020. NMFS received comments from seven individuals that generally supported the ACL and AMs, and responds below.

Comment 1: Why does the rule affect Kona crab for only one year, and why will NMFS and the Council wait for a new stock assessment to address management for subsequent years?

Response: The Council recommended 2019 ACL and AMs for Kona crab in October 2018. At that time, NMFS was preparing a stock assessment that would include updated catch projections for management use beginning in 2020. The Council limited their recommendations for Kona crab to 2019 with the understanding that they would recommend ACLs and AMs for Kona crab in subsequent years when the new stock assessment became available. This process allows NMFS and the Council to use information provided in the new

stock assessment to inform management for 2020 and beyond, and is consistent with National Standard 2 of the Magnuson-Stevens Act, which requires NMFS to use the best scientific information available.

Comment 2: Lower ACLs would promote greater biodiversity and prevent effects from rising ocean temperatures.

Response: NMFS acknowledges that biodiversity and climate change are important considerations. We evaluated these issues in the environmental assessments supporting this management action, and the best available information does not indicate that the fisheries covered by this rule affect biodiversity or are affected by increased ocean temperatures.

Comment 3: How are the rules enforced?

Response: NOAA’s Office of Law Enforcement and the U.S. Coast Guard enforce Federal fisheries rules. They conduct enforcement activities both on and off the water, and conduct related criminal and civil investigations. The Enforcement Section of the NOAA Office of General Counsel provides legal support to the NOAA Office of Law Enforcement and other NOAA offices, and prosecutes cases.

Changes From the Proposed Rule

This final rule contains no changes from the proposed rule.

Classification

The Administrator, Pacific Islands Region, NMFS, determined that this action is necessary for the conservation, management, and long-term sustainability of the subject fisheries, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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. NMFS did not receive any comments regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

List of Subjects in 50 CFR Part 665

Annual catch limits, Accountability measures, Bottomfish, Deepwater shrimp, Precious corals, Kona crab, Uku, Fisheries, Fishing, Hawaii, Pacific Islands.

Dated: April 13, 2020.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

■ 2. In § 665.4, revise paragraph (c) to read as follows:

§ 665.4 Annual catch limits.

* * * * *

(c) *Exceptions.* The Regional Administrator is not required to specify an annual catch limit for an ECS, or for an MUS that is statutorily excepted from the requirement pursuant to 50 CFR 600.310(h)(1).

* * * * *

■ 3. In § 665.204, revise paragraphs (h) and (i) to read as follows:

§ 665.204 Prohibitions

* * * * *

(h) Fish for or possess any bottomfish MUS as defined in § 665.201, in the MHI management subarea after a closure of its respective fishery, in violation of § 665.211.

(i) Sell or offer for sale any bottomfish MUS as defined in § 665.201, after a closure of its respective fishery, in violation of § 665.211.

* * * * *

■ 4. Revise § 665.211 to read as follows:

§ 665.211 Annual Catch Limits (ACL).

(a) In accordance with § 665.4, the ACLs for MHI bottomfish fisheries for each fishing year are as follows:

Fishery	2018–19 ACL (lb)	2019–20 ACL (lb)	2020–21 ACL (lb)
Deep 7 bottomfish	492,000	492,000	492,000

Fishery	2019 ACL (lb)	2020 ACL (lb)	2021 ACL (lb)
Uku	127,205	127,205	127,205

(b) When a bottomfish ACL is projected to be reached based on analyses of available information, the Regional Administrator shall publish a document to that effect in the **Federal Register** and shall use other means to notify permit holders. The document will include an advisement that the fishery will be closed beginning at a specified date, which is not earlier than seven days after the date of filing the closure notice for public inspection at the Office of the Federal Register, until

the end of the fishing year in which the ACL is reached.

(c) On and after the date specified in paragraph (b) of this section, no person may fish for or possess any bottomfish MUS from a closed fishery in the MHI management subarea, except as otherwise allowed in this section.

(d) On and after the date specified in paragraph (b) of this section, no person may sell or offer for sale any bottomfish MUS from a closed fishery, except as otherwise authorized by law.

(e) Fishing for, and the resultant possession or sale of, any bottomfish MUS by vessels legally registered to Mau Zone, Ho’omalulu Zone, or PRIA bottomfish fishing permits and conducted in compliance with all other laws and regulations, is exempted from this section.

■ 5. Add § 665.253 to read as follows:

§ 665.253 Annual Catch Limits (ACL).

In accordance with § 665.4, the ACLs for MHI crustaceans for each fishing year are as follows:

Fishery	2019 ACL (lb)	2020 ACL (lb)	2021 ACL (lb)
Kona crab	3,500	NA	NA
Deepwater shrimp	250,733	250,733	250,733

■ 6. In § 665.263, revise paragraph (b)(3) to read as follows:

§ 665.263 Prohibitions.

* * * * *

(b) * * *

(3) In a bed for which the ACL specified in § 665.269 has been attained.

* * * * *

■ 7. Revise § 665.267 to read as follows:

§ 665.267 Seasons.

The fishing year for precious coral begins on July 1 and ends on June 30 the following year.

■ 8. In § 665.268, revise paragraph (a) to read as follows:

§ 665.268 Closures.

(a) If the Regional Administrator determines that the ACL for any coral bed will be reached prior to the end of the fishing year, NMFS shall publish a

document to that effect in the **Federal Register** and shall use other means to notify permit holders. Any such notice must indicate the fishery shall be closed, the reason for the closure, the specific bed being closed, and the effective date of the closure.

* * * * *

■ 9. Revise § 665.269 to read as follows:

§ 665.269 Annual Catch Limits (ACL).

(a) *General.* The ACLs limiting the amount of precious coral that may be taken in any precious coral permit area during the fishing year are listed in paragraph (c) of this section. Only live coral is counted toward the ACL. The accounting period for each fishing year for all precious coral ACLs begins July 1 and ends June 30 of the following year.

(b) *Reserves and reserve release.* The ACL for exploratory area X-P-H will be held in reserve for harvest by vessels of

the United States in the following manner:

(1) At the start of the fishing year, the reserve for the Hawaii exploratory areas will equal the ACL minus the estimated domestic annual harvest for that year.

(2) As soon as practicable after December 31 each year, the Regional Administrator will determine the amount harvested by vessels of the United States between July 1 and December 31 of the year that just ended on December 31.

(3) NMFS will release to TALFF an amount of Hawaii precious coral for

each exploratory area equal to the ACL minus two times the amount harvested by vessels of the United States in that July 1–December 31 period.

(4) NMFS will publish in the **Federal Register** a notification of the Regional Administrator’s determination and a summary of the information on which it is based as soon as practicable after the determination is made.

(c) In accordance with § 665.4, the ACLs for MHI precious coral permit areas for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (c)

Type of coral bed	Area and coral group	2019 ACL (lb)	2020 ACL (lb)	2021 ACL (lb)
Established bed	Auau Channel—Black coral	5,512	5,512	5,512
	Makapuu Bed—Pink and red coral	2,205	2,205	2,205
	Makapuu Bed—Bamboo coral	551	551	551
Conditional Beds	180 Fathom Bank—Pink and red coral	489	489	489
	180 Fathom Bank—Bamboo coral	123	123	123
	Brooks Bank—Pink and red coral	979	979	979
	Brooks Bank—Bamboo coral	245	245	245
	Kaena Point Bed—Pink and red coral	148	148	148
	Kaena Point Bed—Bamboo coral	37	37	37
	Keahole Bed—Pink and red coral	148	148	148
Exploratory Area	Keahole Bed—Bamboo coral	37	37	37
	Hawaii—precious coral	2,205	2,205	2,205

Note 1 to § 665.269: No fishing for coral is authorized in refugia.

Note 2 to § 665.269: A moratorium on gold coral harvesting is in effect through June 30, 2023.

[FR Doc. 2020-08045 Filed 5-4-20; 8:45 am]

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Proposed Rules

Federal Register

Vol. 85, No. 87

Tuesday, May 5, 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 ENERGY

10 CFR Part 431

[EERE-2019-BT-TP-0041]

RIN 1904-AE57

Energy Conservation Program: Test Procedure for Commercial Warm Air Furnaces

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (DOE) is initiating a data collection process through this request for information (RFI) to consider whether to amend DOE's test procedure for commercial warm air furnaces, in large part by updating references to the most recent versions of the relevant industry test standards. DOE also seeks information on any additional topics that may assist with DOE's decision whether to conduct a future test procedure rulemaking, including whether amended test procedures would more accurately or fully comply with the requirement that they be reasonably designed to produce test results that measure energy efficiency of commercial warm air furnaces during a representative average use cycle, and not be unduly burdensome to conduct. DOE welcomes written comments from the public on any subject within the scope of this document (including topics not raised in this RFI), as well as the submission of data and other relevant information.

DATES: Written comments and information are requested and will be accepted on or before June 4, 2020.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2019-BT-TP-0041 and/

or RIN 1904-AE57, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

2. *Email:* To Furnaces2019TP0041@ee.doe.gov. Include docket number EERE-2019-BT-TP-0041 and/or RIN 1904-AE57 in the subject line of the message.

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

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

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

The docket web page can be found at: https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=49&action=viewlive. The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III of this RFI for information on how to submit comments through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000

Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1943. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-5827. Email: Eric.Stas@hq.doe.gov.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction

Commercial warm air furnaces are included in the list of "covered equipment" for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6311(1)(J)) DOE's test procedures for commercial warm air furnaces are prescribed at Title 10 of the Code of Federal Regulations (CFR) section 431.76 (10 CFR 431.76). The following sections discuss DOE's authority to establish and amend test procedures for commercial warm air furnaces, as well as relevant background information regarding DOE's consideration of test procedures for this equipment.

A. Authority and Background

The Energy Policy and Conservation Act, as amended (EPCA),¹ among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C² of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes commercial warm air furnaces, which are the subject of this RFI. (42 U.S.C. 6311(1)(J))

The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6316(b)(2)(D); 42 U.S.C. 6297)

The Federal testing requirements consist of test procedures that manufacturers of covered equipment must use as the basis for: (1) Certifying to DOE that their equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6316(b); 42 U.S.C. 6296), and (2) making representations about the efficiency of that equipment (42 U.S.C. 6314(d)). Similarly, DOE uses these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA.

Under 42 U.S.C. 6314, the statute sets forth the criteria and procedures DOE must follow when prescribing or

amending test procedures for covered equipment. EPCA requires that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which reflect energy efficiency, energy use, or estimated annual operating cost of a given type of covered equipment during a representative average use cycle and requires that test procedures not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures in the **Federal Register** and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6314(b))

EPCA requires that the test procedures for commercial warm air furnaces be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) or by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), as referenced in ASHRAE Standard 90.1, “Energy Standard for Buildings Except Low-Rise Residential Buildings” (ASHRAE Standard 90.1). (42 U.S.C. 6314(a)(4)(A)) If such an industry test procedure or rating procedure is amended, DOE must amend its test procedure to be consistent with the amended industry test procedure or rating procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that the amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden, in which case DOE may establish an amended test procedure that does satisfy those statutory provisions. (42 U.S.C. 6314(a)(4)(B) and (C))

In addition, the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, amended EPCA to require that, at least once every 7 years, DOE evaluate test procedures for each type of covered equipment, including commercial warm air furnaces that are the subject of this RFI, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle. (42 U.S.C. 6314(a)(1)) In addition, if the Secretary determines

that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register** and afford interested persons an opportunity (of not less than 45 days’ duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6314(a)(1)(A)(ii))

DOE is publishing this RFI to collect data and information to inform its decision in satisfaction of its statutory requirements.

B. Rulemaking History

DOE’s current test procedure for commercial warm air furnaces is codified at 10 CFR 431.76. It incorporates by reference at 10 CFR 431.75 certain sections of two industry standards for testing gas-fired commercial warm air furnaces: American National Standards Institute (ANSI) Z21.47–2012, “Standard for Gas-fired Central Furnaces” (ANSI Z21.47–2012), which is used for all types of gas-fired commercial warm air furnaces; and ANSI/American Society of Heating, Refrigeration, and Air-conditioning Engineers (ASHRAE) Standard 103–2007, “Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers,” which is specifically for testing condensing gas-fired commercial warm air furnaces. For oil-fired commercial warm air furnaces, the test procedure also incorporates by reference certain sections of two industry standards: Underwriters Laboratories (UL) standard UL 727–2006 “Standard for Safety Oil-Fired Central Furnaces” (UL 727–2006),³ and Hydronics Institute Division of AHRI (HI) BTS–2000 “Method to Determine Efficiency of Commercial Space Heating Boilers” (HI BTS–2000).

DOE first codified a test procedure for commercial warm air furnaces in a final rule published on October 21, 2004. 69 FR 61916 (October 2004 final rule). For gas-fired commercial warm air furnaces, the October 2004 final rule incorporated by reference the most up-to-date industry test procedure referenced in ASHRAE 90.1 at the time, which was

³ UL 727–1994 is also incorporated by reference in 10 CFR 431.75; however, the test method specified in 10 CFR 431.76 only references UL–2006. Both UL 727–1994 and UL 727–2006 were incorporated by reference in 10 CFR 431.75 as part of the May 2012 final rule because prior to the compliance date of May 13, 2013, either version of the UL 727 could be used. 77 FR 28928, 28987 (May 16, 2012).

¹ All references to EPCA in this document refer to the statute as amended through America’s Water Infrastructure Act of 2018, Public Law 115–270 (Oct. 23, 2018).

² For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

ANSI Z21.47–1998, “Gas-Fired Central Furnaces.” 69 FR 61916, 61917, 61940 (Oct. 21, 2004). DOE also incorporated by reference certain provisions from ANSI/ASHRAE Standard 103–1993, “Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers,” for calculating the effect of condensing operation on efficiency. *Id.* For oil-fired commercial warm air furnaces, the October 2004 final rule incorporated by reference UL Standard 727–1994 “Standard for Safety Oil-Fired Central Furnaces” (UL 727–1994), which was the most up to date version of the UL 727 test procedure at the time. *Id.* DOE determined that UL 727–1994 did not provide a procedure for calculating the percent flue loss of the furnace, which is necessary in calculating the thermal efficiency. 69 FR 61916, 61920 (Oct. 21, 2004). Therefore, DOE also incorporated by reference provisions from HI BTS–2000, “Method to Determine Efficiency of Commercial Space Heating Boilers,” to calculate the flue loss for oil-fired commercial warm air furnaces. 69 FR 61916, 61917, 61940 (Oct. 21, 2004).

DOE further amended the test procedure for commercial warm air furnaces in a final rule published on May 16, 2012 (May 2012 final rule), which updated the test procedure to incorporate by reference the latest versions of the industry standards at the time, as referenced in ASHRAE Standard 90.1–2010 (*i.e.*, ANSI Z21.47–2006 and UL 727–2006 for gas-fired and oil-fired commercial warm air furnaces, respectively).⁴ 77 FR 28928, 28987. In the May 2012 final rule, DOE determined that the changes in the updated test procedures for gas-fired and oil-fired commercial warm air furnaces did not substantially impact the measurement of energy efficiency and should be adopted to comply with the provisions set forth in EPCA. 77 FR 28928, 28944 (May 16, 2012).

DOE most recently amended the test procedure for commercial warm air furnaces in a final rule published on July 17, 2015, which updated the test procedure for gas-fired commercial warm air furnaces to incorporate by reference the latest version of the industry standard available at the time, ANSI Z21.47–2012. 80 FR 42614 (July 2015 final rule). More specifically, DOE determined in the July 2015 final rule that the specific changes between ANSI Z21.47–2006 and ANSI Z21.47–2012

did not include any updates in the sections referenced by the DOE test procedure that would impact the test method, and, therefore, adopted the updated industry standard as required by EPCA. 80 FR 42614, 42620, 42663 (July 17, 2015). At the time of the July 2015 final rule, UL 727–2006 was still the most recent version of that standard and referenced in ASHRAE 90.1–2013, so DOE did not amend its test procedure for oil-fired commercial warm air furnaces. The July 2015 final rule also updated to the most recent version of ANSI/ASHRAE 103 at the time (*i.e.*, ANSI/ASHRAE 103–2007). *Id.*

II. Request for Information

In the following sections, DOE has identified a variety of issues on which it seeks input to aid in the development of the technical and economic analyses regarding whether amended test procedures for commercial warm air furnaces would be warranted. More specifically, DOE seeks to determine whether to update the references in the commercial warm air furnace test procedure to the most recent versions of the incorporated industry standards, or whether such an update would not meet the requirements in EPCA that test procedures: (1) Be reasonably designed to produce test results which reflect energy efficiency, energy use, and estimated operating costs of a type of industrial equipment (or class thereof) during a representative average use cycle; and (2) not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2) and (4)(B)) DOE is also requesting comment on any opportunities to streamline and simplify testing requirements for commercial warm air furnaces.

Further, the Department recently published an RFI regarding test procedures across the full range of consumer products and industrial equipment that fall under its regulatory authority pursuant to EPCA. 84 FR 9721 (March 18, 2019). In that RFI, DOE noted that, over time, many of DOE’s test procedures have been amended to account for products’ and equipment’s increased functionality and modes of operation. DOE’s intent in issuing that RFI was to gather information to ensure that the inclusion of measurement provisions in its test procedures associated with such increased functionality has not inadvertently compromised the measurement of representative average use cycles or periods of use, and made some test procedures unnecessarily burdensome. Although the comment period on the March 2019 RFI has since closed, DOE seeks comment on this issue as it

specifically pertains to the test procedure for commercial warm air furnaces, which are the subject of this current RFI.

DOE seeks comment on whether there have been changes in product testing methodology or new products on the market since the last test procedure update that may create the need to make amendments to the test procedure for commercial warm air furnaces. Specifically, DOE seeks data and information that could enable the agency to propose that the current test procedure produces results that are representative of an average use cycle for the product and is not unduly burdensome to conduct, and, therefore, does not need amendment. DOE also seeks information on whether an existing private sector-developed test procedure would produce such results and should be adopted by DOE rather than DOE establishing its own test procedure, either entirely or by adopting only certain provisions of one or more private sector-developed tests.

Additionally, DOE welcomes comments on other issues relevant to the conduct of this process that may not be specifically identified elsewhere in this document. In particular, DOE notes that under section 1 of Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. *See* 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its test procedure regulations applicable to commercial warm air furnaces consistent with the requirements of EPCA.

A. Scope and Definitions

This RFI covers commercial warm air furnaces. EPCA defines “warm air furnace” as a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces. (42 U.S.C. 6311(11)(A)) EPCA established energy conservation standards for commercial warm air furnaces with a capacity at or above 225,000 Btu/h. (42 U.S.C. 6313(a)(4)(A)–(B)) DOE codified the statutory definition of “warm air furnace” at 10 CFR 431.72. Additionally, based on the EPCA-established energy conservation standards, DOE established a definition of “commercial warm air furnace” as a

⁴ Compliance with the updated industry test procedures that were incorporated by reference was required beginning on May 13, 2013, before which time, the previous or updated versions of the industry test procedures incorporated by reference could be used. 77 FR 28928, 28935 (May 16, 2012).

warm air furnace that is industrial equipment, and that has a capacity (rated maximum input) of 225,000 Btu/h or more. *Id.* Additionally, the scope of the test procedure for commercial warm air furnaces is “commercial warm air furnaces with a rated maximum input of 225,000 Btu per hour or more.” 10 CFR 431.76(a).

B. Test Procedure

DOE uses thermal efficiency as the metric for measuring the energy efficiency of commercial warm air furnaces. 10 CFR 431.76 (in which “thermal efficiency” is abbreviated as “TE”). Thermal efficiency is defined and calculated as 100 percent minus the percent flue loss, as determined using the test procedures described in 10 CFR 431.76 and 10 CFR 431.72. The test procedure for commercial warm air furnaces includes provisions for testing steady-state efficiency.⁵ The test procedure also specifies the test set-ups for gas-fired and oil-fired commercial warm air furnaces, through reference to certain sections of ANSI Z21.47⁶ and UL 727–2006 for gas and oil furnaces, respectively. 10 CFR 431.76(c)(1) and (2), respectively. The test set-up for oil-fired commercial warm air furnaces also includes a reference to HI BTS–2000 for conducting a fuel oil analysis during test setup. 10 CFR 431.76(c)(2). In addition, the test procedure includes requirements for measuring the carbon dioxide (CO₂) in the flue of oil-fired furnaces during testing,⁷ and for measuring the condensate of condensing gas-fired commercial warm air furnaces.⁸ 10 CFR 431.76(d)(1) and (2), respectively. The procedure for measuring condensate of condensing gas-fired furnaces references certain

⁵ Test measurements are taken once steady-state (or equilibrium) operation has been achieved, as indicated by temperature changes in the flue gas of not more than $\pm 5^\circ\text{F}$ ($\pm 3^\circ\text{C}$) between readings 15 minutes apart. See paragraph (c)(1) of 10 CFR 431.76, which references the requirements of section 2.39 of ANSI Z21.47–2012, for gas-fired commercial furnaces, and paragraph (c)(2) of 10 CFR 431.76, which specifies steady-state conditions for oil-fired furnaces.

⁶ As noted, the current commercial warm air furnace test procedure references the 2012 version of ANSI Z21.47. 10 CFR 431.75(b)(1).

⁷ The CO₂ concentration is one of the measurements used to calculate the loss in dry flue gases, which is summed with the loss due to moisture to calculate the flue loss. Flue loss is subtracted from 100 to calculate thermal efficiency.

⁸ The condensate measurement is used to calculate the latent heat gain from the condensation of the water vapor in the flue gas, and the heat loss due to the hot condensate flowing down the drain, as specified in sections 11.3.7.1 and 11.3.7.2 of ASHRAE 103–2007. These values are used to adjust the thermal efficiency to account for condensing operation.

provisions of ANSI/ASHRAE 103.⁹ 10 CFR 431.76(d)(2). Finally, the test procedure includes provisions for calculating thermal efficiency, which reference certain provisions of ANSI Z21.47 (for gas-fired warm air furnaces), certain provisions of HI BTS–2000 (for oil-fired commercial warm air furnaces), and certain provisions of ASHRAE 103 (for condensing gas-fired commercial warm air furnaces). 10 CFR 431.76(e)–(f).

1. Updates to Industry Standards

Since publication of the July 2015 final rule, updated versions of the industry test procedures that are incorporated by reference have been published. An updated version of UL 727 was published on January 31, 2018 (UL 727–2018). An updated version of ANSI Z21.47 was published by the CSA Group¹⁰ in November 2016 (ANSI Z21.47–2016). An updated version of ANSI/ASHRAE 103 was published in 2017 (ANSI/ASHRAE 103–2017). HI BTS–2000 was initially developed by the Hydronics Institute of the Gas Appliance Manufacturers Association (GAMA). In 2008, GAMA merged with the Air-Conditioning and Refrigeration Institute (ARI) to form the Air-Conditioning, Heating, and Refrigeration Institute (AHRI). After merging, AHRI was responsible for the HI BTS–2000 standard. In 2015, AHRI renamed the standard as AHRI 1500 (AHRI 1500–2015) and a made number of changes that are discussed in section II.B.1.d of this document.

As discussed, EPCA requires that when the relevant industry standards are amended, DOE must update its test procedure to be consistent with the amended industry test procedure, unless DOE determines, by rule published in the **Federal Register** and supported by clear and convincing evidence, that the amended test procedure would not meet the requirements in 42 U.S.C. 6314(a)(2) and (3) related to representative use and test burden. (42 U.S.C. 6314(a)(4)(B) and (C)) Having been triggered under this provision of EPCA, DOE is evaluating the updated industry standards and whether an amended Federal test procedure that references the updated industry standards would be reasonably designed to produce test results which reflect the energy efficiency of commercial warm air furnaces during a representative average use cycle, and not be unduly burdensome to conduct.

⁹ As noted, the current commercial warm air furnace test procedure references the 2007 version of ASHRAE 103. 10 CFR 431.75(c)(1).

¹⁰ ANSI Z21.47 is published by the CSA Group, and is synonymous with CSA 2.3–2016.

(Because DOE is also obligated under EPCA to conduct a comprehensive review of its test procedures for covered industrial equipment at least once every seven years (42 U.S.C. 6314(a)(1)), the Department is also entertaining comments and recommendations for changes to any other aspect of the commercial warm air furnaces test procedure. See section II.C of this document for further details.)

a. UL 727

The commercial warm air furnaces test method at 10 CFR 431.76 requires use of those procedures contained in UL 727–2006 that are relevant to the steady-state efficiency measurement (*i.e.*, sections 1 through 3; 37 through 42 (except for sections 40.4 and 40.6.2 through 40.6.7); 43.2; and 44 through 46). DOE has performed an initial review of the differences between UL 727–2006 and UL 727–2018 and notes that much of the test standard did not change when it was updated from UL 727–2006 to UL 727–2018. DOE identified only two updates that may affect the test procedure—one related to thermocouple tolerance and the other related to building code references in the scope section. These updates are discussed in detail in the preceding paragraphs. In addition to the updates DOE has identified, DOE is seeking comment on whether any other changes or updates made in UL 727–2018 would impact the sections referenced by DOE, and whether DOE should adopt those updates.

Issue 1: DOE seeks comment regarding the differences between the sections of UL 727–2006 and UL 727–2018 that are relevant to the DOE test procedure. Specifically, DOE seeks comment on whether any other differences would impact the representativeness or test burden of the DOE commercial warm air furnaces test procedure, if adopted.

Thermocouple Tolerance

Section 40.6.1 of UL 727–2018, which pertains to temperature measurements using potentiometers and thermocouples, has different language from UL 727–2006 and incorporates different ANSI references. Specifically, UL 727–2006 requires that the thermocouple wire conform to the requirements specified in the Initial Calibration Tolerances for Thermocouples table (*i.e.*, Table 8) in International Society of Automation (ISA) standard MC96.1, “Temperature-Measurement Thermocouples” (ANSI/ISA MC96.1). In contrast, UL 727–2018 states that the thermocouple wire must conform to the requirements specified

in the Tolerance on Initial Values of Electromagnetic Force (EMF) Versus Temperature tables (*i.e.*, Tables 1–3) in ANSI/American Society for Testing and Materials (ASTM) standard E230/E230M, “Standard Specification and Temperature-Electromotive Force (emf) Tables for Standardized Thermocouples,” (ANSI/ASTM E230/E230M). The thermocouple requirements in each standard are only applicable to the range of temperatures associated with the specified types of thermocouple. Based on an initial review of ANSI/ASTM E230/E230M, the temperature ranges to which the requirements apply differ from the temperature ranges specified in MC96.1 for certain thermocouple wires. ANSI/ASTM E230/E230M also specifies temperature ranges and requirements for thermocouple types C, N, and mineral-insulated metal-sheathed E type, which are not include in ANSI/ISA MC96.1. Furthermore, tolerances on initial values of EMF versus temperature for extension wires and compensating extension wires in ANSI/ASTM E230/E230M (*i.e.*, Tables 2 and 3) have been added to the requirements specified by section 40.6.1 of UL 727–2018.

Issue 2: DOE seeks comment on whether the additions and changes to thermocouple and thermocouple extension wire requirements would impact the representativeness of the measured test results or test burden of the DOE commercial warm air furnaces test procedure, if adopted.

Issue 3: DOE seeks comment on why section 40.6.1 in UL Standard 727 was changed from referencing ANSI/ISA MC96.1 in UL 727–2006, to ANSI/ASTM E230/E230M in UL 727–2018. DOE requests input on the perceived benefits and/or drawbacks of such change.

Building Code References in Scope Section

DOE notes that the language for the scope of the UL 727–2018 test standard has been changed in section 1.3, as compared to UL 727–2006. Section 1.3 in UL 727–2006 references the National Fire Protection Association (NFPA) Standard for Installation of Oil-Burning Equipment, NFPA 31, and codes such as the Building Officials Code Administrators International (BOCA) National Mechanical Code, the State Building Code Council (SBCC) Standard Mechanical Code, and the International Association of Plumbing and Mechanical Officials (IAPMO) Uniform Mechanical Code for requirements for the installation and use of oil-burning equipment which are to be utilized in conjunction with the standard. In

contrast, section 1.3 of UL 727–2018 references the National Fire Protection Association Standard for Installation of Oil-Burning Equipment, NFPA 31, the International Mechanical Code, and the Uniform Mechanical Code for the requirements for installation and use.

DOE defines the scope for the testing of commercial warm air furnaces in 10 CFR 431.76(a), which is independent from the scope defined by UL–727–2006 (*i.e.*, the scope of the DOE test procedure is dictated by the scope provision at 10 CFR 431.76(a)). Although DOE references the scope (Section 1) of UL 727–2006 in its test provisions at 10 CFR 431.76(c)(2), only the procedures within UL 727–2006 that are pertinent to the measurement of the steady-state efficiency are to be included in the DOE test procedure. 10 CFR 431.76 (b). Therefore, any provisions within the scope of UL 727–2006 that do not relate to the measurement of the steady-state efficiency do not apply to the DOE test procedure.

Issue 4: DOE seeks comment on whether there is a need to identify more specifically the provisions of UL 727–2006 that apply to the DOE test procedure.

b. ANSI Z21.47

The test method in 10 CFR 431.76 for gas-fired commercial warm air furnaces requires use of procedures contained in ANSI Z21.47–2012 that are relevant to the steady-state efficiency measurement (*i.e.*, sections 1.1, 2.1 through 2.6, 2.39, and 4.2.1 of ANSI Z21.47–2012). 10 CFR 431.76(c)(1). DOE notes that the majority of the test standard did not change when it was updated from ANSI Z21.47–2012 to ANSI Z21.47–2016. The revisions that were made were mostly editorial in nature, including moving section 2 in ANSI Z21.47–2012 to section 5 in ANSI Z21.47–2016, among other structural changes. In reviewing the two versions of the standard, DOE identified one apparent typographical error, which is discussed subsequently.

Issue 5: DOE seeks comment regarding any differences between Z21.47–2012 and Z21.47–2016 that are relevant to the DOE test procedure. For any relevant differences other than those already identified by DOE, DOE seeks comment on how such changes or updates would impact the representativeness of measurements and the test burden of the DOE commercial warm air furnaces test procedure, if adopted.

Typographical Error

Section 2.3.2(c) of ANSI Z21.47–2012 and the corresponding section 5.3.2(c) of ANSI Z21.47–2016 provide

installation requirements for horizontal furnaces. Section 5.3.2(c)(iii) of ANSI Z21.47–2016 appears to contain a typographical error by referencing “Figure 4, Enclosure types for alcove and closet installation tests for horizontal furnaces.” Rather, the title of Figure 4 in ANSI Z21.47–2016 is “Enclosure types for alcove and closet installation tests for up-flow and down-flow furnaces,” and as titled, Figure 4 applies only to up-flow and down-flow furnaces. The applicable reference in section 5.3.2(c)(iii) of ANSI Z21.47–2016 should be to Figure 5, “Enclosed types for alcove and closet installation tests for horizontal furnaces.”

Issue 6: DOE seeks comment on whether section 5.3.2(c)(iii) of ANSI Z21.47–2016 should refer to Figure 5 in the test procedure, rather than Figure 4.

c. ANSI/ASHRAE 103

DOE’s test procedure for gas-fired condensing commercial warm air furnaces references sections 7.2.2.4, 7.8, 9.2, 11.3.7.1 and 11.3.7.2 of ANSI/ASHRAE Standard 103–2007. 10 CFR 431.76. DOE did not identify any substantive changes in the sections currently referenced by the DOE test procedure in the update from ANSI/ASHRAE 103–2007 to ANSI/ASHRAE 103–2017, but DOE seeks further comment on this issue.

Issue 7: DOE seeks comment as to whether any of the differences between sections 7.2.2.4, 7.8, 9.2, 11.3.7.1 and 11.3.7.2 of ANSI/ASHRAE 103–2007 and ANSI/ASHRAE 103–2017 are relevant to the DOE test procedure, and if so, how such differences would impact the representativeness of measurements and the associated impact on test burden of the DOE commercial warm air furnaces test procedure, if adopted.

d. HI BTS–2000

DOE’s test procedure for oil-fired commercial warm air furnaces references sections of HI BTS–2000 that are relevant to the fuel oil analysis and calculating percent flue loss (*i.e.*, sections 8.2.2, 11.1.4, 11.1.5, and 11.1.6.2). 10 CFR 431.76(c)(2) and (e)(2), DOE identified two substantive changes in the sections referenced by the DOE test procedure in the update from HI BTS–2000 to AHRI 1500–2015 regarding fuel oil analysis and calculation of flue loss. These updates are discussed in detail in the following paragraphs. In addition to the updates DOE has identified, DOE seeks comment on whether any other differences between BTS–2000 and AHRI 1500–2015 would impact the sections referenced by DOE,

and if DOE should adopt those updates and why.

Issue 8: DOE seeks comment regarding whether any of the differences between sections 8.2.2, 11.1.4, 11.1.5, and 11.1.6.2 of HI BTS–2000 and AHRI 1500–2015 are relevant to the DOE test procedure, and if so, how such differences would impact the representativeness of measurements and the associated test burden of the DOE commercial warm air furnaces test procedure, if adopted.

Fuel Oil Analysis Requirements

DOE's test procedure for oil-fired commercial warm air furnaces includes fuel oil analysis requirements (10 CFR 431.76(c)(2)) which reference section 8.2.2 of BTS–2000. Section C3.2.1.1 of ANSI/AHRI 1500–2015 (previously section 8.2.2 of BTS–2000) specifies different fuel oil analysis requirements (*i.e.*, heating value analyzed per ASTM D240–09¹¹ or ASTM D4809–09a,¹² hydrogen and carbon content analyzed per ASTM D5291–10,¹³ and density and American Petroleum Institute (API) gravity analyzed per ASTM D396–14a¹⁴) than are required in section 8.2.2 of BTS–2000 (*i.e.*, heat value, hydrogen and carbon content, density and API gravity analyzed per ASTM D396–90¹⁵).

Issue 9: DOE seeks comment on the fuel oil analysis requirements in AHRI 1500–2015 and BTS–2000. Specifically, DOE seeks comment regarding whether the differences between the two would yield different results during testing and the merits of potentially adopting the fuel oil analysis requirement of AHRI 1500–2015.

Issue 10: DOE seeks comment on whether adopting AHRI 1500–2015 would add or reduce burden to the current testing requirements of the DOE commercial warm air furnaces test procedure.

Calculation of CO₂ in Flue Gas Losses

Section 11.1.4 of BTS–2000 requires that the CO₂ value used in the calculation of the dry flue gas loss for oil must be the measured CO₂. In addition, the DOE test procedure in 10

CFR 431.76(d) requires that CO₂ must be measured. Section C7.2.4 of AHRI 1500 (previously Section 11.1.4 in BTS–2000) includes the option to calculate CO₂ using the measured O₂ value instead of directly measuring the CO₂ value.

Issue 11: DOE seeks comment on whether the option to calculate CO₂ in AHRI 1500–2015 yields different testing results compared to using the measured value, as required by the current DOE test method for commercial warm air furnaces.

Issue 12: DOE also seeks comment on whether it should adopt provisions within AHRI 1500–2015 that allow for measuring O₂ and calculating CO₂ therefrom (instead of measuring CO₂) with respect to the flue loss calculation, as well as the rationale.

2. Thermal Efficiency

As previously stated, the energy efficiency metric for commercial warm air furnaces is thermal efficiency. Thermal efficiency for a commercial warm air furnace is defined and calculated as 100 percent minus the percent flue loss determined using the test procedures described in 10 CFR 431.76. 10 CFR 431.72. A test method and calculations for determining the jacket loss percentage (*i.e.*, the hourly heat loss through the jacket divided by the hourly input and multiplied by 100) are included in section 2.39 of ANSI Z21.47–2012 (and the corresponding section 5.40 of ANSI Z21.47–2016), but the jacket loss percentage is not included in the equation used to calculate thermal efficiency.¹⁶

Issue 13: DOE seeks comment on whether jacket loss should be accounted for in the calculation of thermal efficiency. Specifically, DOE seeks information and data on whether and to what extent inclusion of jacket loss would provide results that would more appropriately reflect energy efficiency during a representative average use cycle. DOE also requests information and data as to the test burden that would be associated with potential inclusion of jacket loss as part of the DOE commercial warm air furnaces test procedure.

3. Input Rate Tolerance

DOE's test procedure for gas-fired commercial warm air furnaces references the test method in ANSI

Z21.47, which requires that the test be conducted at normal inlet pressure and at 100 percent of normal input rate (*i.e.*, the maximum hourly Btu input rating specified by the manufacturer). 10 CFR 431.76(c)(1). DOE notes that no tolerance is provided on the input rate, so when taken literally, this provision could be interpreted to require that the firing rate be exactly 100 percent of the nominal input rate. DOE further notes that other types of fossil-fuel-fired equipment such as commercial packaged boilers, commercial water heaters, residential water heaters, residential furnaces, and residential boilers require the input rate during testing to be within ± 2 percent of the nameplate input rate. DOE seeks comment on whether a tolerance on input rate is necessary for gas-fired commercial warm air furnaces, and if so, what tolerance would be appropriate.

Issue 14: DOE seeks comment on whether industry uses a tolerance when testing to ANSI Z21.47, and if so, what tolerance is used. DOE requests comment on whether a tolerance should be specified for the input rate during testing of gas-fired commercial warm air furnaces, and if so, what tolerance would be appropriate.

4. Flue Temperature Measurement in Models With Multiple Vent Hoods

Section 2.16 of ANSI Z21.47–2012 and section 5.16 of ANSI Z21.47–2016 both state that the flue gas temperatures shall be measured in the vent pipe using nine individual thermocouples placed in specific locations. DOE notes that neither DOE's test procedure nor the ANSI Z21.47 test procedure specifies how to perform the flue temperature measurement if a unit has multiple vent hoods. DOE is aware of models on the market with two vent hoods through which combustion exhaust gases exit.

Issue 15: DOE seeks comment on how testing of commercial warm air furnaces with more than one vent hood are currently tested and whether it should consider adding provisions in the DOE test procedures to address measuring the flue gas temperature of a unit with multiple vent hoods. If so, DOE seeks comment on how best to measure flue gas temperature in such units.

5. Flue Temperature Measurement in Models With Vent Space Limitations

Section 2.16 of ANSI Z21.47–2012 and section 5.16 of ANSI Z21.47–2016 both state that the flue gas temperatures shall be measured in the vent pipe using nine individual thermocouples placed in specific locations; however, these sections do not provide guidance on

¹¹ ASTM D240–09, "Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter" (ASTM D240–09).

¹² ASTM D4809–09a, "Standard Test Method For Heat Of Combustion Of Liquid Hydrocarbon Fuels By Bomb Calorimeter (Precision Method)" (ASTM D4809–09a).

¹³ ASTM D5291–10, "Standard Test Methods for Instrumental Determination of Carbon, Hydrogen, and Nitrogen in Petroleum Products and Lubricants" (ASTM D5291–10).

¹⁴ ASTM D396–14a, "Standard Specification for Fuel Oils" (ASTM D396–14a).

¹⁵ ASTM D396–90, "Standard Specification for Fuel Oils" (ASTM D396–90).

¹⁶ Although the jacket loss is not used in the calculation of thermal efficiency, section 2.39 of ANSI Z21.47–2012 and section 5.40 of ANSI Z21.47–2016 require a maximum jacket loss of 1.5 percent for any furnace not covered by "Federal Energy Acts" (*i.e.*, not regulated by DOE). Therefore, the 1.5 percent jacket loss requirement is not included as part of the DOE test procedure.

how to measure the flue gas temperature if the vent size constrains the space where the thermocouples are to be placed. Specifically, a vent may be so small (if, for example, a unit has multiple vents) that it is not practical to place all nine thermocouples as instructed in sections 2.16 and 5.16 of ANSI Z21.47–2012 and ANSI Z21.47–2016 respectively. During testing of one unit, DOE found that placing more than four thermocouples in a particularly small vent hood was not practical due to space limitations.

Issue 16: DOE seeks comment on how testing of commercial warm air furnaces with vent size constraints are currently tested and whether it should consider adding provisions in the DOE test procedures to address measuring the flue gas temperature when space limitations preclude the use of nine thermocouples. If so, DOE seeks comment on how best to measure flue gas temperature in such units.

6. Electrical Consumption

Currently, the DOE test procedure for commercial warm air furnaces does not include any measurement of electrical consumption in its determination of the efficiency of commercial warm air furnaces, including electrical consumption of blowers/fans, controls, or other auxiliary electrical consumption. To the extent that commercial warm air furnaces are typically part of a single package that also includes air conditioning equipment, and the test method and metric for commercial air-conditioning equipment (*i.e.*, integrated energy efficiency ratio (IEER)) accounts for the electrical consumption of the blower, the blower consumption has not been included in the commercial furnaces test method. However, any auxiliary electrical consumption associated only with the furnace operation when heating is not accounted for in any metric. DOE seeks comment on whether including the electrical consumption of a commercial warm air furnace (*i.e.*, the blower and/or auxiliary electrical energy use due to, for example, controls or an inducer fan) as part of DOE's efficiency metric would be appropriate.

Issue 17: DOE seeks comment on whether DOE should consider including the electrical consumption of commercial warm air furnaces in the commercial warm air furnace efficiency metric or test procedure, including the merits and burdens of such approach. If so, DOE seeks comment on which components' electrical consumption would be appropriate to include, noting that the electrical consumption of the commercial warm air furnace blower is

typically factored into other commercial equipment efficiency metrics and test procedures.

C. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedures for commercial warm air furnaces. As noted, DOE recently issued an RFI to seek more information on whether its test procedures are reasonably designed, as required by EPCA, to produce results that measure the energy use or efficiency of a product during a representative average use cycle or period of use. 84 FR 9721 (March 18, 2019). DOE seeks comment on this issue as it specifically pertains to the test procedure for the commercial warm air furnaces that are the subject of this current RFI.

As noted above, DOE also requests comments on whether potential amendments based on the issues discussed would result in a test procedure that is unduly burdensome to conduct, particularly in light of any new products on the market since the last test procedure update. If commenters believe that any such potential amendments, if adopted, would result in a procedure that is, in fact, unduly burdensome to conduct, DOE seeks information on whether an existing private sector-developed test procedure would be more appropriate or other avenues for reducing the identified burdens while advancing improvements to the commercial warm air furnaces test procedure. DOE also requests comment on the benefits and burdens of adopting, without modification, any industry/voluntary consensus-based or other appropriate test procedure.

Additionally, DOE requests comment on whether the existing test procedures limit a manufacturer's ability to provide additional features to purchasers of commercial warm air furnaces. DOE particularly seeks information on how the test procedures could be amended to reduce the cost of new or additional features and make it more likely that such features are included on commercial warm air furnaces, while still meeting the requirements of EPCA.

DOE also requests comments on the impact of any potential amendments to the existing test procedures on manufacturers, including small businesses.

Finally, DOE recently published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the

emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. DOE seeks comments, data, and information on the issues presented in the RFI as they may be applicable to the commercial warm air furnaces that are the subject of this RFI.

III. Submission of Comments

DOE invites all interested parties to submit in writing by June 4, 2020, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended test procedures for commercial warm air furnaces. These comments and information will aid in the development of a test procedure NOPR for commercial warm air furnaces, if DOE determines that amended test procedures may be appropriate for this equipment. After the close of the comment period, DOE will review the public comments received and may begin collecting data and conducting the analyses discussed in this RFI.

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

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

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or

financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

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

Submitting comments via email, hand delivery/courier, or postal mail.

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

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

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

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via email at ApplianceStandardsQuestions@ee.doe.gov.

Signing Authority

This document of the Department of Energy was signed on February 21, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on April 22, 2020.

Treena V. Garrett,

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

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 399

[Docket No. DOT-OST-2019-0182]

RIN 2105-AE72

Defining Unfair or Deceptive Practices

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Grant of request for extension of comment period.

SUMMARY: On February 28, 2020, the U.S. Department of Transportation (Department or DOT) published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) on Defining Unfair or Deceptive Practices. The NPRM provided a 60-day comment period that was set to close on April 28, 2020. Nine consumer organizations asked the Department to extend the comment period on the NPRM. To allow interested persons more time to submit their comments, the Department has determined that an extension of the comment period for an additional 30 days is appropriate.

DATES: The comment period for the NPRM, published February 28, 2020 (85 FR 11881), on Defining Unfair or Deceptive Practices is extended to May 28, 2020.

ADDRESSES: You may review the request to extend the public comment period and other comments received under Docket Number OST 2019-0182 through the Federal eRulemaking Portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Robert Gorman, Senior Attorney, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202-366-9342, 202-366-7152 (fax), robert.gorman@dot.gov (email). You may also contact Blane Workie, Assistant General Counsel, Office of Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, 202-366-9342, 202-366-7152 (fax), blane.workie@dot.gov.

SUPPLEMENTARY INFORMATION: On February 20, 2020, the Department announced the issuance of the NPRM on Defining Unfair or Deceptive Practices and placed a copy of the NPRM on the Department's website at <https://www.transportation.gov/airconsumer/latest-news> and on the Federal eRulemaking Portal at <http://www.regulations.gov>. On February 28, 2020, the NPRM was published in the **Federal Register**, and interested parties were asked to provide comments on or before April 28, 2020. The NPRM also stated that late-filed comments will be considered to the extent practicable.

The NPRM on Defining Unfair or Deceptive Practices is intended to provide greater clarity and certainty about the Department's interpretation of unfair or deceptive practices in the context of aviation consumer protection rulemaking and enforcement actions. By written request, filed April 10, 2020, the National Consumers League, along with eight other consumer advocacy organizations,¹ asked the Department to extend the comment period on the NPRM until sixty days following the termination of the President's national emergency declaration with respect to the Coronavirus Disease 2019 (COVID-19). The advocates assert that the COVID-19 public health emergency has created difficulties for advocates in researching and coordinating their responses, and in contacting consumers to provide testimonials with respect to the NPRM.

Airlines for America (A4A) filed a letter in the docket opposing the request. A4A notes that the NPRM is deemed non-significant. A4A also states that because the NPRM was issued in late February, stakeholders have had adequate time to formulate a response.

The Department has considered the request to extend the comment period on the NPRM beyond the published 60-day comment period carefully. Given the assertion from nine major consumer advocacy organizations that the COVID-19 public health emergency has made it difficult, if not impossible, for them to produce comments that would substantially add to the record of this rulemaking by April 28, 2020, and the low number of comments that the Department has received on this rulemaking to date, the Department believes it is appropriate to provide the public more time to submit comments

¹ In addition to the National Consumers League, the letter requesting an extension of the comment period was signed by Business Travel Coalition, Consumer Action, Consumer Federation of America, Consumer Reports, *EdOnTravel.com*, *FlyersRights.org*, Travel Fairness Now, and Travelers United.

on this rulemaking. However, the Department finds that extending the comment period to a date 60 days after the termination of the President's COVID-19 national emergency declaration may unduly delay the timely issuance of this priority rulemaking. Accordingly, the Department is extending the comment period for an additional 30 days to May 28, 2020, which should allow interested parties more time to prepare comments to the proposed rule without delaying the rulemaking. The Department will continue to consider late-filed comments to the extent practicable.

Issued this 23rd day of April 2020, in Washington, DC, under authority delegated in 49 CFR 1.27(n).

Christina G. Aizcorbe,

Deputy General Counsel.

[FR Doc. 2020-08996 Filed 5-4-20; 8:45 am]

BILLING CODE 4910-9X-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA-HQ-OAR-2015-0072; FRL-10008-49-OAR]

RIN 2060-AS50

Public Hearing for the Review of the National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that a virtual public hearing will be held for the proposed action titled, "Review of the National Ambient Air Quality Standards for Particulate Matter," which was signed on April 14, 2020. The hearing will be held May 20 and 21, 2020. Based on its review of the air quality criteria and the national ambient air quality standards (NAAQS) for particulate matter (PM), the EPA is proposing to retain both the primary and secondary PM standards, without revision.

DATES: Comments on the proposed action must be received on or before June 29, 2020. The EPA will hold a virtual public hearing on May 20 and 21, 2020. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-

OAR-2015-0072, by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov/> (our preferred method). Follow the online instructions for submitting comments.

- **Email:** a-and-r-Docket@epa.gov. Include the Docket ID No. EPA-HQ-OAR-2015-0072 in the subject line of the message.

Instructions. All submissions received must include the Docket ID No. for this document. Comments received may be posted without change to https://www.regulations.gov, including any personal information provided. For detailed instructions on sending comments, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room was closed to public visitors on March 31, 2020, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via https://www.regulations.gov or email, as there is a temporary suspension of mail delivery to EPA, and no hand deliveries are currently accepted. For further information of EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

Virtual Public Hearing. The virtual public hearing will be held via teleconference May 20 and 21, 2020, with two sessions each day. The first session will begin at 9:00 a.m. Eastern Time (ET) and will conclude at 1:00 p.m. ET. The second session will begin at 3:00 p.m. ET and will conclude at 7:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. Refer to the **SUPPLEMENTARY INFORMATION** section below for additional information.

FOR FURTHER INFORMATION CONTACT: For information or questions about the public hearing, please contact Ms. Regina Chappell, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (OAQPS) (Mail Code C304-03), Research Triangle Park, NC 27711; telephone: (919) 541-3650; email address: chappell.regina@epa.gov.

For information or questions regarding the review of the PM NAAQS, please contact Dr. Scott Jenkins, U.S. Environmental Protection Agency, OAQPS (Mail Code: C539-02), Research Triangle Park, NC 27711; telephone: (919) 541-1167; email address: jenkins.scott@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA is reviewing the PM NAAQS as required by section 109 (42 U.S.C. 7409) of the Clean Air Act (CAA). The proposed action for which the EPA is holding a public hearing was signed on April 14, 2020, and is available at <https://www.epa.gov/naaqs/particulate-matter-pm-standards-federal-register-notices-current-review>. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning EPA's proposed decisions in the current review of the PM NAAQS. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearings.

Written Comments. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2015-0072, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written submission. The written submission is considered the official submission and should include discussion of all points you wish to make. The EPA will generally not consider submissions or submission content 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID-19. Written comments submitted by mail are temporarily suspended and no hand deliveries will be accepted. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov>. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Participation in Virtual Public Hearing. Please note that EPA is deviating from its typical approach because the President has declared a national emergency. Because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, EPA cannot hold in-person public meetings at this time.

The EPA will begin pre-registering speakers and attendees for the hearing upon publication of this document in the **Federal Register**. EPA will accept registrations on an individual basis. To register to speak at the virtual hearing, individuals may use the online registration form available via EPA's Particulate Matter Pollution web page for this hearing (<https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm>) or contact Regina Chappell at (919) 541-3650 or chappell.regina@epa.gov. The last day to pre-register to speak at the hearing will be May 14, 2020. On May 18, 2020, the EPA will post a general agenda for the hearing that will list pre-registered speakers in approximate order at: <https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, requests to speak will be taken the day of the hearing at the end of each session as timing allows. The EPA will make every effort to accommodate all speakers.

Each commenter will have 5 minutes to provide oral testimony. The EPA recommends submitting the text of your oral comments as written comments to the rulemaking docket. The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

The EPA is also asking hearing attendees to pre-register for the hearing, even those who don't intend to provide testimony. This will help the EPA ensure that sufficient phone lines will be available.

Please note that any updates made to any aspect of the hearing logistics, including potential additional sessions, will be posted online at the EPA's Particulate Matter Pollution website (<https://www.epa.gov/pm-pollution/national-ambient-air-quality-standards-naaqs-pm>). While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by May 13, 2020. EPA may not be able to arrange accommodations without advanced notice.

How can I get copies of the proposed action and other related information?

The EPA has also established the official public docket for the proposed action under Docket ID No. EPA-HQ-OAR-2015-0072. A copy of the proposed action is available at <https://www.epa.gov/naaqs/particulate-matter-pm-standards-federal-register-notices-current-review>, and any detailed information related to the proposed action will be available in the public docket prior to the public hearings. Verbatim transcripts of the hearings and written statements will be included in the rulemaking docket.

Dated: April 29, 2020.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2020-09480 Filed 5-4-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0612; FRL-10008-55-Region 4]

Air Plan Approval; SC; NO_x SIP Call and Removal of CAIR

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 South Carolina through letters dated April 12, 2019, and July 11, 2019 to establish a SIP-approved state control program to comply with the Nitrogen Oxides (NO_x) SIP call obligations for electric generating units (EGUs) and

large non-EGUs. EPA is also proposing to remove the SIP-approved portions of the State's Clean Air Interstate Rule (CAIR) Program rules for the South Carolina SIP. In addition, EPA is proposing to approve into the SIP state regulations that establish an alternative monitoring option for certain sources.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0612 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: Gobeail McKinley, 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) 562-9230. Ms. McKinley can also be reached via electronic mail at mckinley.gobeail@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under Clean Air Act (CAA or Act) section 110(a)(2)(D)(i)(I), which EPA has traditionally termed the good neighbor provision, states are required to address the interstate transport of air pollution. Specifically, the good neighbor provision requires that each state's implementation plan contain adequate provisions to prohibit air pollutant emissions from within the state that will significantly contribute to nonattainment of the national ambient air quality standards (NAAQS), or that

will interfere with maintenance of the NAAQS, in any other state.

In October 1998 (63 FR 57356), EPA finalized the "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone" ("NO_x SIP Call"). The NO_x SIP Call required eastern states, including South Carolina, to submit SIPs that prohibit excessive emissions of ozone season NO_x by implementing statewide emissions budgets.¹ The NO_x SIP Call addressed the good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_x emissions, one of the precursors of ozone. EPA developed the NO_x Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NO_x SIP Call. This trading program allowed the following sources to participate in a regional cap and trade program: Generally EGUs with capacity greater than 25 megawatts (MW); and large industrial non-EGUs, such as boilers and combustion turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_x SIP Call also identified potential reductions from cement kilns and stationary internal combustion engines.

To comply with the NO_x SIP Call requirements, South Carolina Department of Health and Environmental Control (SC DHEC) promulgated provisions at Regulation 61-62.96, Subparts A through I. EPA approved the provisions into the State's SIP in 2002.² The provisions required EGUs and large non-EGUs in the State to participate in the NO_x Budget Trading Program.

In 2005, EPA published CAIR, which required eastern states, including South Carolina, to submit SIPs that prohibited emissions consistent with ozone season (and annual) NO_x budgets. *See* 70 FR 25162 (May 12, 2005). 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 with respect to not only ozone but also PM_{2.5}. CAIR established several trading programs that EPA implemented through federal implementation plans (FIPs) for EGUs

greater than 25 MW in each affected state, but not large non-EGUs; states could submit SIPs to replace the FIPs that achieved the required emission reductions from EGUs and/or other types of sources.³ When the CAIR trading program for ozone season NO_x was implemented beginning in 2009, EPA discontinued administration of the NO_x Budget Trading Program; however, the requirements of the NO_x SIP Call continued to apply.

On October 9, 2007, EPA approved an "abbreviated SIP" for South Carolina, consisting of regulations governing allocation of NO_x allowances to EGUs for use in the trading programs established pursuant to CAIR, and related rules allowing additional sources to opt into the CAIR programs. *See* 72 FR 57209. The abbreviated SIP was implemented in conjunction with a FIP for South Carolina that specified requirements for emissions monitoring, permit provisions, and other elements of CAIR programs.

On October 16, 2009, EPA approved a "full SIP" for South Carolina, through which various CAIR implementation provisions became governed by State rules rather than federal rules.⁴ Consistent with CAIR's requirements, EPA approved a SIP revision in which South Carolina regulations: (1) Sunsetted its NO_x Budget Trading Program requirements, (2) removed NO_x SIP Call implementation requirements (*i.e.*, South Carolina Regulation 61-62.96, Subparts A through I, "Nitrogen Oxides (NO_x) Budget Program"), and (3) incorporated CAIR (*i.e.*, South Carolina Regulation 61-62.96, Subparts AA through II, AAA through III, and AAAA through IIII, "Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program"). *See* 74 FR 53167 (October 16, 2009). Participation of EGUs in the CAIR ozone season NO_x trading program addressed the State's obligation under the NO_x SIP Call for those units, and South Carolina also chose to require non-EGUs subject to the NO_x SIP Call to participate in the same CAIR trading program. In this manner, South Carolina's CAIR rules incorporated into the SIP addressed the State's obligations under the NO_x SIP Call with respect to both EGUs and non-EGUs.

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the

¹ *See* 63 FR 57356 (October 27, 1998). As originally promulgated, the NO_x SIP Call also addressed good neighbor obligations under the 1997 8-hour ozone NAAQS, but EPA subsequently stayed and later rescinded the rule's provisions with respect to that standard. *See* 65 FR 56245 (September 18, 2000); 84 FR 8422 (March 8, 2019).

² *See* 67 FR 43546 (June 28, 2002).

³ CAIR had separate trading programs for annual sulfur dioxide emissions, seasonal NO_x emissions and annual NO_x emissions.

⁴ *See* 74 FR 53167.

environmental benefits provided by CAIR. *See North Carolina v. EPA*, 531 F.3d 896, *modified on rehearing*, 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued to be implemented with the NO_x annual and ozone season trading programs beginning in 2009 and the SO₂ annual trading program beginning in 2010.

Following on the D.C. Circuit's remand of CAIR, EPA promulgated the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and address the good neighbor provisions for the 1997 ozone NAAQS, the 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS. *See* 76 FR 48208 (August 8, 2011). Through FIPs, CSAPR required EGUs in eastern states, including South Carolina, to meet annual and ozone season NO_x emission budgets and annual SO₂ emission budgets implemented through new trading programs. Implementation of CSAPR began in January 1, 2015.⁵ CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a state's EGUs in the CSAPR trading program for ozone season NO_x generally addressed the state's obligation under the NO_x SIP Call for EGUs. CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_x SIP Call for non-EGUs. EPA also stopped administering CAIR trading programs with respect to emissions occurring after December 31, 2014.⁶

After litigation that reached the Supreme Court, the D.C. Circuit generally upheld CSAPR but remanded several state budgets to EPA for reconsideration, including the Phase 2 ozone season NO_x budget for South Carolina. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118, 129–30 (D.C. Cir. 2015). EPA addressed the remanded ozone season NO_x budgets in the CSAPR Update, which also partially addressed eastern states' good neighbor obligations for the 2008 ozone NAAQS. *See* 81 FR 74504 (October 26, 2016). The air quality modeling for the CSAPR Update projected that South Carolina would not contribute significantly to nonattainment or interfere with

maintenance in downwind areas for either the 1997 ozone NAAQS or the 2008 ozone NAAQS as of 2017, and the EGUs in the state therefore are no longer subject to a NO_x ozone season trading program under either CSAPR or the CSAPR Update.⁷ The CSAPR Update also reestablished an option for most states to meet their ongoing obligations for non-EGUs under the NO_x SIP Call by including the units in the CSAPR Update trading program, but since South Carolina's EGUs do not participate in that trading program, the option is not available to South Carolina. Because South Carolina's EGUs and non-EGUs no longer participate in any CSAPR or CSAPR Update trading program for ozone season NO_x emissions, the NO_x SIP Call regulations at 40 CFR 51.121(r)(2) as well as anti-backsliding provisions at 40 CFR 51.905(f) and 40 CFR 51.1105(e) require these sources to maintain compliance with NO_x SIP Call requirements in some other way.

Under 40 CFR 51.121(i)(4) of the NO_x SIP Call regulations as originally promulgated, where a state's SIP contains control measures for EGUs and large non-EGUs, the SIP must also require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems (CEMS). South Carolina triggered this requirement by including control measures in their SIP for these types of sources, and the requirement has remained in effect despite the discontinuation of the NO_x Budget Trading Program after the 2008 ozone season. On March 8, 2019, EPA revised some of the regulations that were originally promulgated in 1998 to

⁷ In the CSAPR Update, EPA relieved EGUs in South Carolina from the obligation to participate in the original CSAPR NO_x ozone season trading program for purposes of addressing the good neighbor requirements for the 1997 ozone NAAQS and did not require the EGUs to participate in the new CSAPR Update trading program for purposes of addressing the 2008 ozone NAAQS. *See* 40 CFR 52.38(b)(2)(ii)–(iii). EGUs in South Carolina remain subject to CSAPR state trading programs for annual NO_x and SO₂ emissions for purposes of addressing the PM_{2.5} NAAQS under the state trading program rules codified in South Carolina regulation 61–62.97 that were adopted into the State's SIP. *See* 82 FR 47936. EPA acknowledges the D.C. Circuit's decision in *Wisconsin v. EPA*, 938 F.3d 303 (Sept. 13, 2019), remanding the CSAPR Update with respect to the adequacy of the rulemaking to address the good neighbor obligations with respect to the 2008 ozone NAAQS; however, the court's decision does not address the determinations made in the CSAPR Update regarding state's obligations with respect to the 1997 ozone NAAQS as those determinations were not challenged in the course of the litigation.

implement the NO_x SIP Call.⁸ The revision gave states covered by the NO_x SIP Call greater flexibility concerning the form of the NO_x emissions monitoring requirements that the states must include in their SIPs for certain emissions sources. The revision amends 40 CFR 51.121(i)(4) to make Part 75 monitoring, recordkeeping, and reporting optional, such that SIPs may establish alternative monitoring requirements for NO_x SIP Call budget units that meet the general requirements of 40 CFR 51.121(f)(1) and (i)(1). Under the updated provision, a state's implementation plan would still need to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_x SIP Call's general enforceability and monitoring requirements at § 51.121(f)(1) and (i)(1), respectively, but states would no longer be required to satisfy these general NO_x SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

II. Why is EPA proposing these actions?

SC DHEC's April 12, 2019, and July 11, 2019⁹ letters request that EPA update South Carolina's SIP to reflect the reinstated NO_x SIP Call requirements at Regulation 61–62, “Air Pollution Control Regulations and Standards,” provide additional monitoring flexibilities for certain units subject to the State's NO_x SIP Call regulations, and remove CAIR requirements. Additionally, the July 11, 2019 submission includes a demonstration under CAA section 110(l) intended to show that the April 12, 2019 SIP revision does not interfere with any applicable CAA requirements. As discussed further below, EPA has reviewed these submittals, preliminarily finds them consistent with the CAA and regulations governing the NO_x SIP Call, and is proposing to approve them, incorporate the NO_x SIP call regulations into the State's SIP, and remove the CAIR regulations from the SIP.

⁸ *See* “Emissions Monitoring Provisions in State Implementation Plans Required Under the NO_x SIP Call,” 84 FR 8422.

⁹ This submission also includes amended regulations which are not part of the federally approved SIP and are not addressed in this document such as: Amended Regulation 61–62.61, “South Carolina Designated Facility Plan and New Source Performance Standards;” amended Regulation 61–62.63, “National Emission Standards for Hazardous Air Pollutants (“NESHAP”) for Source Categories;” amended Regulation 61–62.68, “Chemical Accident Prevention Provisions;” and amended Regulation 61–62.70, “Title V Operating Permit Program.”

⁵ *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

⁶ *See* 79 FR 71663 (December 3, 2014) and 81 FR 13275 (March 14, 2016).

III. Analysis of South Carolina's Submittals

South Carolina's submittals request EPA approve revisions to the State's SIP that: (1) Address the State's ongoing NO_x SIP Call obligations for existing and new large non-EGUs and EGUs by reinstating applicable portions of the State's original NO_x SIP Call regulations at South Carolina Regulation 61–62.96, Subparts A through I; (2) rescind CAIR regulations at South Carolina Regulations 61–62.96, Subparts AA through II, AAA through III, and AAAA through IIII; and (3) adopt an alternative monitoring option for certain large non-EGUs at South Carolina Regulation 61–62.96, Subpart H, Section 96.70. Specifically, SC DHEC updated the reinstated regulations to make the portion of the budget assigned to large non-EGUs and EGUs under the NO_x Budget Trading Program enforceable without an allowance trading mechanism (*i.e.*, rescinded portions of its NO_x Budget Trading Program regulations pertaining to individual unit allowance allocations and trading). Also included in the regulations are provisions that require continued monitoring and reporting of ozone season NO_x mass emissions under 40 CFR part 75, with the following exception. Specifically, the regulations provide any NO_x SIP Call budget units that (1) are not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with part 75 and (2) are subject to new source performance standards (NSPS) under 40 CFR part 60, subpart D or subpart Db, the option to instead monitor and report their ozone season NO_x mass emissions in accordance with the applicable NSPS subpart.¹⁰

1. Revisions Related to the NO_x SIP Call

SC DHEC has revised Regulation 61–62 to address the NO_x SIP Call's requirements with respect to existing and new large EGUs and large non-EGUs, and has requested EPA approve these revisions into the SIP. EPA proposes to find that South Carolina's revised rules at Regulation 61–62.96, Subparts A through I, "Nitrogen Oxides (NO_x) Budget Program" are consistent with South Carolina's obligation to demonstrate continued compliance with NO_x SIP Call requirements for large EGUs and large non-EGUs and EPA's discontinuation of the trading program under the NO_x SIP Call. Under the ongoing requirements of the NO_x SIP Call, the South Carolina SIP must: (1)

Include enforceable control measures for ozone season NO_x mass emissions from existing and new large EGUs and large non-EGUs, and (2) require those sources to monitor and report ozone season NO_x emissions. *See* 40 CFR 51.121(f)(2) and (i).

a. NO_x SIP Call

As discussed above, the State regulations addressing the NO_x SIP Call were formerly established at South Carolina Regulation 61–62.96, Subparts A through I, "Nitrogen Oxides (NO_x) Budget Program" and South Carolina Regulation 61–62.99, "Nitrogen Oxides (NO_x) Budget Program Requirements for Stationary Sources Not in the Trading Program" (*i.e.*, cement kilns). The requirements under South Carolina Regulation 61–62.96 affect EGUs and non-EGUs. South Carolina Regulation 61–62.96, "NO_x Budget Trading Program" initially had nine subparts: Subpart A—NO_x Budget Trading Program General Provisions; Subpart B—Authorized Account Representative for NO_x Budget Sources; Subpart C—Permits; Subpart D—Compliance Certification; Subpart E—NO_x Allowance Allocations; Subpart F—NO_x Allowance Tracking System; Subpart G—NO_x Allowance Transfers; Subpart H—Monitoring and Reporting; and Subpart I—Individual Unit Opt-ins. Because EPA discontinued administration of the NO_x Budget trading program in 2009 in coordination with the start of CAIR implementation, the NO_x Budget trading program can no longer be implemented. Consistent with CAIR's provisions, South Carolina revised certain portions of South Carolina Regulation 61–62.96 to reflect CAIR annual NO_x, annual SO₂ and ozone season NO_x emissions budget trading program requirements. This revision removed South Carolina's NO_x Budget Program, Regulation 61–62.96, Subparts A through I, and the NO_x SIP Call requirements for EGUs were addressed by South Carolina's CAIR NO_x Ozone Season Program, Regulations 61–62.96, Subparts AAAA through IIII. Further, as noted above, the State exercised its option to include non-EGUs from the State's NO_x Budget Trading Program in the CAIR NO_x Ozone Season Trading Program.

If approved into the SIP, the April 12, 2019, SIP submittal will reinstate portions of South Carolina Regulation 61–62.96 to address NO_x SIP Call requirements with the new South Carolina Regulation, "Nitrogen Oxides (NO_x) Budget Program." Specifically, the submittal reinstates previously repealed Subparts A through I, including the applicable NO_x SIP Call

model rule provisions from 40 CFR part 96, with amendments reflecting the discontinuation of EPA's NO_x SIP Call trading program and other changes as necessary. The new and reinstated NO_x SIP Call regulation includes provisions to ensure that the State's EGUs and large non-EGUs will continue to satisfy NO_x SIP Call requirements. South Carolina Regulation 61–62.96.40 sets the State's EGU ozone season budget at 16,199 tons per year (tpy) and large non-EGU ozone season budget at 3,479 tpy. It specifies that collective emissions from all EGUs and all large non-EGUs may not exceed their respective budgets during each control period. Regulations 61–62.96.6 and 61–62.96.70 ensure continued monitoring and reporting of NO_x emissions from covered units in accordance with 40 CFR 51.121(i). Also, SC DHEC commits in its submission to conduct an annual review of its emission inventory data for both EGUs and large non-EGUs, including emissions from any applicable new units, to verify the NO_x SIP Call EGU and large non-EGU ozone-season NO_x emission budgets have not been exceeded.¹¹

Section 61–62.96.70 of the South Carolina's reinstated NO_x SIP Call regulation requires all owners and operators of covered NO_x budget units to implement a monitoring and reporting system necessary to attribute ozone season NO_x mass emissions to each unit in accordance with 40 CFR part 75.¹² In addition, the State regulation allows flexibility for a NO_x budget unit that (1) is not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with Part 75, and (2) is subject to Subpart D or Subpart Db of 40 CFR part 60, to instead monitor and report ozone season NO_x mass emissions in accordance with Subpart D or Subpart Db, as applicable. Additional information regarding increased flexibility in monitoring is discussed in section III.1.b.

Lastly, SC DHEC includes several administrative changes in its revised regulation. In South Carolina's original NO_x SIP Call regulation, SC DHEC

¹¹ By September 30 of each year, SC DHEC will conduct an annual review of actual NO_x emissions from all covered EGUs and large non-EGUs during the previous control period, including any new units, to ensure that the total emissions remain below the ozone season NO_x budgets.

¹² SC DHEC states that all of South Carolina's EGUs must continue Part 75 monitoring and reporting pursuant to applicable CSAPR requirements. *See* 81 FR 74583 (October 26, 2016). In addition, SC DHEC states that any affected boiler that is not subject to Subpart D or Db (due to grandfathering or otherwise) must continue to comply with Part 75 monitoring requirements.

¹⁰ South Carolina adopted this alternative monitoring and reporting option to be consistent with the NO_x SIP Call revision. *See* 84 FR 8422.

excluded Standard Industrial Classification (SIC) codes 4911 and 4931 in Section 96.4(a)(1)(i) from the NO_x Budget Program. The July 11, 2019 SIP revision contains a list of all affected EGUs and large non-EGUs covered under the NO_x SIP Call and clarifies its intention for the regulation to apply, as originally applied, to EGU and large non-EGU units listed in its CAA section 110(l) analysis. SC DHEC further clarified that it interprets the language in Section 96.4(b)(4) such that a unit would lose an exemption under 69.4(b) (*i.e.*, an exemption to the applicability of 61–62.96 Nitrogen Oxides (NO_x) Budget Program based on fuel use and operating hour limitations) if it fails to comply with restrictions on fuel use or operating hours. Further, SC DHEC states that the exemption in Section 96.4(b)(2)(ii) is not retroactive to the beginning of the ozone season if a source takes an emission limit during a particular ozone season.

EPA proposes to find that, as revised, South Carolina Regulation 61–62.96 meets the State's ongoing obligations under the NO_x SIP Call. Specifically, EPA proposes to find that the revised rules meet the requirement under 40 CFR 51.121(f)(2) for enforceable limits on the subject units' collective emissions of ozone season NO_x mass emissions. In the next section, EPA discusses South Carolina's revisions to meet the requirements under 40 CFR 51.121(f)(1) and (i)(1) for monitoring sufficient to ensure compliance with those limits.

b. Revisions Related to NO_x SIP Call Monitoring

As discussed above, Section 61–62.96.70 of South Carolina's reinstated NO_x SIP Call regulation requires all owners and operators of covered NO_x budget units to implement a monitoring and reporting system necessary to attribute ozone season NO_x mass emissions to each unit in accordance with 40 CFR part 75 with the following exception. The regulation provides any South Carolina NO_x SIP Call budget units that (1) are not required by 40 CFR 51.121, South Carolina Regulation 61–62.97, or other regulation to comply with Part 75 and (2) are subject to new source performance standards (NSPS) under 40 CFR part 60, subpart D or subpart Db, the option to instead monitor and report their ozone season NO_x mass emissions in accordance with the applicable NSPS subpart.¹³ The monitoring requirements for each source

will be specified in each source's NO_x SIP Call permit condition. More specifically, SC DHEC will require facilities with large non-EGUs requesting the alternative monitoring to calculate the NO_x mass emissions (in tons) for each ozone season using NO_x emission rate data obtained in accordance with the applicable NSPS subpart and to report the total to SC DHEC no later than March 31 following that ozone season. The reporting time period aligns with annual emissions inventory reporting as required by South Carolina Regulation 61–62.1, Section III(B)(1). The NO_x emission rate would be calculated from Part 60 Continuous Emission Monitoring System (CEMS) measurements using Method 19 in Appendix A to 40 CFR part 60.

In the July 11, 2019 SIP submittal, South Carolina provided an analysis to demonstrate that the monitoring flexibilities comply with CAA section 110(l). CAA section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP), or any other applicable requirement of the CAA. Additionally, section 110(l) makes clear that each SIP revision is subject to the requirements of section 110(l). EPA generally considers whether the SIP revision would worsen, preserve, or improve the status quo in air quality.

EPA does not anticipate emissions increases from the revisions to the South Carolina SIP a result of the alternative monitoring flexibilities. Several of the original large non-EGU sources have shut down and the remaining existing facilities, through compliance with federal permit restrictions, have combined potentials-to-emit that are well below the NO_x SIP Call budget levels. The large non-EGU ozone season emissions have been low relative to the State's NO_x SIP Call budget.¹⁴ For example, as indicated in EPA's NO_x SIP Call amendment proposal, total 2017 emissions from NO_x SIP Call budget units not otherwise subject to Part 75 represent only 5.3 percent of South Carolina's NO_x SIP Call annual emission budget.¹⁵ With the total potentials-to-emit for units covered by the NO_x SIP Call well below the NO_x SIP Call budgeted levels, SC DHEC notes that the preexisting NO_x SIP Call budgets and Part 75 monitoring and

reporting requirements have not themselves been a key factor in limiting emissions, and EPA believes that the budgets or the Part 75 monitoring and reporting requirements are not limiting emissions from affected units. SC DHEC also cites to the small amount of emissions attributable to sources that will be able to use the additional flexibilities, as well as the general effectiveness of Part 60 monitoring. SC DHEC states the alternative Part 60 monitoring flexibility allowed under the reinstated NO_x SIP Call provisions will not interfere with continued attainment of the NAAQS or any other applicable requirement of the CAA.

EPA's analysis of South Carolina's regulations concerning monitoring to comply with the NO_x SIP Call follows the requirements outlined in EPA's March 8, 2019 rule amending the NO_x SIP Call's monitoring requirements at 40 CFR 51.121(i)(4). In that rule, EPA observed that, under 40 CFR 51.121(i), the principal criterion for approval of monitoring and reporting requirements for purposes of the NO_x SIP Call following the amendments would be that the requirements must be sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions.¹⁶ EPA noted that for purposes of demonstrating the sufficiency of the monitoring and reporting requirements, a state generally would be able to cite the same types of data (*e.g.*, data indicating substantial compliance margins) that EPA cited to support finalizing the amendments to the NO_x SIP Call regulations.¹⁷ In addition, EPA pointed out the need to consider whether the regulation contains provisions to avoid gaps in required monitoring and whether any monitoring approach that uses emissions factors is designed to avoid any bias toward understatement of emissions.¹⁸

In this document, EPA proposes to find that, as revised, South Carolina Regulation 61–62.96 meets the State's ongoing obligations under the NO_x SIP Call with respect to monitoring to ensure compliance with required limitations and proposes to approve the alternate monitoring approach described above into South Carolina's SIP. If finalized, South Carolina's adopted monitoring flexibility would be available only to those large non-EGU sources that are not otherwise required to continue Part 75 monitoring and reporting. EPA's review preliminarily

¹³ Those state sources otherwise required to comply with Part 75 monitoring requirements (including all covered EGUs) will continue to do so.

¹⁴ SC DHEC estimated that the maximum ozone-season emissions total from all 14 large non-EGU units, if operated for the entire ozone season, would be 2,419 tons, well below the 3,479 tpy budget.

¹⁵ 82 FR 41620, 41621 (September 1, 2017).

¹⁶ See 84 FR at 8428–29.

¹⁷ *Id.* n.30.

¹⁸ *Id.*

concludes that South Carolina's revised regulations are sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions; South Carolina has cited to data indicating substantial compliance margins; South Carolina's regulations avoid gaps in required monitoring; and South Carolina's regulations do not use emissions factors for alternative monitoring. In addition, EPA agrees with SC DHEC's conclusion that, because the large non-EGUs' combined maximum allowable emissions are well below the NO_x SIP Call budget, neither the NO_x SIP Call nor the previous monitoring requirements have been driving current emission levels down. EPA therefore agrees that no increase in emissions will result from the added option to monitor and report under Part 60 in lieu of Part 75. Thus, EPA proposes to conclude that South Carolina's monitoring regulations are sufficient to provide adequate monitoring under the NO_x SIP call and comply with 40 CFR 51.121(f)(1) and (i). EPA also preliminarily concludes that South Carolina's monitoring regulations will not interfere with continued attainment of the NAAQS, RFP or any other applicable requirement of the Clean Air Act.

2. Removal of CAIR

South Carolina's April 12, 2019 submission also seeks to remove the SIP-approved portions of the State trading program rules adopted to implement CAIR from South Carolina Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII. With regard to the annual programs, the State requests removal because the CAIR annual programs have been replaced by the CSAPR annual programs. With respect to the ozone season program, South Carolina's April 12, 2019 submission seeks to remove the SIP-approved portions of the State's trading program rules because, if approved, South Carolina's state control program would address outstanding NO_x SIP Call requirements. Further, South Carolina's July 11, 2019 SIP submission contains a technical demonstration showing that no increase in NO_x ozone season emissions is expected to result from the removal of CAIR because the combined potential to emit from covered sources remains below CAIR budget levels, and historical data shows that covered sources' emissions have remained well below budgeted levels.

In this document, EPA proposes to approve the removal of these CAIR-related provisions from South Carolina's

SIP. As explained above, the D.C. Circuit remanded CAIR to EPA in 2008, however, the court left CAIR in place while EPA worked to develop a new interstate transport rule. CSAPR was promulgated to respond to the court's concerns and to replace CAIR. CAIR was implemented through the 2014 compliance periods and was replaced by CSAPR on January 1, 2015. EPA promulgated regulations to sunset the CAIR trading programs and is no longer administering those trading programs, and the programs therefore can no longer be implemented for South Carolina sources. Further, EPA has reviewed South Carolina's demonstration and preliminarily agrees that no emissions increase is expected to result from removal of CAIR. In particular, ozone season NO_x mass emissions data reported to EPA for South Carolina's large EGUs and large non-EGUs indicate that collective emissions have consistently been less than 10,000 tons in every year since 2012, well below the state's budgets for these units under both the NO_x SIP Call and CAIR, indicating that the state's CAIR rules for ozone season NO_x would not be driving current emission levels even if they were capable of implementation. EPA therefore preliminarily concludes that removal of CAIR from South Carolina's SIP will not result in any increase in emissions and therefore will not interfere with continued attainment of the NAAQS or any other applicable requirement of the Clean Air Act, and proposes to approve the removal of South Carolina's SIP provisions related to CAIR.

IV. 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 South Carolina Regulation 61–62.96 entitled, "Nitrogen Oxides (NO_x) Budget Program," effective January 25, 2019, which reinstates applicable portions of EPA's 40 CFR part 96 NO_x SIP Call regulations and establishes alternative emission monitoring requirements for certain units. Also, in this document, EPA is proposing to remove South Carolina Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII entitled, "Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program," from the South Carolina State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to

make the State Implementation Plan 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).

V. Proposed Actions

EPA is proposing to approve South Carolina's SIP April 12, 2019 and July 11, 2019 SIP revisions and to incorporate Regulation 61–62.96 entitled, "Nitrogen Oxides (NO_x) Budget Program," and Regulation 61–62.96, Subpart H, Section 96.70 into the SIP. In addition, EPA is proposing to remove the State's CAIR regulations at Regulation 61–62.96 Subparts AA through II, AAA through III, and AAAA through IIII entitled, "Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) Budget Trading Program," from the SIP. EPA is proposing to conclude that these revisions will not interfere with attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA.

VI. Statutory and Executive Order Reviews

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

- Are not significant regulatory actions 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);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having significant economic impacts on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandates or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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).

Because these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law, this proposed action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Mary Walker,

Regional Administrator, Region 4.

[FR Doc. 2020–08906 Filed 5–4–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0105; FRL–10008–27–Region 4]

Air Plan Approval; Florida: Public Notice Procedures for Minor Operating Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), on February 27, 2013, that change the State’s public notice and comment rule for air permitting by modifying the public comment period for minor source operating permitting and making administrative edits.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0105 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: D. Brad Akers, 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. Mr. Akers can be reached via telephone at (404) 562–9089 or via electronic mail at akers.brad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve certain changes to the Florida SIP that were provided to EPA by FDEP via a letter dated February 27, 2013.¹ EPA has previously approved portions of the February 27, 2013 submittal,² and FDEP has withdrawn other portions from EPA consideration.³ In this action, EPA is proposing to approve the remaining portions of this SIP revision. These remaining portions make changes to Rule 62–210.350, Florida Administrative Code (F.A.C.), *Public Notice and Comment* (hereinafter “Rule”) by modifying the length of the public notice period for federally enforceable state operating permits (FESOPs) and making several minor administrative edits to the Rule. The changes subject to this proposed action and EPA’s rationale for proposing approval are described in more detail in Section II of this notice of proposed rulemaking (NPRM).

II. EPA’s Analysis of the State’s Submittal

FESOPs are federally enforceable permits issued by a state under a minor source operating permit program that EPA has approved into the SIP as meeting criteria published by the Agency on June 28, 1989. *See* 54 FR 27274 (June 28, 1989) (hereinafter FESOP Guidance). Among other things, these criteria include timely public notice of the proposal and issuance of FESOPs. The FESOP program is a voluntary mechanism for states to create federally enforceable restrictions on potential to emit (PTE) to avoid major source permitting requirements, such as the title V operating permit program, and there are no specific Clean Air Act (CAA) or federal regulations regarding the issuance of minor source operating permits.⁴ EPA originally approved Florida’s FESOP program, including a

¹ EPA received the submittal on March 6, 2013.

² EPA approved portions of the February 27, 2013, SIP revision making changes to Rule 62–210.200, *Definitions*, 62–210.310, *Air General Permits*, and portions of 62–210.350, *Public Notice and Comment*, specifically portions of 62–210.350(1) and (4), on October 6, 2017 (82 FR 46682).

³ FDEP withdrew portions of the February 27, 2013, SIP revision as follows: FDEP withdrew certain changes to Rule 62–210.200, *Definitions*, Rule 62–210.350, *Public Notice and Comment*, and Rule 62–296.401, *Incinerators*, on June 28, 2017; and FDEP withdrew the changes to 62–210.300, *Permits Required*, on December 5, 2019. These letters are located in the docket for this notice of proposed rulemaking (NPRM).

⁴ Florida has an approved title V program pursuant to 40 CFR part 70. *See* 40 CFR 70, Appendix A.

30-day public comment period, on February 1, 1996. See 61 FR 3572. EPA's rationale for approval of Florida's program was based on the program's consistency with EPA's FESOP Guidance.

In its February 27, 2013, SIP revision, the State seeks to reduce its 30-day comment period for FESOPs in Rule 62–210.350 to a 14-day period by: (1) Adding subparagraph (4)(a)2., which states a 14-day period for public comments is required prior to final State action to issue a new, renewed, or revised FESOP, and (2) revising the time at paragraph (4)(b) between publication of the notice for review and comment and final agency action on the FESOP from 30 days to 14 days. The State also seeks to make the following administrative edits to the Rule: Renumbering subparagraph (4)(a)2. to (4)(a)3. and updating a cross-reference to administrative procedures in the State at paragraph (4)(b). All major sources remain subject to the title V operating permit program, and action on the proposed SIP revision will not impact the public notice requirements under the State's title V program.

The FESOP Guidance does not establish a 30-day public notice and comment period as a requirement for program approval. EPA instead noted the flexibility that states have in determining the appropriate level of public engagement by indicating that states need to “provide EPA and the public with timely notice of the proposal and issuance” of FESOPs and that EPA would consider the programs sufficient as long as “ample opportunity is provided for comment on permits prior to their final issuance” See 54 FR 27274 at 27282, 27283. However, EPA did not provide exacting requirements for how long such opportunity must be. Based on its experience, Florida believes that 14 days is adequate time for EPA and the public to review and comment on its FESOPs.

Florida provided a CAA section 110(l) noninterference analysis to support the change to the public comment period for FESOPs.⁵ Section 110(l) states that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP), or any other applicable requirement of the CAA. FDEP notes that the change in the public comment period does not interfere with any applicable requirement concerning attainment or reasonable further

progress or any other applicable requirement because this change does not affect emissions limitations or authorize any increase in emissions, and there are no specific requirements in the CAA or its implementing regulations regarding the duration of the public notice period for FESOPs.

In a May 10, 2019 email to EPA, FDEP stated that the Department may provide an extension of the public comment period provided in Rule 62–210.350 if requested for good cause during the public comment period.⁶ Specifically, FDEP noted that the Florida rules provide for revised, increased time for public comments to be submitted in certain circumstances at 62–110.106, F.A.C., *Decisions Determining Substantial Interests*, which is cross-referenced in 62–210.350, at paragraph (4), *Enlargement of Time*. FDEP included a copy of 62–110.106 in the February 27, 2013, submittal for reference.⁷ Rule 62–110.106 is generally applicable to various programs, including non-air programs, and is not part of the SIP. This rule and FDEP's email indicate that the State may go beyond the 14-day comment period when a third-party commenter requests an extension for good cause. Therefore, even with the proposed SIP revision, the State may provide for a longer comment period on FESOPs.

EPA is proposing to approve the change to the public comment period for minor source FESOPs in the SIP-approved version of Rule 62–210.350 because the change is not inconsistent with the FESOP Guidance or the CAA, and because the change will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other requirements in the Act. EPA is also proposing to approve the aforementioned edits to paragraph 4(b) and subparagraph (4)(a)2. These edits meet the requirements of 110(l) because they are administrative in nature and therefore have no impact on air quality.

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 Rule 62–210.350, F.A.C., entitled “Public Notice and Comment,” state effective October 12, 2008, consisting of changes to the public comment period

regarding FESOPs as well as administrative edits.⁸ 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

For the reasons discussed above, EPA is proposing to approve the portions of Florida's February 27, 2013, SIP revision that consist of changes to the public comment period regarding FESOPs and administrative edits not previously incorporated into the SIP by EPA at Rule 62–210.350.

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 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

⁵ The 110(l) demonstration was part of a June 28, 2017, letter, which is included in the docket for this NPRM.

⁶ FDEP's May 10, 2019, email is included in the docket for this NPRM.

⁷ Florida did not ask EPA to incorporate this rule into the SIP in its February 27, 2013 SIP revision.

⁸ Except for 62–210.350(1)(c) which was withdrawn from EPA consideration on June 28, 2017.

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. 2020-08904 Filed 5-4-20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2019-0657; FRL-10008-58-Region 3]

Air Plan Approval; Pennsylvania; Reasonably Available Control Technology Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection

(PADEP) to establish and require reasonably available control technology (RACT) for 10 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rulemaking action, EPA is only proposing to approve source-specific (also referred to as "case-by-case") RACT determinations for nine of the 10 major sources submitted by PADEP. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2019-0657 at <https://www.regulations.gov>, or via email to opila.marycate@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Bertram, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5273. Ms. Bertram can also be reached via electronic mail at bertram.emily@epa.gov.

SUPPLEMENTARY INFORMATION: On April 11, 2019, PADEP submitted a revision to its SIP to address case-by-case NO_x and/or VOC RACT for 10 major facilities. This SIP revision is intended to address the NO_x and/or VOC RACT requirements under sections 182 and 184 of the CAA for the 1997 and 2008 8-hour ozone NAAQS. Table 1 of this document lists the SIP submittal date and the facilities included in PADEP's submittal. Although submitted in one SIP revision by PADEP, EPA views each facility as a separable SIP revision and may take separate final action on one or more facilities. In this rulemaking action, EPA is only proposing to approve case-by-case RACT determinations for 9 of the 10 sources submitted to EPA by PADEP. The remaining major source, American Craft Brewery, LLC, was withdrawn by PADEP and will be acted on in a future rulemaking action, once resubmitted to EPA by PADEP.

For additional background information on Pennsylvania's "presumptive" RACT II SIP see 84 FR 20274 (May 9, 2019) and on Pennsylvania's source-specific or "case-by-case" RACT determinations see the appropriate technical support document (TSD) which is available online at <https://www.regulations.gov>, Docket No. EPA-R03-OAR-2019-0657.

TABLE 1—PADEP SIP SUBMITTALS FOR MAJOR NO_x AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO SOURCE-SPECIFIC RACT UNDER THE 1997 AND 2008 8-HOUR OZONE STANDARD

SIP submittal date	Major source (county)
4/11/2019	American Craft Brewery, LLC (Lehigh) ^a . Carpenter Co. (Lehigh). East Penn Manufacturing Co. Inc., Smelter Plant (Berks). Ellwood Quality Steels Co. (Lawrence). GE Transportation—Erie Plant (Erie). Graymont Pleasant Gap (Centre). Hazleton Generation (Luzerne). Helix Ironwood (formerly TC Ironwood) (Lebanon). Magnesita Refractories (York). Penn State University (Centre).

^aAmerican Craft Brewery, LLC was withdrawn from EPA consideration on October 21, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.

I. Background

A. 1997 and 2008 8-Hour Ozone NAAQS

Ground level ozone is not emitted directly into the air but is created by chemical reaction between NO_x and VOC in the presence of sunlight.

Emissions from industrial facilities, electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC. Breathing ozone can trigger a variety of health problems, particularly for children, the elderly, and people of all ages who have lung diseases such as asthma. Ground level ozone can also have harmful effects on sensitive vegetation and ecosystems.

On July 18, 1997 (62 FR 38856) EPA promulgated a standard for ground level ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. EPA has designated two moderate nonattainment areas in Pennsylvania under the 1997 8-hour ozone NAAQS, namely Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE (the Philadelphia Area) and Pittsburgh-Beaver Valley (the Pittsburgh Area). See 40 CFR 81.339.

On March 12, 2008, EPA strengthened the 8-hour ozone standards, by revising its level to 0.075 ppm averaged over an 8-hour period (2008 8-hour ozone NAAQS). On May 21, 2012, EPA designated five marginal nonattainment areas in Pennsylvania for the 2008 8-hour ozone NAAQS: Allentown-Bethlehem-Easton, Lancaster, Reading, the Philadelphia Area, and the Pittsburgh Area. See 77 FR 30088; see also 40 CFR 81.339.

On March 6, 2015 (80 FR 12264) EPA announced its revocation of the 1997 8-hour ozone NAAQS for all purposes and for all areas in the country, effective on April 6, 2015. EPA has determined that certain nonattainment planning requirements continue to be in effect under the revoked standard for nonattainment areas under the 1997 8-hour ozone NAAQS, including RACT.

B. RACT Requirements for Ozone

The CAA regulates emissions of NO_x and VOC to prevent photochemical reactions that result in ozone formation. RACT is an important strategy for reducing NO_x and VOC emissions from major stationary sources within areas not meeting the ozone NAAQS.

Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment planning requirements of CAA section 172. Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM) for demonstrating attainment of all NAAQS, including emissions reductions from existing sources through the adoption of RACT. Further, section 182(b)(2) of the CAA

sets forth additional RACT requirements for ozone nonattainment areas classified as moderate or higher. Section 182(b)(2) of the CAA sets forth requirements regarding RACT for the ozone NAAQS for VOC sources. Section 182(f) subjects major stationary sources of NO_x to the same RACT requirements applicable to major stationary sources of VOC.¹

Section 184(b)(1)(B) of the CAA applies the RACT requirements in section 182(b)(2) to nonattainment areas classified as marginal and to attainment areas located within ozone transport regions established pursuant to section 184 of the CAA. Section 184(a) of the CAA established by law the current Ozone Transport Region (OTR) comprised of 12 eastern states, including Pennsylvania. This requirement is referred to as OTR RACT. As noted previously, a “major source” is defined based on the source’s PTE of NO_x, VOC, or both pollutants, and the applicable thresholds differ based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

Since the 1970’s, EPA has consistently defined “RACT” as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.²

EPA has provided more substantive RACT requirements through implementation rules for each ozone NAAQS as well as through guidance. In 2004 and 2005, EPA promulgated an implementation rule for the 1997 8-hour ozone NAAQS in two phases (“Phase 1 of the 1997 Ozone Implementation Rule” and “Phase 2 of the 1997 Ozone Implementation Rule”). 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005), respectively. Particularly, the Phase 2 Ozone Implementation Rule addressed RACT statutory requirements under the 1997 8-hour ozone NAAQS. See 70 FR 71652 (November 29, 2005).

On March 6, 2015 (80 FR 12264) EPA issued its final rule for implementing the 2008 8-hour ozone NAAQS (“the 2008 Ozone SIP Requirements Rule”). At the same time, EPA revoked the 1997 8-hour ozone NAAQS, effective on April

6, 2015.³ The 2008 Ozone SIP Requirements Rule provided comprehensive requirements to transition from the revoked 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS, as codified in 40 CFR part 51, subpart AA, following revocation. Consistent with previous policy, EPA determined that areas designated nonattainment for both the 1997 and 2008 8-hour ozone NAAQS at the time of revocation, must retain implementation of certain nonattainment area requirements (*i.e.*, anti-backsliding requirements) for the 1997 8-hour ozone NAAQS as specified under section 182 of the CAA, including RACT. See 40 CFR 51.1100(o). An area remains subject to the anti-backsliding requirements for a revoked NAAQS until EPA approves a redesignation to attainment for the area for the 2008 8-hour ozone NAAQS. There are no effects on applicable requirements for areas within the OTR, as a result of the revocation of the 1997 8-hour ozone NAAQS. Thus, Pennsylvania, as a state within the OTR, remains subject to RACT requirements for both the 1997 8-hour ozone NAAQS and the 2008 8-hour ozone NAAQS.

In addressing RACT, the 2008 Ozone SIP Requirements Rule is consistent with existing policy and Phase 2 of the 1997 Ozone Implementation Rule. In the 2008 Ozone SIP Requirements Rule, EPA requires RACT measures to be implemented by January 1, 2017 for areas classified as moderate nonattainment or above and all areas of the OTR. EPA also provided in the 2008 Ozone SIP Requirements Rule that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations stating that there are no sources in the nonattainment area covered by a specific control technique guidelines (CTG) source category. In the preamble to the 2008 Ozone SIP Requirements Rule, EPA clarified that states must provide notice and opportunity for public comment on their RACT SIP submissions, even when submitting a certification that the existing provisions remain RACT or a negative declaration.

¹ A “major source” is defined based on the source’s potential to emit (PTE) of NO_x or VOC, and the applicable thresholds for RACT differs based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

² See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, “Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,” and also 44 FR 53762 (September 17, 1979).

³ On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court) issued an opinion on the 2008 Ozone SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15–1115 (D.C. Cir. February 16, 2018). The D.C. Cir. Court found certain parts reasonable and denied the petition for appeal on those. In particular, the D.C. Cir. Court upheld the use of NO_x averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. However, the Court also found certain other provisions unreasonable. The D.C. Cir. Court vacated the provisions it found unreasonable.

States must submit appropriate supporting information for their RACT submissions, in accordance with the Phase 2 of the 1997 Ozone Implementation Rule. Adequate documentation must support that states have considered control technology that is economically and technologically feasible in determining RACT, based on information that is current as of the time of development of the RACT SIP.

In addition, in the 2008 Ozone SIP Requirements Rule, EPA clarified that states can use weighted average NO_x emissions rates from sources in the nonattainment area for meeting the major NO_x RACT requirement under the CAA, as consistent with existing policy.⁴ EPA also recognized that states may conclude in some cases that sources already addressed by RACT determinations for the 1979 1-hour and/or 1997 8-hour ozone NAAQS may not need to implement additional controls to meet the 2008 8-hour ozone NAAQS RACT requirement. See 80 FR 12278–12279 (March 6, 2015).

C. Applicability of RACT Requirements in Pennsylvania

As indicated earlier, RACT requirements apply to any ozone nonattainment areas classified as moderate or higher (serious, severe or extreme) under CAA sections 182(b)(2) and 182(f). Pennsylvania has outstanding ozone RACT requirements for both the 1997 and 2008 8-hour ozone NAAQS. The entire Commonwealth of Pennsylvania is part of the OTR established under section 184 of the CAA and thus is subject statewide to the RACT requirements of CAA sections 182(b)(2) and 182(f), pursuant to section 184(b).

At the time of revocation of the 1997 8-hour ozone NAAQS (effective April 6, 2015), only two moderate nonattainment areas remained in the Commonwealth of Pennsylvania for this standard, the Philadelphia and the Pittsburgh Areas. As required under EPA's anti-backsliding provisions, these two moderate nonattainment areas continue to be subject to RACT under

the 1997 8-hour ozone NAAQS. Given its location in the OTR, the remainder of the Commonwealth is also treated as moderate nonattainment area under the 1997 8-hour ozone NAAQS for any planning requirements under the revoked standard, including RACT. The OTR RACT requirement is also in effect under the 2008 8-hour ozone NAAQS throughout the Commonwealth, since EPA did not designate any nonattainment areas above marginal for this standard in Pennsylvania. Thus, in practice, the same RACT requirements continue to be applicable in Pennsylvania for both the 1997 and 2008 8-hour ozone NAAQS. RACT must be evaluated and satisfied as separate requirements under each applicable standard.

RACT applies to major sources of NO_x and VOC under each ozone NAAQS or any VOC sources subject to CTG RACT. Which NO_x and VOC sources in Pennsylvania are considered "major" and are therefore subject to RACT is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the "major source" definitions established under the CAA. In the case of Pennsylvania, sources located in any areas outside of moderate or above nonattainment areas, as part of the OTR, shall be treated as if these areas were moderate.

In Pennsylvania, the SIP program is implemented primarily by the PADEP, but also by local air agencies in Philadelphia County (the City of Philadelphia's Air Management Services [AMS]) and Allegheny County, (the Allegheny County Health Department [ACHD]). These agencies have implemented numerous RACT regulations and source-specific measures in Pennsylvania to meet the applicable ozone RACT requirements. Historically, statewide RACT controls have been promulgated by PADEP in Pennsylvania Code Title 25-Environmental Resources, Part I-Department of Environmental Protection, Subpart C- Protection of Natural Resources, Article III- Air Resources, (25 Pa. Code) Chapter 129. AMS and ACHD have incorporated by reference Pennsylvania regulations, but have also promulgated regulations adopting RACT controls for their own jurisdictions. In addition, AMS and ACHD have submitted separate source-specific RACT determinations as SIP revisions for sources within their respective jurisdictions, which have been approved by EPA. See 40 CFR 52.2020(d)(1).

States were required to make RACT SIP submissions for the 1997 8-hour

ozone NAAQS by September 15, 2006. PADEP submitted a SIP revision on September 25, 2006, certifying that a number of previously approved VOC RACT rules continued to satisfy RACT under the 1997 8-hour ozone NAAQS for the remainder of Pennsylvania.⁵ PADEP has met its obligations under the 1997 8-hour ozone NAAQS for its CTG and non-CTG VOC sources. See 82 FR 31464 (July 7, 2017). RACT control measures addressing all applicable CAA RACT requirements under the 1997 8-hour ozone NAAQS have been implemented and fully approved in the jurisdictions of ACHD and AMS. See 78 FR 34584 (June 10, 2013) and 81 FR 69687 (October 7, 2016). For the 2008 8-hour ozone NAAQS, states were required to submit RACT SIP revisions by July 20, 2014. On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. Specifically, the May 16, 2016 SIP submittal intended to satisfy sections 182(b)(2)(C), 182(f), and 184 of the CAA for both the 1997 and 2008 8-hour ozone NAAQS for Pennsylvania's major NO_x and VOC non-CTG sources, except ethylene production plants, surface active agents manufacturing, and mobile equipment repair and refinishing.

D. EPA's Conditional Approval for Pennsylvania's RACT Requirements Under the 1997 and 2008 8-Hour Ozone NAAQS

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO_x RACT requirements under the CAA for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, *Additional RACT Requirements for Major Sources of NO_x and VOCs* (the "presumptive" RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_x and VOC control measures in 25 Pa. Code 129.92–95, *Stationary Sources of NO_x and VOCs*, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_x sources. The requirements of the RACT I rule remain in effect and continue to be

⁵ The September 15, 2006 SIP submittal initially included Pennsylvania's certification of NO_x RACT regulations; however, NO_x RACT portions were withdrawn by PADEP on June 27, 2016.

⁴ EPA's NO_x RACT guidance "Nitrogen Oxides Supplement to the General Preamble" (57 FR 55625; November 25, 1992) encouraged states to develop RACT programs that are based on "area wide average emission rates." Additional guidance on area-wide RACT provisions is provided by EPA's January 2001 economic incentive program guidance titled "Improving Air Quality with Economic Incentive Programs," available at <https://www.epa.gov/sites/production/files/2015-07/documents/eipfin.pdf>. In addition, as mentioned previously, the D.C. Cir. Court recently upheld the use of NO_x averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15–1115 (D.C. Cir. February 16, 2018).

implemented as RACT.⁶ On September 26, 2017, PADEP submitted a supplemental SIP revision which committed to address various deficiencies identified by EPA in their May 16, 2016 “presumptive” RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on PADEP’s September 26, 2017 commitment letter. See 84 FR 20274. In EPA’s final conditional approval, EPA noted that PADEP would be required to submit, for EPA’s approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA’s final conditional approval, specifically May 9, 2020.

Therefore, as authorized in CAA section 110(k)(3) and (k)(4), Pennsylvania shall submit the following as case-by-case SIP revisions, by May 9, 2020, for EPA’s approval as a condition of approval of 25 Pa. Code 128 and 129 in the May 16, 2016 SIP revision: (1) All facility-wide or system-wide averaging plans approved by PADEP under 25 Pa. Code 129.98 including, but not limited

to, any terms and conditions that ensure the enforceability of the averaging plan as a practical matter (*i.e.*, any monitoring, reporting, recordkeeping, or testing requirements); and (2) all source-specific RACT determinations approved by PADEP under 25 Pa. Code 129.99, including any alternative compliance schedules approved under 25 Pa. Code 129.97(k) and 129.99(i); the case-by-case RACT determinations submitted to EPA for approval into the SIP should include any terms and conditions that ensure the enforceability of the case-by-case or source-specific RACT emission limitation as a practical matter (*i.e.*, any monitoring, reporting, recordkeeping, or testing requirements). See May 9, 2019 (84 FR 20274).

II. Summary of SIP Revisions

In order to satisfy a requirement from EPA’s May 9, 2019 conditional approval, PADEP has submitted to EPA SIP revisions addressing case-by-case RACT requirements for major sources in Pennsylvania subject to 25 Pa. Code 129.99. As noted in Table 1 of this document, on April 11, 2019, PADEP submitted to EPA a SIP revision pertaining to Pennsylvania’s case-by-case NO_x and/or VOC RACT determinations for 10 major sources

located in the Commonwealth. PADEP provided documentation in its SIP revision to support its case-by-case RACT determinations for affected emission units at each major source subject to 25 Pa. Code 129.99. Specifically, in this SIP submittal, PADEP evaluated a total of 10 major NO_x and/or VOC sources in Pennsylvania for case-by-case RACT.⁷

In the Pennsylvania RACT SIP revision, PADEP included a case-by-case RACT determination for the existing emissions units at each of these major sources of NO_x and/or VOC that required a source specific RACT determination. In PADEP’s RACT determinations an evaluation was completed to determine if previously SIP-approved, case-by-case RACT requirements (herein referred to as RACT I) were more stringent and required to be retained in the sources Title V air quality permit and subsequently, the Federally-approved SIP, or if the new case-by-case RACT requirements are more stringent and replace the previous Federally-approved provisions. EPA, in this action, is taking action on nine major sources of NO_x and/or VOC in Pennsylvania, subject to Pennsylvania’s case-by-case RACT requirements, as summarized in Table 2.

TABLE 2—NINE MAJOR NO_x AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO _x and/or VOC)	RACT II permit (effective date)
Carpenter Co. (Lehigh)	No	VOC	39-00040 (9/5/2018)
East Penn Manufacturing Co. Inc, Smelter Plant (Berks).	No	NO _x and VOC	06-05040D (1/3/2019)
Ellwood Quality Steels Co. (Lawrence).	Yes	NO _x and VOC	37-00264 (10/13/2017)
GE Transportation—Erie Plant (Erie)	Yes	NO _x and VOC	25-00025 (2/21/2018)
Graymont Pleasant Gap (Centre)	Yes	NO _x	14-00002 (2/5/2018)
Hazleton Generation (Luzerne)	Yes	NO _x	40-00021 (6/19/2018)
Helix Ironwood (formerly TC Ironwood) (Lebanon).	No	NO _x	38-05019 (9/24/2018)
Magnesita Refractories (York)	Yes	NO _x	67-05001 (11/27/2018)
Penn State University (Centre)	Yes	NO _x	14-00003 (12/13/2017)

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific control requirements, if any, satisfy RACT for that particular unit. The adoption of new or additional controls or the

revisions to existing controls as RACT were specified as requirements in new or revised Federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. The RACT II permits, which revise or adopt additional source-specific controls, have been submitted as part of the Pennsylvania RACT SIP revisions for EPA’s approval in the Pennsylvania SIP

under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 2 of this document, along with the permit effective date, and are part of the docket for this rulemaking, which is available online at <https://www.regulations.gov>, Docket No. EPA-R03-OAR-2019-0657.⁸ EPA is proposing to incorporate by reference in the Pennsylvania SIP,

⁶ These requirements were initially approved as RACT for Pennsylvania under the 1979 1-hour ozone NAAQS.

⁷ As noted previously, EPA, in this action, is proposing approval for nine of the 10 case-by-case RACT determinations submitted by PADEP in the applicable three SIP revisions. See Table 1 of this document for more detailed information.

⁸ The RACT II permits are redacted versions of a facility’s Federally enforceable permits and reflect the specific RACT requirements being approved into the Pennsylvania SIP.

via the RACT II permits, source-specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions.

III. EPA's Evaluation of SIP Revisions

After thorough review and evaluation of the information provided by PADEP in its SIP revision submittal for nine major sources of NO_x and/or VOC in Pennsylvania, EPA finds that PADEP's case-by-case RACT determinations and conclusions provided are reasonable and appropriately considered technically and economically feasible controls, while setting lowest achievable limits. EPA finds that the proposed source-specific RACT controls for the sources subject to this rulemaking action adequately meet the CAA RACT requirements for the 1997 and 2008 8-hour ozone NAAQS for the major sources of NO_x and/or VOC in Pennsylvania, as they are not covered by or cannot meet Pennsylvania's presumptive RACT regulation.

EPA also finds that all the proposed revisions to previously SIP approved RACT requirements, under the 1979 1-hour ozone standard (RACT I), as discussed in PADEP's SIP revisions, will result in equivalent or additional reductions of NO_x and/or VOC emissions and should not interfere with any applicable requirement concerning attainment or reasonable further progress with the NAAQS or interfere with other applicable CAA requirement in section 110(l) of the CAA.

EPA's complete analysis of PADEP's case-by-case RACT SIP revisions is included in the TSD available in the docket for this rulemaking action and available online at <https://www.regulations.gov>, Docket number EPA-R03-OAR-2019-0657.

IV. Proposed Action

Based on EPA's review, EPA is proposing to approve the Pennsylvania SIP revisions for the nine case-by-case RACT facilities listed in Table 2 of this document and incorporate by reference in the Pennsylvania SIP, via the RACT II permits, source specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. As EPA views each facility as a separable SIP revision, should EPA receive comment on one facility but not others, EPA may take separate, final action on the remaining facilities.

V. 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 source specific RACT determinations via the RACT II permits as described in Sections II and III—Summary of SIP Revisions and EPA's Evaluation of SIP Revisions. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

In addition, this proposed rule, addressing the NO_x and VOC RACT requirements for nine case-by-case facilities for the 1997 and 2008 8-hour ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 21, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020-08931 Filed 5-4-20; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2020-0189; FRL-10008-57-Region 3]

Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to

establish and require reasonably available control technology (RACT) for 26 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rulemaking action, EPA is only proposing to approve source-specific (also referred to as "case-by-case") RACT determinations for four of the 26 major sources submitted by PADEP. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2020-0189 at <https://www.regulations.gov>, or via email to opila.marycate@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 <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Bertram, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5273. Ms. Bertram can also be reached via electronic mail at bertram.emily@epa.gov.

SUPPLEMENTARY INFORMATION: On multiple dates, PADEP submitted

multiple revisions to its SIP to address case-by-case NO_x and/or VOC RACT for 26 major facilities. These SIP revisions are intended to address the NO_x and/or VOC RACT requirements under sections 182 and 184 of the CAA for the 1997 and 2008 8-hour ozone NAAQS. Table 1 of this document lists each SIP submittal date and the facilities included in its submittals. Although submitted in multiple packages by PADEP, EPA views each facility as a separable SIP revision and may take separate final action on one or more facilities. In this rulemaking action, EPA is only proposing to approve case-by-case RACT determinations for four of the 26 sources submitted to EPA by PADEP, specifically Transco—Salladasburg Station 520, Novipax, Sunoco Partners Marketing & Terminals, and Global Advanced Metals, USA, Inc. The remaining 22 major sources are either now exempt from the source-specific RACT requirements, will be acted on in a future rulemaking action, once resubmitted to EPA by PADEP, or EPA has previously proposed approval.¹ See Tables 1 and 2 for details related to each case-by-case facility in PADEP's multiple (five) SIP revisions.

On July 31, 2019, EPA proposed to approve 21 case-by-case RACT determinations for sources in Pennsylvania (Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards; Part 1; 84 FR 37167 (July 31, 2019)). On August 30, 2019, the last day of the comment period, EPA became aware through a comment submitted to *Regulations.gov* that one of the files contained in the SIP submission—which EPA made public in the docket for that rulemaking proposing to approve the submission (Docket No. EPA-R03-OAR-2017-0290-0064)—contained potential CBI. EPA restricted public access in *Regulations.gov* to that file containing potential CBI the same day, prior to the end of the comment period. On September 30, 2019, EPA became aware through additional comments submitted to *Regulations.gov* during the comment

¹ In this action, EPA is proposing approval of sources included in the initial 26 case-by-case determinations submitted by PADEP as SIP revisions. A list of those 26 case-by-case RACT sources can be found in Table 1 of this rulemaking action. EPA proposed approval of 19 of the 26 case-by-case RACT determinations on March 20, 2020. See 85 FR 16021. That rulemaking action and all supporting information can also be found in Docket ID No. EPA-R03-OAR-2019-0686, which is available online at <https://www.regulations.gov>.

period that additional potential CBI was contained in other files EPA had posted to Docket No. EPA-R03-OAR-2017-0290-0064. EPA restricted public access in *Regulations.gov* to the entire docket that same day. In accordance with EPA's CBI regulations at 40 CFR part 2, subpart B, EPA has contacted each business affected by the inclusion of potential CBI in the docket files to inform them that potential CBI was made publicly available on *Regulations.gov*, and afforded each business an opportunity to assert a claim of business confidentiality for any of their information posted by EPA to Docket No. EPA-R03-OAR-2017-0290-0064.

EPA is now proposing to approve two of the 21 Pennsylvania case-by-case RACT determinations in this new rulemaking.² EPA has established a docket for this new rulemaking that does not include any materials claimed as CBI (Docket ID No. EPA-R03-OAR-2020-0189). Commenters must submit any comments they have on EPA's proposed approval of the two case-by-case RACT determinations to this new docket number. Because this is a new rulemaking, EPA will not consider any comments on its prior proposal made at Docket ID No. EPA-R03-OAR-2017-0290-0064. Any prior comments on Transco—Salladasburg Station 520 or Sunoco Partners Marketing & Terminals will need to be resubmitted to Docket ID No. EPA-R03-OAR-2020-0189 during the comment period for this proposed rulemaking for EPA to consider them. The commenters are reminded that their comments should not include or rely on any information considered to be CBI or other information whose disclosure is restricted by statute. If a comment includes any CBI or other restricted information, EPA will redact the comment or withhold from the public docket those submissions (or those portions containing the restricted information) as appropriate.

For additional background information on Pennsylvania's "presumptive" RACT II SIP see 84 FR 20274 (May 9, 2019) and on Pennsylvania's source-specific or "case-by-case" RACT determinations see the

² In this action, EPA is proposing approval of two (Transco—Salladasburg Station 520 and Sunoco Partners Marketing & Terminals) of the 21 sources it proposed approval of on July 31, 2019. In a separate action, EPA proposed approval of the remaining 19 case-by-case RACT determinations. See 85 FR 16021 (March 20, 2020).

appropriate technical support document <https://www.regulations.gov>, Docket ID (TSD) which is available online at No. EPA-R03-OAR-2020-0189.

TABLE 1—PADEP SIP SUBMITTALS FOR MAJOR NO_x AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO SOURCE-SPECIFIC RACT UNDER THE 1997 AND 2008 8-HOUR OZONE STANDARD

SIP submittal date	Major source (county) ^a
8/14/2017	Exelon Generation—Fairless Hills (Bucks)
11/21/2017	The Boeing Co. (Delaware)
	Cherokee Pharmaceuticals, LLC (Northumberland)
	Dominion Transmission—Finnefrock Station (Clinton) ^b
	First Quality Tissue, LLC (Clinton)
	JW Aluminum Company (Lycoming)
	Transco—Salladasburg Station 520 (Lycoming) ^c
	Ward Manufacturing, LLC (Tioga)
	Wood-Mode Inc. (Snyder)
4/26/2018	Foam Fabricators Inc. (Columbia)
	Novipax (Berks) ^d
	Resilite Sports Products Inc. (Northumberland)
	Sunoco Partners Marketing & Terminals (Delaware) ^e
	Texas Eastern—Bernville (Berks)
	Truck Accessories Group (Northumberland) ^f
6/26/2018	Texas Eastern—Shermans Dale (Perry)
	Texas Eastern—Perulack (Juniata)
	Texas Eastern—Grantville (Dauphin)
	NRG Energy Center Paxton, LLC (Dauphin)
	Texas Eastern—Bechtelsville (Berks)
	Merck, Sharp & Dohme Corporation (Montgomery) ^g
10/29/2018	Containment Solutions/Mt. Union Plant (Huntingdon)
	Armstrong World Ind./Marietta Ceiling Plant (Lancaster)
	Jeraco Enterprises Inc. (Northumberland)
	Global Advanced Metals USA Inc. (Montgomery) ^h
	Blommer Chocolate Company (Montgomery)

^a Unless otherwise noted, EPA proposed approval of the case-by-case RACT determination for 19 of major sources listed in Table 1 in its March 20, 2020 NPRM. See 85 FR 16021. That rulemaking action and all supporting information can also be found in Docket ID No. EPA-R03-OAR-2019-0686, which is available online at <https://www.regulations.gov>.

^b Dominion Transmission—Finnefrock Station was withdrawn from EPA consideration on August 27, 2018. PADEP determined this source was no longer subject to source-specific RACT requirements for the 1997 and 2008 8-hour ozone NAAQS.

^c Transco—Salladasburg Station 520 is being acted on in this rulemaking action.

^d Novipax is being acted on in this rulemaking action.

^e Sunoco Partners Marketing and Terminal is being acted on in this rulemaking action.

^f Truck Accessories Group was withdrawn from EPA consideration on July 11, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.

^g Merck, Sharp & Dohme Corporation was withdrawn from EPA consideration on July 11, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.

^h Global Advanced Metals USA Inc. is being acted on in this proposed rulemaking action. Additionally, PADEP sent EPA a letter on July 17, 2019 supplementing its original October 29, 2018 SIP revision submittal.

I. Background

A. 1997 and 2008 8-Hour Ozone NAAQS

Ground level ozone is not emitted directly into the air but is created by chemical reaction between NO_x and VOC in the presence of sunlight. Emissions from industrial facilities, electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC. Breathing ozone can trigger a variety of health problems, particularly for children, the elderly, and people of all ages who have lung diseases such as asthma. Ground level ozone can also have harmful effects on sensitive vegetation and ecosystems.

On July 18, 1997 (62 FR 38856), EPA promulgated a standard for ground level ozone based on 8-hour average concentrations. The 8-hour averaging

period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. EPA has designated two moderate nonattainment areas in Pennsylvania under the 1997 8-hour ozone NAAQS, namely Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE (the Philadelphia Area) and Pittsburgh-Beaver Valley (the Pittsburgh Area). See 40 CFR 81.339.

On March 12, 2008, EPA strengthened the 8-hour ozone standards, by revising its level to 0.075 ppm averaged over an 8-hour period (2008 8-hour ozone NAAQS). On May 21, 2012, EPA designated five marginal nonattainment areas in Pennsylvania for the 2008 8-hour ozone NAAQS: Allentown-Bethlehem-Easton, Lancaster, Reading, the Philadelphia Area, and the Pittsburgh Area. See 77 FR 30088; see also 40 CFR 81.339.

On March 6, 2015 (80 FR 12264), EPA announced its revocation of the 1997 8-hour ozone NAAQS for all purposes and for all areas in the country, effective on April 6, 2015. EPA has determined that certain nonattainment planning requirements continue to be in effect under the revoked standard for nonattainment areas under the 1997 8-hour ozone NAAQS, including RACT.

B. RACT Requirements for Ozone

The CAA regulates emissions of NO_x and VOC to prevent photochemical reactions that result in ozone formation. RACT is an important strategy for reducing NO_x and VOC emissions from major stationary sources within areas not meeting the ozone NAAQS. Areas designated nonattainment for the ozone NAAQS are subject to the general nonattainment planning requirements of CAA section 172. Section 172(c)(1) of

the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACT) for demonstrating attainment of all NAAQS, including emissions reductions from existing sources through the adoption of RACT. Further, section 182(b)(2) of the CAA sets forth additional RACT requirements for ozone nonattainment areas classified as moderate or higher. Section 182(b)(2) of the CAA sets forth requirements regarding RACT for the ozone NAAQS for VOC sources. Section 182(f) subjects major stationary sources of NO_x to the same RACT requirements applicable to major stationary sources of VOC.³

Section 184(b)(1)(B) of the CAA applies the RACT requirements in section 182(b)(2) to nonattainment areas classified as marginal and to attainment areas located within ozone transport regions established pursuant to section 184 of the CAA. Section 184(a) of the CAA established by law the current Ozone Transport Region (OTR) comprised of 12 eastern states, including Pennsylvania. This requirement is referred to as OTR RACT. As noted previously, a “major source” is defined based on the source’s PTE of NO_x, VOC, or both pollutants, and the applicable thresholds differ based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

Since the 1970’s, EPA has consistently defined “RACT” as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility.⁴ EPA has provided more substantive RACT requirements through implementation rules for each ozone NAAQS as well as through guidance. In 2004 and 2005, EPA promulgated an implementation rule for the 1997 8-hour ozone NAAQS in two phases (“Phase 1 of the 1997 Ozone Implementation Rule” and “Phase 2 of the 1997 Ozone Implementation Rule”). 69 FR 23951 (April 30, 2004) and 70 FR 71612 (November 29, 2005), respectively. Particularly, the Phase 2 Ozone Implementation Rule addressed RACT statutory requirements under the 1997

8-hour ozone NAAQS. See 70 FR 71652 (November 29, 2005).

On March 6, 2015 (80 FR 12264), EPA issued its final rule for implementing the 2008 8-hour ozone NAAQS (“the 2008 Ozone SIP Requirements Rule”). At the same time, EPA revoked the 1997 8-hour ozone NAAQS, effective on April 6, 2015.⁵ The 2008 Ozone SIP Requirements Rule provided comprehensive requirements to transition from the revoked 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS, as codified in 40 CFR part 51, subpart AA, following revocation. Consistent with previous policy, EPA determined that areas designated nonattainment for both the 1997 and 2008 8-hour ozone NAAQS at the time of revocation, must retain implementation of certain nonattainment area requirements (*i.e.*, anti-backsliding requirements) for the 1997 8-hour ozone NAAQS as specified under section 182 of the CAA, including RACT. See 40 CFR 51.1100(o). An area remains subject to the anti-backsliding requirements for a revoked NAAQS until EPA approves a redesignation to attainment for the area for the 2008 8-hour ozone NAAQS. There are no effects on applicable requirements for areas within the OTR, as a result of the revocation of the 1997 8-hour ozone NAAQS. Thus, Pennsylvania, as a state within the OTR, remains subject to RACT requirements for both the 1997 8-hour ozone NAAQS and the 2008 8-hour ozone NAAQS.

In addressing RACT, the 2008 Ozone SIP Requirements Rule is consistent with existing policy and Phase 2 of the 1997 Ozone Implementation Rule. In the 2008 Ozone SIP Requirements Rule, EPA requires RACT measures to be implemented by January 1, 2017 for areas classified as moderate nonattainment or above and all areas of the OTR. EPA also provided in the 2008 Ozone SIP Requirements Rule that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations stating that there are no sources in the nonattainment area covered by a specific control technique guidelines

(CTG) source category. In the preamble to the 2008 Ozone SIP Requirements Rule, EPA clarified that states must provide notice and opportunity for public comment on their RACT SIP submissions, even when submitting a certification that the existing provisions remain RACT or a negative declaration. States must submit appropriate supporting information for their RACT submissions, in accordance with the Phase 2 of the 1997 Ozone Implementation Rule. Adequate documentation must support that states have considered control technology that is economically and technologically feasible in determining RACT, based on information that is current as of the time of development of the RACT SIP.

In addition, in the 2008 Ozone SIP Requirements Rule, EPA clarified that states can use weighted average NO_x emissions rates from sources in the nonattainment area for meeting the major NO_x RACT requirement under the CAA, as consistent with existing policy.⁶ EPA also recognized that states may conclude in some cases that sources already addressed by RACT determinations for the 1979 1-hour and/or 1997 8-hour ozone NAAQS may not need to implement additional controls to meet the 2008 8-hour ozone NAAQS RACT requirement. See 80 FR 12278–12279 (March 6, 2015).

C. Applicability of RACT Requirements in Pennsylvania

As indicated earlier, RACT requirements apply to any ozone nonattainment areas classified as moderate or higher (serious, severe or extreme) under CAA sections 182(b)(2) and 182(f). Pennsylvania has outstanding ozone RACT requirements for both the 1997 and 2008 8-hour ozone NAAQS. The entire Commonwealth of Pennsylvania is part of the OTR established under section 184 of the CAA and thus is subject statewide to the RACT requirements of CAA sections 182(b)(2) and 182(f), pursuant to section 184(b).

At the time of revocation of the 1997 8-hour ozone NAAQS (effective April 6,

³ A “major source” is defined based on the source’s potential to emit (PTE) of NO_x or VOC, and the applicable thresholds for RACT differs based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA.

⁴ See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, “Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas,” and also 44 FR 53762 (September 17, 1979).

⁵ On February 16, 2018, the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. Court) issued an opinion on the 2008 Ozone SIP Requirements Rule. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15–1115 (D.C. Cir. February 16, 2018). The D.C. Cir. Court found certain parts reasonable and denied the petition for appeal on those. In particular, the D.C. Cir. Court upheld the use of NO_x averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. However, the Court also found certain other provisions unreasonable. The D.C. Cir. Court vacated the provisions it found unreasonable.

⁶ EPA’s NO_x RACT guidance “Nitrogen Oxides Supplement to the General Preamble” (57 FR 55625; November 25, 1992) encouraged states to develop RACT programs that are based on “area wide average emission rates.” Additional guidance on area-wide RACT provisions is provided by EPA’s January 2001 economic incentive program guidance titled “Improving Air Quality with Economic Incentive Programs,” available at <https://www.epa.gov/sites/production/files/2015-07/documents/eipfin.pdf>. In addition, as mentioned previously, the D.C. Cir. Court recently upheld the use of NO_x averaging to meet RACT requirements for 2008 8-hour ozone NAAQS. *South Coast Air Quality Mgmt. Dist. v. EPA*, No. 15–1115 (D.C. Cir. February 16, 2018).

2015), only two moderate nonattainment areas remained in the Commonwealth of Pennsylvania for this standard, the Philadelphia and the Pittsburgh Areas. As required under EPA's anti-backsliding provisions, these two moderate nonattainment areas continue to be subject to RACT under the 1997 8-hour ozone NAAQS. Given its location in the OTR, the remainder of the Commonwealth is also treated as moderate nonattainment area under the 1997 8-hour ozone NAAQS for any planning requirements under the revoked standard, including RACT. The OTR RACT requirement is also in effect under the 2008 8-hour ozone NAAQS throughout the Commonwealth, since EPA did not designate any nonattainment areas above marginal for this standard in Pennsylvania. Thus, in practice, the same RACT requirements continue to be applicable in Pennsylvania for both the 1997 and 2008 8-hour ozone NAAQS. RACT must be evaluated and satisfied as separate requirements under each applicable standard.

RACT applies to major sources of NO_x and VOC under each ozone NAAQS or any VOC sources subject to CTG RACT. Which NO_x and VOC sources in Pennsylvania are considered "major" and are therefore subject to RACT is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the "major source" definitions established under the CAA. In the case of Pennsylvania, sources located in any areas outside of moderate or above nonattainment areas, as part of the OTR, shall be treated as if these areas were moderate.

In Pennsylvania, the SIP program is implemented primarily by the PADEP, but also by local air agencies in Philadelphia County (the City of Philadelphia's Air Management Services [AMS]) and Allegheny County, (the Allegheny County Health Department [ACHD]). These agencies have implemented numerous RACT regulations and source-specific measures in Pennsylvania to meet the applicable ozone RACT requirements. Historically, statewide RACT controls have been promulgated by PADEP in Pennsylvania Code Title 25-Environmental Resources, Part I-Department of Environmental Protection, Subpart C- Protection of Natural Resources, Article III- Air Resources, (25 Pa. Code) Chapter 129. AMS and ACHD have incorporated by reference Pennsylvania regulations, but have also promulgated regulations adopting RACT controls for their own jurisdictions. In addition, AMS and

ACHD have submitted separate source-specific RACT determinations as SIP revisions for sources within their respective jurisdictions, which have been approved by EPA. See 40 CFR 52.2020(d)(1).

States were required to make RACT SIP submissions for the 1997 8-hour ozone NAAQS by September 15, 2006. PADEP submitted a SIP revision on September 25, 2006, certifying that a number of previously approved VOC RACT rules continued to satisfy RACT under the 1997 8-hour ozone NAAQS for the remainder of Pennsylvania.⁷ PADEP has met its obligations under the 1997 8-hour ozone NAAQS for its CTG and non-CTG VOC sources. See 82 FR 31464 (July 7, 2017). RACT control measures addressing all applicable CAA RACT requirements under the 1997 8-hour ozone NAAQS have been implemented and fully approved in the jurisdictions of ACHD and AMS. See 78 FR 34584 (June 10, 2013) and 81 FR 69687 (October 7, 2016). For the 2008 8-hour ozone NAAQS, states were required to submit RACT SIP revisions by July 20, 2014. On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. Specifically, the May 16, 2016 SIP submittal intended to satisfy sections 182(b)(2)(C), 182(f), and 184 of the CAA for both the 1997 and 2008 8-hour ozone NAAQS for Pennsylvania's major NO_x and VOC non-CTG sources, except ethylene production plants, surface active agents manufacturing, and mobile equipment repair and refinishing.⁸

D. EPA's Conditional Approval for Pennsylvania's RACT Requirements Under the 1997 and 2008 8-Hour Ozone NAAQS

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO_x RACT requirements under the CAA for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, *Additional RACT Requirements for Major Sources of NO_x and VOCs* (the "presumptive" RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_x and VOC control measures in 25 Pa. Code

129.92–95, *Stationary Sources of NO_x and VOCs*, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_x sources. The requirements of the RACT I rule remain in effect and continue to be implemented as RACT.⁹ On September 26, 2017, PADEP submitted a supplemental SIP revision which committed to address various deficiencies identified by EPA in their May 16, 2016 "presumptive" RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on PADEP's September 26, 2017 commitment letter. See 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval, specifically May 9, 2020.

Therefore, as authorized in CAA section 110(k)(3) and (k)(4), Pennsylvania shall submit the following as case-by-case SIP revisions, by May 9, 2020, for EPA's approval as a condition of approval of 25 Pa. Code 128 and 129 in the May 16, 2016 SIP revision: (1) All facility-wide or system-wide averaging plans approved by PADEP under 25 Pa. Code 129.98 including, but not limited to, any terms and conditions that ensure the enforceability of the averaging plan as a practical matter (*i.e.*, any monitoring, reporting, recordkeeping, or testing requirements); and (2) all source-specific RACT determinations approved by PADEP under 25 Pa. Code 129.99, including any alternative compliance schedules approved under 25 Pa. Code 129.97(k) and 129.99(i); the case-by-case RACT determinations submitted to EPA for approval into the SIP should include any terms and conditions that ensure the enforceability of the case-by-case or source-specific RACT emission limitation as a practical matter (*i.e.*, any monitoring, reporting, recordkeeping, or testing requirements). See May 9, 2019 (84 FR 20274).

II. Summary of SIP Revisions

In order to satisfy a requirement from EPA's May 9, 2019 conditional approval, PADEP has submitted to EPA, SIP revisions addressing case-by-case RACT requirements for major sources in

⁷ The September 15, 2006 SIP submittal initially included Pennsylvania's certification of NO_x RACT regulations; however, NO_x RACT portions were withdrawn by PADEP on June 27, 2016.

⁹ These requirements were initially approved as RACT for Pennsylvania under the 1979 1-hour ozone NAAQS.

Pennsylvania subject to 25 Pa. Code 129.99. As noted in Table 1, on multiple dates PADEP submitted to EPA, five separate SIP revisions pertaining to Pennsylvania’s case-by-case NO_x and/or VOC RACT determinations for 26 major sources located in the Commonwealth. PADEP provided documentation in its SIP revisions to support its case-by-case RACT determinations for affected emission units at each major source subject to 25 Pa. Code 129.99. Specifically, in these SIP submittals,

PADEP evaluated a total of 26 major NO_x and/or VOC sources in Pennsylvania for case-by-case RACT.¹⁰ In the Pennsylvania RACT SIP revisions, PADEP included a case-by-case RACT determination for the existing emissions units at each of these major sources of NO_x and/or VOC that required a source specific RACT determination. In PADEP’s RACT determinations an evaluation was completed to determine if previously SIP-approved, case-by-case RACT

requirements (herein referred to as RACT I) were more stringent and required to be retained in the sources Title V air quality permit and subsequently, the Federally-approved SIP, or if the new case-by-case RACT requirements are more stringent and replace the previous Federally-approved provisions. EPA, in this action, is taking action on four major sources of NO_x and/or VOC in Pennsylvania, subject to Pennsylvania’s case-by-case RACT requirements, as summarized in Table 2.

TABLE 2—FOUR MAJOR NO_x AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO _x and/or VOC)	RACT II permit (effective date)
Transco—Salladasburg Station 520 (Lycoming)	Yes	NO _x and VOC	41–00001 (06/06/17)
Novipax (Berks)	Yes	VOC	06–05036 (12/19/2017)
Sunoco Partners Marketing & Terminals (Delaware)	Yes	NO _x and VOC	23–00119 (01/20/17)
Global Advanced Metals USA, Inc. (Montgomery)	Yes	VOC	46–00037 (03/10/17)

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific control requirements, if any, satisfy RACT for that particular unit. The adoption of new or additional controls or the revisions to existing controls as RACT were specified as requirements in new or revised Federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. The RACT II permits, which revise or adopt additional source-specific controls, have been submitted as part of the Pennsylvania RACT SIP revisions for EPA’s approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 2 of this document, along with the permit effective date, and are part of the docket for this rulemaking, which is available online at <https://www.regulations.gov>, Docket ID No. EPA–R03–OAR–2020–0189.¹¹ EPA is proposing to incorporate by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions.

III. EPA’s Evaluation of SIP Revisions

After thorough review and evaluation of the information provided by PADEP

in its SIP revision submittals for four major sources of NO_x and/or VOC in Pennsylvania, EPA finds that PADEP’s case-by-case RACT determinations and conclusions provided are reasonable and appropriately considered technically and economically feasible controls while setting lowest achievable limits. EPA finds that the proposed source-specific RACT controls for the sources subject to this rulemaking action adequately meet the CAA RACT requirements for the 1997 and 2008 8-hour ozone NAAQS for the major sources of NO_x and/or VOC in Pennsylvania, as they are not covered by or cannot meet Pennsylvania’s presumptive RACT regulation.

EPA also finds that all the proposed revisions to previously SIP approved RACT requirements, under the 1979 1-hour ozone standard (RACT I), as discussed in PADEP’s SIP revisions, will result in equivalent or additional reductions of NO_x and/or VOC emissions and should not interfere with any applicable requirement concerning attainment or reasonable further progress with the NAAQS or interfered with other applicable CAA requirement in section 110(l) of the CAA.

EPA’s complete analysis of PADEP’s case-by-case RACT SIP revisions is included in the TSD available in the docket for this rulemaking action and available online at <https://www.regulations.gov>, Docket ID No. EPA–R03–OAR–2020–0189.

IV. Proposed Action

Based on EPA’s review, EPA is proposing to approve the Pennsylvania SIP revisions for the four case-by-case RACT facilities listed in Table 2 of this document and incorporate by reference in the Pennsylvania SIP, via the RACT II permits, source specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for two major sources of NO_x and VOC emissions. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action. As EPA views each facility as a separable SIP revision, should EPA receive comment on one facility but not the others, EPA may take separate, final action on the remaining facilities.

V. 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 source specific RACT determinations via the RACT II permits as described in Sections II and III—Summary of SIP Revisions and EPA’s Evaluation of SIP Revisions. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER**

¹⁰ As noted previously, EPA, in this action, is proposing approval for four of the 26 case-by-case RACT determinations submitted by PADEP in the applicable five SIP revisions. See Table 1 of this

document for information specific to each SIP revision.

¹¹ The RACT II permits are redacted versions of a facility’s Federally enforceable permits and reflect

the specific RACT requirements being approved into the Pennsylvania SIP.

INFORMATION CONTACT section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

requirements for four case-by-case facilities for the 1997 and 2008 8-hour ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 17, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2020-08744 Filed 5-4-20; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 18-89; DA 20-406; FRS 16678]

National Security Threats to the Communications Supply Chain Through FCC Programs

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) of the Federal Communications Commission (Commission) seeks comment on how the recently enacted Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), signed into law on March 12, 2020, applies to proposals under consideration in the Commission's *Protecting Against National Security Threats to the Communications Supply Chain* rulemaking and related proceedings.

DATES: Comments are due on or before May 20, 2020 and reply comments are due on or before June 4, 2020. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed as soon as possible.

ADDRESSES: Interested parties are invited to file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed

using the Commission's Electronic Comment Filing System (ECFS).

■ **Electronic Filers:** Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.

■ **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by commercial courier or by the U.S. Postal Service. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Filings will not be accepted via hand or messenger delivery.

■ **Commercial deliveries** (not including those sent using the U.S. Postal Service) 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.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Government Affairs Bureau at 202-418-0530 (voice, 202-418-0432 (tty)).

Ex Parte Rules. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum 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 presentation 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 presenters 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 Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section

1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the rules 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.

FOR FURTHER INFORMATION CONTACT: Brian Cruikshank, Wireline Competition Bureau, brian.cruikshank@fcc.gov, 202-418-7400 or TTY: 202-418-0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice in WC Docket No. 18-89, DA 20-406, released April 13, 2020. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following internet address: <https://docs.fcc.gov/public/attachments/DA-20-406A1.pdf>.

Synopsis

I. Introduction

1. On November 26, 2019, the Commission adopted the *Protecting National Security Through FCC Programs Report and Order, Further Notice of Proposed Rulemaking, and Order (R&O, FNPRM, or Information Collection Order)*, FCC 19-121, which, in part, prohibits the use of Universal Service Fund (USF) support to purchase equipment or services from any company identified as posing a national security risk to communications networks or the communications supply chain.

2. In the *R&O*, the Commission also initially designated Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), and their subsidiaries, parents, or affiliates, as companies that may pose such a risk to the communications networks and supply chain, and established a process for future designations of other companies posing such a risk.

3. In the *FNPRM*, the Commission sought comment on a reimbursement program proposal that would reimburse eligible telecommunications carriers (ETCs) receiving USF support for the cost to remove and replace communications equipment and services from finally designated companies in their networks.

4. Finally, in the *Information Collection Order*, the Commission required ETCs, and their subsidiaries or affiliates, to report whether they had Huawei or ZTE equipment or services in their networks and to estimate the cost to replace such equipment.

II. Discussion

5. *Reimbursement Program.* Section 4 of the Secure Networks Act is largely consistent with the Commission's proposals in the *FNPRM*, which proposed a reimbursement program for ETCs to replace potentially prohibited equipment and services. Section 4 directs the Commission to establish a reimbursement program for "providers of advanced communications service" to replace covered communications equipment or services. The legislation, *inter alia*, limits program eligibility to providers with two million or fewer customers and restricts funding to the permanent replacement of covered equipment and services obtained before August 14, 2018 so long as the equipment and services replaced are identified as "covered" on the initial list issued by the Commission pursuant to Section 2 of the Secure Networks Act. If equipment or services are subsequently added to the initial list, then providers may use the funds to replace equipment and services obtained no more than 60 days after the date the equipment or services were added to the list. The Commission seeks comment on whether the Commission should modify the reimbursement program proposed in the *FNPRM* to implement these new statutory requirements. Commenters should also specifically address how the Commission should interpret "providers of advanced communications service."

6. The Secure Networks Act directs the Commission on how to structure the reimbursement program's application filing and review process and describes a process that largely resembles the application process proposed in the *FNPRM*. Specifically, under the statute, the Commission must: (1) Require applicants to provide initial reimbursement cost estimates; (2) act on applications within 90 days of submission unless a 45 day extension is warranted; (3) provide applicants an opportunity to cure a deficiency; (4) require certifications as to the applicant's plan and timeline; and (5) "make reasonable efforts to ensure that reimbursement funds are distributed equitably among all applicants." The Commission seeks comment on any modifications the Commission should apply to the process proposed in the

FNPRM, if any, to implement these requirements.

7. The statute also requires program recipients to complete the "removal, replacement, and disposal of any covered communications equipment or services" within one year after the Commission distributes reimbursement funds to the recipient. The Commission can, however, grant a six month general extension of time to all recipients and individual extensions for up to six months "if the Commission finds that, due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal." What challenges, if any, will carriers face in replacing equipment and services in the timeframes required by the Secure Networks Act? Is the Commission able to grant both general and individual extensions under the statute or does the grant of a general extension prohibit us from granting additional individual extensions? Can the Commission grant multiple extensions to an individual recipient if the circumstances warrant such action? Separately, if the Commission proceeds with having a reimbursement process similar to the one used in the broadcast incentive auction proceeding, how would the deadline for completing the removal and replacement process be structured if the Commission uses initial disbursement allocations based on cost estimates before actually issuing support payments as expenses are incurred?

8. The statute requires the Commission to include disposal requirements for covered equipment that "prevent such equipment or services" from being used in other providers' networks. The Secure Networks Act mandates that reimbursement recipients provide regular status updates to the Commission and that these status updates be posted on the Commission's website. The statute further requires that the Commission take "all necessary steps" to prevent waste, fraud, and abuse, including by conducting audits and random field investigations of recipients and by requiring recipients to provide regular reports on how they have spent reimbursement funds. The Commission seeks comment on these provisions and the extent of the changes needed, if any, to the proposals in the *FNPRM* to implement the legislation.

9. The reimbursement program created by the Secure Networks Act appears to require an express appropriation from Congress. The Secure Networks Act, however, does not provide funding for the reimbursement program and states that the program

must be “separate from any Federal universal service program established under section 254 of the Communications Act of 1934, as amended.” The Commission seeks comment on our reading of these provisions.

10. *List of Suggested Replacements.* Section 4(d)(1) of the Secure Networks Act directs the Commission to “develop a list of suggested replacements of both physical and virtual communications equipment, applications and management software, and services or categories of replacements of both physical and virtual communications equipment, applications and

management software, and services.” The list must be “technology neutral and may not advantage the use of reimbursement funds for capital expenditures over operational expenditures, to the extent that the Commission determines that communications services can serve as an adequate substitute for the installation of communications equipment.”

11. How should the Commission develop a list of suggested replacement communications equipment and services? What are possible sources of this information? How often should the Commission update the list? What is the

most efficient method of seeking public input on appropriate equipment and services for the list? Can the list simply include all equipment and services from certain companies, or must it include the precise names of the equipment and services from those companies that are eligible for reimbursement? Should the list include suppliers of virtual network equipment and services?

Federal Communications Commission.

Daniel Kahn,

Associate Chief, Wireline Competition Bureau.

[FR Doc. 2020-08822 Filed 5-4-20; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 85, No. 87

Tuesday, May 5, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS-2020-0009]

Notice of Availability of an Environmental Assessment for Release of *Aphelinus hordei* for Biological Control of Russian Wheat Aphid

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to permitting the release of *Aphelinus hordei* for the biological control of Russian wheat aphids, a pest of cereal crops, in the Western United States. Based on the environmental assessment and other relevant data, we have reached a preliminary determination that the release of this control agent will not have a significant impact on the quality of the human environment. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before June 4, 2020.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2020-0009>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2020-0009, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road, Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/>

#!docketDetail;D=APHIS-2020-0009 or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737-1231; (301) 851-2327, email: Colin.Stewart@usda.gov.

SUPPLEMENTARY INFORMATION: Russian wheat aphid is native to Central Asia, the Middle East, Southern Europe, and North Africa, but has spread to various areas such as Australia, South Africa, and North and South America. It was detected in the Western United States in 1986, Russian wheat aphid was discovered in 18 States: Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. This pest has not spread to the eastern areas of the United States. The Russian wheat aphid is wingless, pale yellow-green or gray-green insect lightly dusted with white wax powder that feeds and develops on grass and cereal species; in North America, it thrives best on wheat and barley.

Aphelinus hordei, a tiny, stingless wasp, was chosen as a potential biological control agent due to its narrow host range, and it was the only parasitoid that specialized on Russian wheat aphid.

The Animal and Plant Health Inspection Service's (APHIS') review and analysis of the potential environmental impacts associated with the proposed release are documented in detail in an environmental assessment (EA) entitled "Field Release of *Aphelinus hordei* (Hymenoptera: Aphelinidae) for Biological Control of the Russian Wheat Aphid, *Diuraphis noxia* (Hemiptera: Aphididae), in the Continental United States" (February 2018). We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed

under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the [Regulations.gov](http://www.Regulations.gov) website or in our reading room (see **ADDRESSES** above for a link to [Regulations.gov](http://www.Regulations.gov) and information on the location and hours of the reading room). You may also request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 24th day of April 2020.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2020-09539 Filed 5-4-20; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Rural Business-Cooperative Service

Notice of Funds Availability for the Higher Blends Infrastructure Incentive Program (HBIIP) for Fiscal Year 2020

AGENCY: Commodity Credit Corporation and the Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) and the Rural Business-Cooperative Service (RBCS), a Rural Development agency of the United States Department of Agriculture (USDA), announce the availability of up to \$100 million in competitive grants to eligible entities for activities designed to expand the sales and use of renewable fuels under the Higher Blends Infrastructure Incentive Program (HBIIP). Cost-share grants of up to 50 percent of total eligible project costs but not more than \$5 million will be made

available to assist transportation fueling and fuel distribution facilities with converting to higher blend friendly status for ethanol (*i.e.*, greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel) by sharing the costs related to the installation, and/or retrofitting, and/or otherwise upgrading of dispenser/pumps, related equipment, and infrastructure.

DATES: The Agency will finalize the application window for enrollment in the Higher Biofuels Infrastructure Incentive Program by future notice in the **Federal Register** and *Grants.gov*, subject to the opening of the electronic application system.

ADDRESSES:

Application Submission: The application system for electronic submissions will be available at <http://www.rd.usda.gov/HBIIP>.

Electronic Submissions: Electronic submissions of applications will allow for the expeditious review of an Applicant's proposal. As a result, all Applicants must file their application electronically.

FOR ADDITIONAL INFORMATION CONTACT: Anthony Crooks: Telephone (202) 205-9322, email: EnergyPrograms@usda.gov. Persons with disabilities that require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION: Pursuant to the Congressional Review Act (CRA; 5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs in the Office of Management and Budget designated this action as a major rule, as defined by 5 U.S.C. 804(2), because it will result in an annual effect on the economy of \$100,000,000 or more. Accordingly, there is a 60-day delay in the effective date of this action. Application processing (reviews, competition, selection, awards, etc.) *will not begin until after the application deadline* 90 days after the application window date is announced by notice in the **Federal Register**. Therefore, the 60-day delay required by the CRA is not expected to have a material impact upon the administration and/or implementation of the HBIIP.

Overview

Federal Agency: The Commodity Credit Corporation (CCC) and the Rural Business-Cooperative Service (RBCS), (USDA).

Funding Opportunity Title: Notice of Funds Availability for the Higher Blends Infrastructure Incentive Program (HBIIP) for Fiscal Year 2020.

Announcement Type: Notice of Funds Availability.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.754.

Catalog of Federal Domestic Assistance (CFDA) Title: The Higher Blends Infrastructure Incentive Program (HBIIP).

Due Date for Applications: The Agency will finalize the application window for enrollment in the Higher Biofuels Infrastructure Incentive Program by notice in the **Federal Register** and *Grants.gov*, subject to future opening of the electronic application system.

Items in Supplementary Information

- I. Program Overview
- II. Federal Award Information
- III. Eligibility Information
- IV. Application and Submission Information
- V. Application Review Information
- VI. Federal Award Administration Information
- VII. Federal Awarding Agency Contacts
- VIII. Other Information

I. Program Overview

A. Background

Prior to publishing this Notice, the CCC and RBCS (the Agency) determined it to be in the public interest to solicit informal comments from the public and interested stakeholders on a wide range of issues on information and options for fuel ethanol and biodiesel infrastructure, innovation, products, technology, and data derived from all HBIIP processes that drive economic growth, promote health, and increase public benefit.

A Request for Information (RFI), was published in the **Federal Register** (85 FR 2699) on January 16, 2020. Information received from the public to the RFI was intended to inform the CCC and RBCS as well as private sector and other stakeholders with interest in and expertise relating to such a promotion. Fifty-seven (57) comments were submitted from the public which served to inform the Agency on an array of issues, including but not limited to: (a) Fueling stations, convenience stores, hypermarket fueling stations, fleet facilities, and similar entities with capital investments; (b) equipment providers, equipment installers, certification entities and other stakeholder/manufacturers (both upstream and down); (c) fuel distribution centers, including terminals and depots; and (d) those performing innovative research, and/or developing enabling platforms and applications in manufacturing, energy production, and agriculture. Additionally, on February 5, 2020, RBCS convened a Federal Inter-

Agency Task Force of experts with relevant knowledge, including technical experts from the Environmental Protection Agency and Department of Energy/National Renewable Energy Laboratory, to assist with the review of the public comments and provide recommendations for the guiding principles of this Notice. And, on February 28, 2020, an "Announcement of Future Competitive Grant Funds Availability for Higher Blends Infrastructure Incentive Program (HBIIP) for Fiscal Year 2020," was published in the **Federal Register** (85 FR 2699) to alert prospective participants and stakeholders of Agency intentions to publish this Notice.

B. Program Description

The purpose of the HBIIP is to increase significantly the sales and use of higher blends of ethanol and biodiesel. HBIIP is intended to encourage a more comprehensive approach to marketing higher blends by sharing the costs related to building out biofuel-related infrastructure.

Under the HBIIP, funds will be awarded to assist transportation fueling and fuel distribution facilities to convert their facilities through upgrade or installation of equipment required to ensure all equipment is fully compatible with higher blends of ethanol (*i.e.*, greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel) (HB fuel). The program will share the costs related to the upgrading of fuel dispensers (gas and diesel pumps) and attached equipment, underground storage tank system components (which includes but is not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants), and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

Storing and dispensing E15, E85, or other high blends of ethanol at gas stations with equipment that is not compatible with higher blends of ethanol fuel can result in leaks and releases that contaminate land and groundwater. Older and even some recent existing UST systems (which includes but is not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants) are not fully compatible with E15 or higher and require modification before storing these fuels. Biodiesel blends above B20 have similar requirements; some infrastructure changes may even be necessary when storing blends greater than B5. This program will expand the

number of facilities fully compatible with higher blends of ethanol and biodiesel.

Grants for up to 50 percent of total eligible project costs, but not more than \$5 million, are made available to vehicle fueling facilities, including, but not limited to, local fueling stations/locations, convenience stores (CS), hypermarket fueling stations (HFS), fleet facilities, and fuel terminal operations, midstream partners, and/or distribution facilities.

CCC is an agency and instrumentality of the United States within the Department of Agriculture and operates under the supervision of the Secretary of Agriculture. Among the activities that section 5 of the CCC Charter Act authorizes CCC to undertake are actions to:

- Make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco) and
- Increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.

Under this authority, CCC is making available up to \$100 million in the form of cost-share grants to eligible entities to assist with the implementation of activities to expand the infrastructure for renewable fuels derived from agricultural products produced in the United States. HBIIP will be administered on behalf of CCC under the general supervision of RBCS.

II. Federal Award Information

A. Catalog of Federal Domestic Assistance (CFDA) Number 10.754

Catalog of Federal Domestic Assistance (CFDA) Title: The Higher Blends Infrastructure Incentive Program (HBIIP).

B. Funds Available

Under HBIIP up to \$100 million is made available to eligible participants. Of the total amount of available funds, approximately \$86 million will be made available to transportation fueling facilities (including fueling stations, convenience stores, hypermarket fueling stations, fleet facilities, and similar entities with capital investments) for eligible implementation activities related to higher blends of fuel ethanol greater than 10 percent ethanol, such as E15 or higher; and approximately \$14 million will be made available to

transportation fueling facilities and fuel distribution facilities (including terminal operations, depots, and midstream partners), for eligible implementation activities related to higher blends of biodiesel greater than 5 percent biodiesel, such as B20 or higher.

C. Targeted Assistance Goal

A Targeted Assistance Goal is also established for applicants (owners) owning the fewest number of transportation fueling stations/locations (and owning at least one). Approximately 40 percent of funds will be made available for activities/investments related to upgrading or installing equipment to make a transportation fueling facilities fully compatible to dispense/sell higher blends of fuel ethanol and/or biodiesel. The Agency expects this Targeted Assistance to be exhausted by applicants owning 10 fueling stations/locations or fewer.

This policy goal is rooted in Agency experience and borne out by several comments submitted to the RFI (85 FR 2699). Approximately 80 percent of fuel sales in the U.S. is sold by convenience store owners. Moreover, about 58 percent of the stores selling fuel in the U.S. are “single store owners.” A significant majority of HB fuel is currently sold/dispensed by large retail convenience store chains located in the Midwest and along the East Coast of the U.S., due in part because these are the types of businesses and locations with the highest densities of HB fueling infrastructure. The Agency established this Targeted Assistance Goal as a means to distribute a portion of program funds among a greater number of business owners and perhaps indirectly, across a broader geographic region, that may not otherwise participate. There is an underlying expectation that owners/participants located in underserved areas today will be positioned as HB fuel market leaders tomorrow.

D. Consideration for Geographical Diversity

A Consideration for Geographical Diversity and markets underserved by higher blends is also afforded to applicants/participants based on the location of the proposed transportation fueling stations/facilities. This consideration is intended to work in concert with the Targeted Assistance Goal to distribute program funds more broadly across a greater number of states that may not otherwise participate.

E. Approximate Number of Awards

The number of awards will depend on the number of eligible participants and the total amount of requested funds. In the unlikely event that every successful applicant is awarded the maximum amount available of \$5 million, 20 awards will be made. The Agency intends/expects to make approximately 150 awards and provide assistance to 1,500 locations from this solicitation.

F. Type of Instrument

Grants. Awards to successful applicants will be in the form of cost-share grants for up to 50 percent of total eligible project costs, but not to exceed \$5 million, whichever is less.

III. Eligibility Information

A. Eligible Applicants

Owners of transportation fueling and fuel distribution facilities located in the United States and its territories may apply for this program. Eligible entities would include—fueling stations, convenience stores, hypermarket retailer fueling stations, fleet facilities, and similar entities with equivalent capital investments, as well as fuel/biodiesel terminal operations, midstream partners, and heating oil distribution facilities or equivalent entities.

Applicants must include all proposed activity under a single application. Application requirements and other important information is available at *Grants.gov* and on the HBIIP web page <https://www.rd.usda.gov/hbiip>.

B. Eligible Project

The goal of HBIIP is to increase the market availability of higher blends biofuels. To be eligible for this program, a project's sole purpose must be for the installation, and/or retrofitting, and/or otherwise upgrading of fuel dispensers/pumps, related/attached equipment, underground storage tank system components, and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

An eligible project must conform to all applicable Federal, State, Tribal and local regulatory requirements pertaining to:

- (1) Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks (UST), 40 CFR parts 280 and 281;
- (2) Regulation of Fuels and Fuel Additives, 40 CFR part 80;
- (3) Occupational Safety and Health Standards Subpart H—Hazardous

Materials Section 106—Flammable Liquids, 29 CFR 1910.106;

(4) Safety and Health Regulations for Construction Subpart F—Fire Protection and Prevention Section 152—Flammable Liquids, 29 CFR 1926.152; and

(5) Automotive Fuel Ratings, Certification, and Posting, 16 CFR part 306.

HBIP funds may be used for equipment required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

Since 1988, EPA's UST regulations require fuel to be stored in systems that are compatible with the type of fuel being stored. The environmentally-safe growth in availability of fuels containing higher blends of ethanol or biodiesel depends on these fuels being stored and dispensed from underground storage tank (UST) systems that are compatible with E15. Storing and dispensing E15 at gas stations with equipment that is not compatible with higher blends of ethanol fuel can result in leaks and releases that contaminate land and groundwater. Section 280.32 of 40 CFR part 280 states that UST owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.

Additionally, owners or operators who store regulated substances that contain more than 20 percent biodiesel or more than 10 percent ethanol, such as 15 percent ethanol or E15, must notify their implementing agency 30 days before storing the fuel. Owners and operators must also keep records demonstrating that their UST system is compatible with the substance stored.

Demonstrating compatibility of an UST system means identifying what equipment is installed as part of your UST system. You must show that a component is approved by either the manufacturer of the component or by a nationally recognized independent testing laboratory, such as Underwriters Laboratory (UL), for use with the fuel to be stored. See details about these requirements in regulations issued by EPA at 40 CFR 280.32.

Please note that compatibility extends beyond the fuel tank. Owners and operators must demonstrate compatibility for the components below to store substances containing more than 10 percent ethanol or more than 20 percent biodiesel.

1. Tank;
2. Piping carrying product from the tank;

3. Piping containment sumps entered by the piping;

4. Pumping equipment, including the submersible pump or suction pump, depending on the type of system;

5. Release detection equipment, including automatic tank gauging (ATG) probes, sump sensors, and line leak detectors;

6. Spill equipment, such as spill buckets, for the tank; and

7. Overfill equipment, including ball float valves or flapper valves.

The federal UST regulation from EPA does not require owners and operators to demonstrate the compatibility of dispensers or associated aboveground equipment. However, compatibility requirements for these components may exist in other local regulations, such as the fire code. Owners and operators should check for these requirements with their implementing agency. HBIP grant funds may be used to upgrade or replace fuel dispensers/pumps, underground storage tank system components, or other required infrastructure, necessary to make their facility fully compatible with higher blends of ethanol or biodiesel. Fuel dispensers/pumps, underground storage tank system components, and other required infrastructure and components must meet the minimum requirements of EPA's UST regulations and other Federal, State, and local regulations or codes; and, must be approved by either the manufacturer of the component or by a nationally recognized independent testing laboratory, such as Underwriters Laboratory (UL), for use at a minimum for blends containing 25 percent ethanol or 100 percent biodiesel.

C. Cost Sharing or Matching

There is a matching fund (cost-sharing) requirement of at least \$1 for every \$1 in grant funds provided by CCC. Matching funds plus grant funds must equal total eligible project cost. Matching funds may be in the form of cash or eligible in-kind contributions. Matching funds/contributions and grant funds may be used only for eligible project purposes, including any contributions exceeding the minimum amount required. Applicants will certify and demonstrate that any required matching funds are available during the grant period and provide appropriate documentation with the application, as referenced in Section IV.B of this Notice.

Funds made available under HBIP may only be used for eligible equipment, infrastructure and related expenses to support the sales and use of higher biofuel blends—fuel containing ethanol greater than 10 percent by

volume and/or fuel containing biodiesel blends greater than 5 percent by volume.

Applicants may enter into arrangements with private entities such as, but not limited to, commercial vendors of fuels, agricultural commodity promotional organizations, Tribes, and other entities interested in the renewable fuels in order to secure such non-Federal funds or in-kind contributions.

There are several existing or prior and ongoing State-led programs and private sector efforts to help provide funding for higher blend dispensers, related equipment and infrastructure. These programs may be included as part of any matching contribution requirement. However, the application must show how the HBIP grant will add to the infrastructure that fosters biofuel sales and use. HBIP funds are intended to provide additional incentives.

D. Eligible Funds

(1) *Matching Funds.* Those project funds required to receive an HBIP grant. The applicant is responsible for securing the remainder of the total eligible project costs not covered by grant funds. Matching funds are comprised of eligible in-kind contributions from third parties and/or cash. In-kind contributions by the applicant cannot be used to meet the matching fund requirement. Written commitments for matching funds (e.g., Letters of Commitment and bank statements) must be submitted with the Certification of Matching Funds when the application is submitted. Funds provided by the applicant in excess of matching funds are not matching funds. Unless authorized by statute, other Federal grant funds cannot be used to meet a matching funds requirement. Passive third-party equity contributions are acceptable for HBIP projects, including equity raised from the sale of Federal tax credits. In the event of ineligible, overstated, or otherwise unsubstantiated claims in the Certification of Matching Funds, the Agency reserves the right to adjust an application's grant request such that it is commensurate with eligible/actual Matching Funds, or take otherwise action as deemed appropriate.

Up to 10 percent of an applicant's Matching Funds requirement (up to five percent of total project costs) may be used to pay consumer education and/or marketing and/or signage related expenses. HBIP grant funds awarded to transportation fueling stations are intended to assist with converting those facilities to ensure full compatibility with HB fuel through upgrade or

installation of fuel dispensers, related equipment, and infrastructure. And while the contributions of consumer education and/or marketing and/or signage toward a fuel station's fuel sales are well recognized, a very tall sign to display fuel prices does not in any way assist a facility with higher blends compatibility. Therefore, the Agency determined that while HBIIP grant funds may not be used for consumer education and/or marketing and/or signage, Matching Funds may.

(2) *Eligible Project Costs.* Eligible Project Costs are only those costs incurred during the grant period and that are directly related to the use and purposes of the HBIIP. Eligible Project Costs may include:

(a) Retrofitting of existing, or purchase and installation of new, fuel dispensers (gas and/or diesel pumps) and attached equipment, underground storage tank system components, and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent;

(b) Construction, retrofitting, replacement, and improvements;

(c) Fees for construction permits and licenses; and

(d) Professional service fees for qualified consultants, contractors, installers, and other third-party services.

(e) HBIIP grant funds may not be used to pay for expenses related to consumer education and/or marketing and/or signage. However, up to 10 percent of an applicant's Matching Funds requirement (up to five percent of total project costs) may be used to pay for consumer education and/or marketing and/or signage related expenses.

E. Ineligible Project Costs

Ineligible project costs for HBIIP projects include, but are not limited to:

(1) Used equipment and vehicles;

(2) Construction or equipment costs that would be incurred regardless of the installation of HB fuel infrastructure shall not be included as eligible project costs. For example, a fuel storage tank for a fueling facility constructed during the grant period that would have been otherwise installed should not be included in an application. USDA believes all new tanks and piping available in the market only come in models compatible with higher blends of ethanol and biodiesel, so grant funds would not expand the market for higher blends by funding such tank or equipment installation. However, other required equipment such as fuel dispensers/pumps and other

underground storage tank system components that are still available in traditional and higher blend compatible models, the latter at a higher cost, may be considered in this funding program.

(3) Business operations that derive more than 10 percent of annual gross revenue (including any lease income from space or machines) from gambling activity, excluding State or Tribal authorized lottery proceeds, as approved by the Agency, conducted for the purpose of raising funds for the approved project;

(4) Business operations deriving income from activities of a sexual nature or illegal activities;

(5) Real property/land;

(6) Lease payments;

(7) Any project that creates a Conflict of Interest or an appearance of a Conflict of Interest;

(8) Funding of political or lobbying activities;

(9) To pay off any Federal direct or guaranteed loan or any other form of Federal debt. Any incurred expense, equipment purchase, or paid service prior to the grant period;

(10) Any expense associated with applying for this program; and

(11) Any expense associated with reporting results and/or outcomes during the disbursement, performance, and servicing portions of this program.

(12) Conflict of interest, for purposes of this program includes, but is not limited to:

(a) Distribution or payment of grant, guaranteed loan funds, and matching funds or award of project construction contracts to an individual owner, partner, or stockholder, or to a beneficiary or immediate family of the applicant when the recipient will retain any portion of ownership in the applicant's or borrower's project. Grant and matching funds may not be used to support costs for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest.

(b) Assistance to employees, relatives, and associates. The Agency will process any requests for assistance under this subpart in accordance with 7 CFR part 1900, subpart D.

(c) Member/delegate clause. No member of or delegate to Congress shall receive any share or part of this grant or any benefit that may arise there from; but this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress.

The U.S. Department of Agriculture Departmental Regulations and Laws that contain other compliance requirements

are referenced in paragraphs VI. and VIII., of this Notice.

Applicants who are found to be/have been in violation of applicable Federal Law/statutes will be deemed ineligible.

IV. Application and Submission Information

Applicants seeking to participate in this program must submit applications in accordance with this Notice.

A. Electronic Application and Submission

Applications must be submitted electronically using either the Government-wide www.Grants.gov website or by the secure-server portal <https://www.rd.usda.gov/hbiip>. No other form of application will be accepted.

Application and supporting materials are available at Grants.gov and on the HBIIP web page <https://www.rd.usda.gov/hbiip>.

B. Content and Form of Application Submission

Applicants must submit complete applications by the date identified in the **DATES** section of this Notice. Applications must contain all parts necessary for the RBCS to determine applicant and project eligibility, conduct the technical evaluation, calculate a priority score, rank and compete the application, as applicable, in order to be considered. All applications determined to be insufficient to these purposes shall be deemed as incomplete and will neither be competed nor receive funding.

(1) For Higher Blend Implementation Activities related to transportation fueling stations/facilities, the HBIIP Online Application is comprised of the following elements:

(a) SF 424 Application for Federal Assistance;

(b) HBIIP Project Worksheet with Priority Scoring Criteria: Transportation Fueling Stations/Facilities;

(c) SF 424C Budget Information—Construction Programs;

(d) HBIIP Project Technical Report;

(e) Certification of Matching Funds;

(f) Request for Environmental Information; and

(g) SF 424D Assurances—Construction Programs.

(2) For Higher Blend Implementation Activities related to fuel distribution facilities, an HBIIP Online Application is comprised of the following elements:

(a) SF 424 Application for Federal Assistance;

(b) HBIIP Project Worksheet with Priority Scoring Criteria: Fuel Distribution Facilities;

(c) Supporting information from a recent/recently updated (within 3 years)

feasibility study and/or business plan, or equivalent planning documentation;

(d) SF 424C Budget Information—

Construction Programs;

(e) HBIIP Project Technical Report;

(f) Certification of Matching Funds;

(g) Request for Environmental

Information; and

(h) SF 424D Assurances—

Construction Programs.

(3) *System for Award Management (SAM)*. Applicants must be registered in the System for Award Management (SAM) prior to applying; which can be obtained at no cost via a toll-free request line at (866) 705-5711 or online at <https://www.sam.gov/SAM/>.

Registration of a new entity in SAM requires an original, signed, and notarized letter stating that the applicant is the authorized Entity Administrator, before the registration will be activated. All recipients of Federal financial grant assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

All applicants except those that are individuals, in accordance with 2 CFR part 25, must have a DUNS/Unique Entity Identifier (UEI) number, which can be obtained at no cost via a toll-free request line at (866) 705-5711 or online at <http://fedgov.dnb.com/webform>.

(4) *Grants.gov*. To use *Grants.gov* and to use the HBIIP online application system you must already have a DUNS/Unique Entity Identifier (UEI) number and you must also be registered and maintain registration in SAM. We strongly recommend that you do not wait until the application deadline date to begin the application process.

(5) Instructions and resources for completing the online application are available on the HBIIP web page <https://www.rd.usda.gov/hbiip>. Applicants and their authorized/rightful users will be required to obtain an E-Auth Identification and obtain access to the secure portal. The application process requires the facility to both view and generate PDFs (Portable Document Files). The use of a Web browser such as Chrome or its equivalent is highly encouraged.

C. Submission Dates and Times

The deadline date for applications to be received in order to be considered for funding is specified in the **DATES** section at the beginning of this notice.

After electronically submitting an application through the HBIIP website, the applicant will receive an automated acknowledgement, specifying submission date and time, from the HBIIP online application system. In

order to be considered for funds under this Notice, applications must be deemed complete and must be received by the secure portal located on the HBIIP web page at <https://www.rd.usda.gov/hbiip> by the deadline.

D. Intergovernmental Review

Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. Instructions for completing this required element and a list of States that maintain a SPOC are available in the HBIIP online application.

E. Funding Restrictions

The following funding limitations apply to applications submitted under this Notice.

(1) Only one HBIIP application may be submitted per HBIIP applicant. An application may request HBIIP assistance for more than one location. An HBIIP applicant/application may receive one and only one award in this competition.

(2) There is no minimum HBIIP grant award.

(3) The maximum HBIIP grant award is not to exceed \$5,000,000.

(4) HBIIP grants are awarded on a cost share basis for not more than 50 percent of total eligible project costs.

(5) No HBIIP grant award may exceed an amount calculated as 50 percent of total eligible project costs or the Maximum HBIIP grant award amount of \$5,000,000, whichever is the lesser.

(6) If it is determined that an applicant is affiliated with another entity that has also applied, then the maximum grant award applies to all affiliated entities as if they applied as one applicant. An Affiliate is an entity controlling or having the power to control another entity, or a third party or parties that control or have the power to control both entities.

(7) Underground Storage Tanks and Systems (USTs).

(a) *New construction*. Fueling Stations/Locations/facilities constructed during the grant period are restricted from receiving HBIIP grant funds for underground storage tanks. RBCS has determined that tanks would be required of any new fueling stations/locations/facility regardless of any commitment to market higher blends. However, other required equipment such as fuel dispensers/pumps and other underground storage tank system

components that are still available in traditional and higher blend compatible models, the latter at a higher cost, may be considered in this funding program.

(b) *Existing fueling stations* that require upgraded, and/or retrofitted and/or additional underground storage tanks may request assistance of up to 25 percent of total eligible project costs or up to \$1,250,000, whichever is the lesser. They are eligible for any required equipment including, but not limited to, the tank, piping, piping containment sumps, underground pumping equipment, including the submersible pump or suction pump, release detection equipment, spill equipment (spill buckets), overfill equipment, fuel dispensers/pumps, or other equipment.

(8) HBIIP grant funds may not be used to pay for expenses related to consumer education, marketing, and/or signage. However, up to 10 percent of an applicant's Matching Funds (five percent of total project costs) may be used to pay for education/marketing/signage related expenses.

(9) No HBIIP grant funds may be used to pay for any incurred expense, equipment purchase, or service paid outside the grant period.

F. Multiple Facilities

While only one HBIIP application may be submitted per applicant under this Notice, an application may request assistance for multiple facilities/locations. Section "E. (6) Funding Restrictions," advises on instances where more than one application is submitted by one or more affiliates of an entity.

G. Compliance With Other Federal Statutes and Other Submission Requirements

(1) *Environmental information*. For the RBCS to consider an application, the application must include all environmental review documents with supporting documentation in accordance with 7 CFR part 1970 and as referenced in Section IV.B of this Notice. Any required environmental review must be completed prior to obligation of funds. Applicants are advised to contact RBCS to determine environmental requirements as soon as practicable to ensure adequate review time.

Applicants should also submit to RBCS the compatibility verification of equipment to be funded. EPA regulations found in 40 CFR 280.32 require demonstrating compatibility of systems storing fuel containing greater than 10 percent ethanol or greater than 20 percent biodiesel, so RBCS collecting this information in advance is not an

additional burden for applicants. It will ensure that grant funds are used for purposes that expand the environmentally safe availability of fuel containing higher blends of ethanol and biodiesel. More information can be found in this June 2019 compliance advisory from the EPA Office of Underground Storage Tanks: <https://www.epa.gov/sites/production/files/2019-06/documents/compliance-advisory-ust-regs-06-2019.pdf>.

(2) *Original signatures.* The RBCS reserves the right to request/require that the applicant provide original signatures on forms submitted electronically.

(3) *Transparency Act reporting.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. If an applicant does not have an exception under 2 CFR 170.110(b), the applicant must then ensure that they have the necessary processes and systems in place to comply with the reporting requirements to receive funding.

(4) *Race, ethnicity, and gender.* The RBCS is requesting that each applicant provide race, ethnicity, and gender information about the applicant. The information will allow the Agency to evaluate its outreach efforts to underserved and under-represented populations. *Applicants are encouraged to furnish this information with their applications but are not required to do so.* An applicant's eligibility or the likelihood of receiving an award will not be impacted by furnishing or not furnishing this information.

(5) *Other Federal statutes.* The applicant must certify to compliance with other Federal statutes and regulations by completing the Financial Assistance General Certifications and Representations in SAM, including, but not limited to the following:

(a) 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964. Civil Rights compliance includes, but is not limited to the following:

(i) Collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure that ultimate recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with Office of Management and Budget (OMB) **Federal Register** Notice, "Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity" (published October 30, 1997 at 62 FR 58782). Sex data will be collected in accordance with Title IX of the

Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by RBCS.

(ii) The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12250, and 7 CFR part 1901, subpart E.

(b) 2 CFR part 417—Governmentwide Debarment and Suspension (Non-procurement), or any successor regulations.

(c) 2 CFR parts 200 and 400 (Uniform Assistance Requirements, Cost Principles and Audit Requirements for Federal Awards), or any successor regulations.

(d) Subpart B of 2 CFR part 421, which adopts the Governmentwide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

(e) Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." For information on limited English proficiency and agency-specific guidance go to <http://www.lep.gov/>.

(f) Federal Obligation Certification on Delinquent Debt.

V. Application Review Information

A. Criteria

A priority score will be afforded to complete applications deemed eligible to compete. Given the purpose of the HBIP, higher priority will be afforded to projects deemed to increase significantly the sales and use of higher blends of ethanol and biodiesel on a gallons per dollar of requested funds, basis. Priority scoring and ranking of applications will be a function of the following criteria:

(1) *For Higher Blend Implementation Activities related to transportation fueling facilities.*

(a) Annual sales volume for the past 3 years (2017–19) or projected sales for fueling stations constructed during the grant period, for all fuels including E10 and/or B5;

(b) The incremental increase in HB fuel volume attributed to:

(i) The proposed change in percentage of refueling positions offering E15 and/or B20 or higher blends (the greater percentage of HB fuel refueling positions, the greater the HB fuel volume attribution);

(ii) The proposed new ratio number of fueling positions offering E15 and/or B20 relative to the number of fueling positions offering E10 and/or B5 (the

greater the ratio of HB fuel refueling positions relative to E10 and/or B5, the greater the HB fuel volume attribution);

(iii) The proposed ratio number of fueling positions offering E85 relative to the number of fueling positions offering E10 (the greater the ratio of E85 refueling positions relative to E10, the greater the HB fuel volume attribution);

(iv) The proposed change in the number of fueling stations with at least one E15 fueling position (the greater the number of fueling stations, the greater the HB fuel volume attribution);

(v) Whether the applicant is an owner of 10 fueling stations or fewer (if yes, a Targeted Assistance Goal, HB fuel volume attribution);

(vi) The proposed number of fueling stations located along an interstate highway corridor;

(vii) The proposed number of fueling stations located as the sole station (within a 1-mile radius) in an area;

(viii) The proposed number of fueling stations located in areas under consideration for Geographic Diversity:

1. The New England States of—Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island; and/or

2. The Western States of—Arkansas, Arizona, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming;

(ix) A "Matching Funds" investment/commitment to higher blends signage and/or marketing is proposed (non-zero investment yields greater HB fuel volume attribution);

(c) The total amount of requested funds.

The HBIP online application, "Project Worksheet with Priority Scoring Criteria for Transportation Fueling Stations/Facilities," is interactive and designed to indicate an applicant's priority score based on—HBIP activities (e.g., fuel dispensers, related equipment and infrastructure installations), Administrator's geographic diversity priorities, Targeted Assistance Goals (if applicable), and the amount of requested funds. Applicants may directly influence their priority score by the activities they select in the worksheet and by the amount of grant funds they request.

Transportation fueling stations/facilities applications should take special care to provide evidentiary documentation in support of their proposed activities in the HBIP Project Technical Report. In the event of suspect, overstated, or otherwise unsubstantiated claims, the Agency

reserves the right to adjust an application's priority score accordingly.

(2) *For Higher Blend Implementation Activities related to fuel distribution facilities.*

(a) Annual throughput volume for past 3 years (2017–19), for all fuels;

(b) The incremental increase in throughput of HB fuel, as substantiated by:

- i. Validated demand;
- ii. Market drivers;
- iii. Documented incentives;
- iv. Project sustainability;
- v. Investment to consumer education and marketing; and
- vi. Partnerships;

(c) The total amount of requested funds.

Fuel distribution facility applications should take special care to provide evidentiary documentation in support of their throughput projections in the feasibility study/business plan/equivalent planning documents and in the HBIIP Project Technical Report. In the event of suspect, overstated, or otherwise unsubstantiated claims, the Agency reserves the right to adjust an application's priority score accordingly.

B. Review and Selection Process

All complete applications will be competed/ranked in accordance with Section V.A., as specified above. Applicants may work to complete the online application until the deadline specified in the **DATES** section of this Notice.

Due to the competitive nature of this program, applications receiving the same priority score will be competed/ranked based on submittal date. The submittal date is the date the RBCS receives a complete application. A complete application contains all information requested by RBCS and is sufficient to allow the determination of eligibility, score, rank, and compete the application for funding, subject to funds available. Incomplete applications will not be competed and will not receive funding.

C. Administrator Points

The RBCS retains the discretion to award priority to applications that support HBIIP policy goals and that specifically promote economic development to improve life in rural areas that are most in need:

(1) *Targeted Assistance Goal* of up to 40 percent of funds made available for activities/investments related to higher blends of fuel ethanol to applicants (owners) owning 10 transportation fueling stations/locations or fewer.

(2) *A Consideration for Geographical Diversity* and markets underserved by

higher blends is also afforded to applicants/participants based on location of the proposed transportation fueling stations/locations.

D. Other Requirements

In order to be considered for funds, complete applications must be received by the deadline specified in the **DATES** section of this Notice.

(1) *Insufficient funds.* If available funds are insufficient to fund the total amount of an application:

(a) The applicant will be notified and given the option to lower the grant request and accept the remaining funds. If the applicant agrees to lower the grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

(b) If two or more applications have the same priority score and the same submittal date, both applicants will be notified and given the option to lower the grant requests and accept the remaining funds. If an applicant agrees to lower its grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

(2) *Award considerations.* All award considerations will be on a discretionary basis. In determining the amount of an award, the RBCS will consider the amount requested, subject to:

(a) The maximum cost-share amount of 50 percent of total eligible project costs, or a lesser amount when deemed appropriate, and/or

(b) the Maximum Award amount of \$5 million, and/or

(c) available funds; whichever is least, as applicable.

(3) *Notification of funding determination.* Applicants will be informed in writing by the RBCS as to the funding determination of the application.

VI. Federal Award Administration Information

A. Federal Award Notices

HBIIP grants will be administered in accordance with Departmental Regulations, and as otherwise specified in this Notice.

Applicants selected for funding, will receive a signed notice of Federal award containing instructions on requirements necessary to proceed with execution and performance of the award.

Applicants not selected for funding will be notified in writing and informed of any review and appeal rights. Awards to successfully appealed applications will be limited to available funding.

B. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2.

In addition, all recipients of Federal financial assistance are required to report information about first tier subawards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)). More information on these requirements can be found at <http://www.rd.usda.gov/HBIIP>. The following additional requirements apply to grantees selected for this program:

(1) Grant Agreement—RD 4280–2

Rural Business-Cooperative Service Financial Assistance Agreement;

(2) Letter of Conditions;

(3) Form RD 1940–1, “Request for Obligation of Funds;”

(4) Form RD 1942–46, “Letter of Intent to Meet Conditions;” and

(5) Use Form SF 270, “Request for Advance or Reimbursement.”

C. Reporting

After grant approval and through grant completion, grantees will be required to provide periodically the following, as indicated:

(1) A SF–425, “Federal Financial Report,” and a project performance report will be required on a semiannual basis (due 30 working days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Grant Agreement; which for fueling stations will include point of sale reporting for up to 5 years post project completion and for fuel distribution facilities will include reporting of throughput volumes of all fuels including HB fuels.

(2) A final project and financial status report, as required per 2 CFR 200.343 “Closeout”, within 90 days after the expiration or termination of the grant.

(3) Provide project outcome/performance reports and final deliverables. Reported data will be used for program and policy evaluation. The proprietary nature and confidentiality of information collected from program participants is specified in 7 U.S.C. 2276.

VII. Federal Awarding Agency Contacts

For further information contact: Anthony Crooks: telephone (202)205-9322, email: EnergyPrograms@usda.gov. Persons with disabilities that require alternative means for communication should contact the USDA Target Center at (202)720-2600 (voice).

VIII. Other Information

A. Paperwork Reduction Act

The Information Collection and Recordkeeping requirements contained in this rule have been approved by an emergency clearance under OMB Control Number 0570-NEW. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), RBCS invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB). RBCS invites comments on any aspect of this collection of information including suggestions for reducing the burden. Comments may be submitted regarding this information collection by the following method:

- *Federal eRulemaking Portal*: Go to <https://www.regulations.gov> and, in the lower "Search Regulations and Federal Actions" box, select "RBCS" from the agency drop-down menu, then click on "Submit." In the Docket ID column, select Docket No. RBS-20-Business-0006 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link. Comments on this information collection must be received by July 6, 2020. The information collection is one-time activity for the applications, however, RBCS will need to submit a formal information collection request for the approval beyond the 6-month emergency approval to address the ongoing reporting requirement.

The burden for the HBIIP collection of information includes both the upfront one-time application and the on-going reporting, which will include mid-year and an annual reporting. The reporting may include additional reports for projects that run longer.

Comments are invited on (a) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (b) ways to enhance the quality, utility, and clarity of the information to be collected; and (c) ways to minimize the burden of the collection of information

on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques on other forms and information technology.

Title: Higher Blends Infrastructure Incentive Program (HBIIP).

OMB Control Number: 0570-New.

Type of Request: New Information Collection.

Abstract: The purpose of the HBIIP is to increase significantly the sales and use of higher blends of ethanol and biodiesel. HBIIP is intended to encourage a more comprehensive approach to marketing higher blends by sharing the costs related to building out biofuel-related infrastructure.

Under the HBIIP, funds will be made directly available to assist transportation fueling and fuel distribution facilities with converting to higher ethanol and biodiesel blend friendly status by sharing the costs related to the installation, and/or retrofitting, and/or otherwise upgrading of fuel storage, dispenser/pumps, related equipment, and infrastructure.

Cost-share grants of up to 50 percent of total eligible project costs but not more than \$5 million will be made available to assist transportation fueling and fuel distribution facilities with converting to higher blend friendly status for ethanol (*i.e.*, greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel) by sharing the costs related to the installation, and/or retrofitting, and/or otherwise upgrading of dispenser/pumps, related equipment, and infrastructure.

The information collected from applications as required by this NOFA include, but are not limited to determine whether participants meet the eligibility requirements to be a recipient of grant funds, project eligibility, conduct the technical evaluation, calculate a priority score, rank and compete the application, as applicable, in order to be considered. Lack of adequate information to make the determination could result in the improper administration and appropriation of Federal grant funds to be a recipient of grant funds as well as other documents and information that may be relevant as determined by RBCS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 78 hours per response.

Estimated Number of Respondents: 100.

Estimated Total Annual Responses: 200.

Estimated Total Recordkeeping Hours: 480.

Estimated Total Burden Hours: 15,600.

Estimated Total Annual Burden (including recordkeeping) on Respondents: 16,080 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Regulatory Division Team 2, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250. Phone: 202-720-7853.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

B. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, reprisal and where applicable, political beliefs, marital status, familial or parental status, religion, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or complete the form at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250-9410, by fax (202) 690-7442 or email at program.intake@usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us directly by mail or by email. If you require alternative means of communication for program information

(e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Robert Stephenson,
Executive Vice President, Commodity Credit Corporation.

Mark Brodziski,
Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2020-09685 Filed 5-4-20; 8:45 am]

BILLING CODE 3410-05-P

Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1-800-977-8339 and providing the operator with the toll-free conference call-in number: 1-800-353-6461 and conference call 9016813.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425 or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at (202) 376-7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmXAAQ>, click the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the

Commission's website, www.usccr.gov, or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Thursday, May 21, 2020 at 11:00 a.m. (EDT)

- Roll call
- Press Conference
- Other Business
- Open Comment
- Adjourn

Dated: April 29, 2020.

David Mussatt,
Supervisory Chief, Regional Programs Unit.

[FR Doc. 2020-09533 Filed 5-4-20; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Vermont Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a press conference of the Vermont Advisory Committee to the Commission will convene by conference call at 11:00 a.m. (EDT) on Thursday, May 21, 2020. The purpose of the press conference is to discuss the Committee's report on school disparities. The Committee will also consider other possible work products to conclude its appointment term, which ends in June 2020.

DATES: Thursday, May 21, 2020, at 11:00 a.m. (EDT)

Public Call-In Information:
Conference call-in number: 1-800-353-6461 and conference call 9016813.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at ero@usccr.gov or by phone at 202-376-7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1-800-353-6461 and conference call 9016813.

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below.

Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[4/15/2020 through 4/20/2020]

Firm name	Firm address	Date accepted for investigation	Product(s)
Kaspar Wire Works, Inc	959 State Highway 95 North, Shiner, TX 77984.	4/15/2020	The firm manufactures formed metal wire products, such as metal wire baskets and cages.
Composite Cutter Technology, Inc	31632 North Ellis Drive, Volo, IL 60073	4/17/2020	The firm manufactures precision turning and cutting tools.
Fuller Industries, LLC	One Fuller Way, Great Bend, KS 67530	4/20/2020	The firm manufactures brushes and chemical cleaning products.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2020-09606 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-WH-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-880]

Barium Carbonate From the People's Republic of China: Final Results of the Expedited Third Sunset Review of the Antidumping Duty Order

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

SUMMARY: The Department of Commerce (Commerce) finds that revocation of the antidumping duty order on barium carbonate from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable May 5, 2020.

FOR FURTHER INFORMATION CONTACT: Eliza Siordia, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3878.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2003, Commerce published the *Order* on barium carbonate from China.¹ On January 2, 2019, Commerce published the notice of

initiation of the five-year sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On January 13, 2020, Commerce received a notice of intent to participate in this review from Chemical Products Corporation (CPC) within the deadline specified in 19 CFR 351.218(d)(1)(i).³ CPC claimed interested party status under section 771(9)(C) of the Act as a manufacturer of a domestic like product in the United States. On January 29, 2020, CPC provided a complete substantive response for this review within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴ We received no substantive responses from any other interested parties, nor was a hearing requested. On February 25, 2020, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.⁵ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of this *Order*.

Scope of the Order

The product covered by this order is barium carbonate, regardless of form or grade. The product covered by this order is currently classifiable under subheading 2836.60.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in this review, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the order were revoked, are addressed in the accompanying Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

² See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 67 (January 2, 2020).

³ See CPC's Letter, "Notice of Intent to Participate," dated January 13, 2020.

⁴ See CPC's Letter, "Substantive Response to Notice of Initiation," dated January 29, 2020.

⁵ See Commerce's Letter, "Sunset Reviews Initiated on January 2, 2020," dated February 25, 2020.

(ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on barium carbonate from China would likely lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Exporter	Weighted-average margin (%)
Qingdao Red Star Chemical Import & Export Co., Ltd	34.44
China-Wide Entity	81.30

Administrative Protective Order (APO)

This notice serves as the only reminder to interested parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: April 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. History of the Order
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins Likely To Prevail
- VII. Final Results of Sunset Review

¹ See *Antidumping Duty Order: Barium Carbonate from the People's Republic of China*, 68 FR 56619 (October 1, 2003) (*Order*).

VIII. Recommendation

[FR Doc. 2020-09594 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-791-815, A-570-873]

Ferrovandium From the Republic of South Africa and the People's Republic of China: Final Results of the Expedited Third Sunset Reviews of the Antidumping Duty Orders

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

SUMMARY: As a result of these expedited sunset reviews, Commerce finds that revocation of the antidumping duty (AD) orders would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the "Final Results of Review" section of this notice.

DATES: Applicable May 5, 2020.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4798.

SUPPLEMENTARY INFORMATION:**Background**

On January 2, 2020, Commerce published the notice of initiation of the third sunset review of the AD orders on ferrovandium from the Republic of South Africa (South Africa) and the People's Republic of China (China)¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² On January 17, 2020, Commerce received notices of intent to participate from the Vanadium Producers and Reclaimers Association (VPRA) and its individual members—AMG Vanadium LLC (AMG V), Evergreen Metallurgical LLC, d.b.a. Bear Metallurgical Company (Bear), and U.S. Vanadium, LLC (U.S. Vanadium), within the 15-day deadline specified in 19 CFR 351.218(d)(1)(i).³ VPRA claimed

interested party status under section 771(9)(E) of the Act as a trade or business association a majority of whose members manufacture, produce, or wholesale a domestic like product in the United States.

On January 27, 2020, Commerce received adequate substantive responses to the notice of initiation from VPRA within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴ We received no substantive responses from respondent interested parties with respect to either of the orders covered by these sunset reviews.

On February 25, 2020, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.⁵ As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the AD orders on ferrovandium from South Africa and China.

Scope of the Orders

The scope of these orders covers all ferrovandium regardless of grade, chemistry, form, shape, or size. Ferrovandium is an alloy of iron and vanadium that is used chiefly as an additive in the manufacture of steel. The merchandise is commercially and scientifically identified as vanadium. It specifically excludes vanadium additives other than ferrovandium, such as nitride vanadium, vanadium-aluminum master alloys, vanadium chemicals, vanadium oxides, vanadium waste and scrap, and vanadium-bearing raw materials such as slag, boiler residues and fly ash. Merchandise under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers 2850.00.2000, 8112.40.3000, and 8112.40.6000 are specifically excluded.

Ferrovandium is classified under HTSUS item number 7202.92.00. Although the HTSUS item number is provided for convenience and Customs

China: Notice of Intent to Participate," dated January 17, 2020. VPRA indicated that AMG V and Bear are producers of a domestic like product, ferrovandium, in the United States and wholesalers of domestically-produced ferrovandium in the United States, and that U.S. Vanadium has periodically been a wholesaler of domestically produced ferrovandium in the United States.

⁴ See VPRA's Letter, "Ferrovandium from the Republic of South Africa: Substantive Response to the Notice of Initiation," dated January 27, 2020; see also VPRA's Letter, "Ferrovandium from the People's Republic of China: Substantive Response to the Notice of Initiation," dated January 27, 2020.

⁵ See Commerce's Letter, "Sunset Review {sic} Initiated on January 2, 2020," dated February 25, 2020.

purposes, Commerce's written description of the scope of these orders remains dispositive.

Analysis of Comments Received

All issues raised in these sunset reviews are addressed in the Issues and Decision Memorandum.⁶ The issues discussed in the Issues and Decision Memorandum are the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the orders were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Final Results of Reviews

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the AD orders on ferrovandium from South Africa and China would be likely to lead to the continuation or recurrence of dumping at weighted-average dumping margins up to 116.00 percent for South Africa and 66.71 percent for China.

Administrative Protective Order (APO)

This notice also serves as the only reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(c),

⁶ See Memorandum, "Issues and Decision Memorandum for the Expedited Third Sunset Reviews of the Antidumping Duty Orders on Ferrovandium from the Republic of South Africa and the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

¹ See Notice of Antidumping Duty Order: Ferrovandium from the Republic of South Africa, 68 FR 4169 (January 28, 2003); see also Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Ferrovandium from the People's Republic of China, 68 FR 4168 (January 28, 2003).

² See Initiation of Five-Year (Sunset) Reviews, 85 FR 67 (January 2, 2020).

³ See VPRA's Letter, "Ferrovandium from South Africa: Notice of Intent to Participate," dated January 17, 2020; see also VPRA's Letter, "Ferrovandium from the People's Republic of

and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: April 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. History of the Orders
- V. Legal Framework
- VI. Discussion of the Issues
 - A. Likelihood of Continuation or Recurrence of Dumping
 - B. Magnitude of the Dumping Margins Likely To Prevail
- VII. Final Results of Sunset Reviews
- VIII. Recommendation

[FR Doc. 2020-09582 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-932]

Certain Steel Threaded Rod From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019

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

SUMMARY: The Department of Commerce (Commerce) continues to determine that two companies under review had no shipments of subject merchandise during the period of review (POR) April 1, 2018 through March 31, 2019. Additionally, Commerce continues to determine that the remaining companies subject to this review are part of the China-wide entity because they failed to file no shipment statements, separate rate applications, or separate rate certifications.

DATES: Applicable May 5, 2020.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7425.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 2019, Commerce published the *Preliminary Results* of the administrative review of the antidumping duty order on certain steel

threaded rod from the People's Republic of China (China).¹ We invited parties to submit comments on the *Preliminary Results*. No party submitted comments. Accordingly, the final results remain unchanged from the *Preliminary Results*.

Scope of the Order

The merchandise covered by the order is steel threaded rod. Steel threaded rod is certain threaded rod, bar, or studs, of carbon quality steel, having a solid, circular cross section, of any diameter, in any straight length, that have been forged, turned, cold-drawn, cold-rolled, machine straightened, or otherwise cold-finished, and into which threaded grooves have been applied. In addition, the steel threaded rod, bar, or studs subject to the order are non-headed and threaded along greater than 25 percent of their total length. A variety of finishes or coatings, such as plain oil finish as a temporary rust protectant, zinc coating (*i.e.*, galvanized, whether by electroplating or hot-dipping), paint, and other similar finishes and coatings, may be applied to the merchandise.

Included in the scope of the order are steel threaded rod, bar, or studs, in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 1.80 percent of manganese, or
- 1.50 percent of silicon, or
- 1.00 percent of copper, or
- 0.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 1.25 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.012 percent of boron, or
- 0.10 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.41 percent of titanium, or
- 0.15 percent of vanadium, or
- 0.15 percent of zirconium.

Steel threaded rod is currently classifiable under subheadings 7318.15.5051, 7318.15.5056, 7318.15.5090, and 7318.15.2095 of the United States Harmonized Tariff Schedule (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

¹ See *Certain Steel Threaded Rod from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018-2019*, 84 FR 71900 (December 30, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

Excluded from the scope of the order are: (a) Threaded rod, bar, or studs which are threaded only on one or both ends and the threading covers 25 percent or less of the total length; and (b) threaded rod, bar, or studs made to American Society for Testing and Materials (ASTM) A193 Grade B7, ASTM A193 Grade B7M, ASTM A193 Grade B16, or ASTM A320 Grade L7.

Final Determination of No Shipments and Status of the China-Wide Entity

Commerce preliminarily found that Certified Products International Inc. (CPI) and RMB Fasteners Ltd. and IFI & Morgan Ltd. (collectively, RMB/IFI) had no shipments of subject merchandise to the United States during the POR. As noted in the Preliminary Decision Memorandum, we received no shipment statements from CPI and RMB/IFI, and these statements were consistent with the information we received from U.S. Customs and Border Protection (CBP).²

No party commented on our preliminary no shipment finding with respect to CPI and RMB/IFI, and no party submitted record evidence that calls this finding into question. Therefore, for these final results, we continue to find that CPI and RMB/IFI did not have any shipments of subject merchandise to the United States during the POR.

In addition, we continue to find that the remaining 172 companies subject to this administrative review are part of the China-wide entity because they failed to file no-shipment statements, separate rate applications, or separate rate certifications.³ Because no party requested a review of the China-wide entity, and we did not self-initiate a review, the China-wide entity rate (*i.e.*, 206.00 percent)⁴ is not subject to change as a result of this review.⁵

Assessment Rates

We have not calculated any assessment rates in this administrative review. Based on record evidence, we have determined that CPI and RMI/IFI had no shipments of subject merchandise and, therefore, pursuant to Commerce's assessment practice, any suspended entries that entered under

² See Preliminary Decision Memorandum at 3-4.

³ See Appendix I, *Preliminary Results*, 84 FR at 71900.

⁴ See *Certain Steel Threaded Rod from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 8907 (February 27, 2009).

⁵ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

their case numbers will be liquidated at the China-wide entity rate.⁶

For all remaining companies subject to this review, which are part of the China-wide entity, we will instruct CBP to liquidate their entries at the current rate for the China-wide entity (*i.e.*, 206.00 percent). Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this administrative review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently completed period; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 206.00 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because the companies under review either have no reviewable shipments or are part of the China-wide entity, there are no calculations to disclose.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of

antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h).

Dated: April 29, 2020.

Jeffrey I. Kessler,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Companies Not Granted a Separate Rate

1. Aerospace Precision Corp. (Shanghai) Industry Co., Ltd.
2. Aihua Holding Group Co. Ltd.
3. Autocraft Industry (Shanghai) Ltd.
4. Autocraft Industry Ltd.
5. Billion Land Ltd.
6. Billion Technology Ltd.
7. Billiongold Hardware Co. Ltd.
8. BOLT Mfg. Trade Ltd.
9. Brighton Best International (Taiwan) Inc.
10. Brother Holding Group Co. Ltd.
11. C and H International Corporation
12. Catic Fujian Co., Ltd.
13. Cci International Ltd.
14. Century Distribution Systems Inc.
15. Changshu City Standard Parts Factory
16. China Friendly Nation Hardware Technology Limited
17. D.M.D. International Co. Ltd.
18. Da Cheng Hardware Products Co., Ltd.
19. Dalian Xingxin Steel Fabrication
20. Dongxiang Accuracy Hardware Co., Ltd.
21. Ec International (Nantong) Co. Ltd.
22. Fastco (Shanghai) Trading Co., Ltd.
23. Fasten International Co., Ltd.
24. Fastenal Canada Ltd.
25. Fastwell Industry Co. Ltd.
26. Fook Shing Bolts & Nuts Co. Ltd.
27. Fuda Xiongzheng Machinery Co., Ltd.
28. Fuller Shanghai Co. Ltd.
29. Gem-Year Industrial Co. Ltd.
30. Guangdong Honjinn Metal & Plastic Co.,

- Ltd.
31. Hainan Zhongyan United Development Co.
32. Haining Hifasters Industrial Co.
33. Haining Shende Imp. & Exp. Co. Ltd.
34. Haining Zhongda Fastener Co., Ltd.
35. Haiyan Ai&Lun Standard Fastener Co.
36. Haiyan Chaoqiang Standard Fastener
37. Haiyan Dayu Fasteners Co., Ltd.
38. Haiyan Evergreen Standard Parts Co. Ltd.
39. Haiyan Fuxin High Strength Fastener
40. Haiyan Hatehui Machinery Hardware
41. Haiyan Hurras Import & Export Co. Ltd.
42. Haiyan Jianhe Hardware Co. Ltd.
43. Haiyan Julong Standard Part Co. Ltd.
44. Haiyan Shangchen Imp. & Exp. Co.
45. Haiyan Yuxing Nuts Co. Ltd.
46. Hangzhou Everbright Imp. & Exp. Co. Ltd.
47. Hangzhou Grand Imp. & Exp. Co., Ltd.
48. Hangzhou Great Imp. & Exp. Co. Ltd.
49. Hangzhou Lizhan Hardware Co. Ltd.
50. Hangzhou Prostar Enterprises Ltd.
51. Hangzhou Tongwang Machinery Co., Ltd.
52. Hilti (China) Ltd.
53. Hong Kong Sunrise Fasteners Co. Ltd.
54. Hong Kong Yichen Co. Ltd.
55. Honoble Precision (China) Mfg.
56. Intech Industries Shanghai Co., Ltd.
57. Jiangsu Innovo Precision Machinery
58. Jiangsu Jinhuan Fastener Co., Ltd.
59. Jiangsu Zhongweiyu Communication Equipment Co. Ltd.
60. Jiashan Steelfit Trading Co. Ltd.
61. Jiashan Zhongsheng Metal Products Co., Ltd.
62. Jiaxing Allywin Mfg. Co., Ltd.
63. Jiaxing Brother Standard Part Co., Ltd
64. Jiaxing Chinafar Standard
65. Jiaxing Jinhua Import & Export Co., Ltd.
66. Jiaxing Sini Fastener Co., Ltd.
67. Jiaxing Xinyue Standard Part Co. Ltd.
68. Jiaying Yaoliang Import & Export Co. Ltd.
69. Jinan Banghe Industry & Trade Co., Ltd.
70. Kinfast Hardware (Shenzhen) Ltd.
71. King Socket Screw Company Ltd.
72. L&W Fasteners Company
73. Macropower Industrial Inc.
74. Mai Seng International Trading Co., Ltd.
75. MB Services Company
76. Midas Union Co., Ltd.
77. Nanjing Prosper Import & Export Corporation Ltd.
78. Nantong Runyou Metal Products
79. New Pole Power System Co. Ltd.
80. Ningbiao Bolts & Nuts Manufacturing Co.
81. Ningbo Abc Fasteners Co., Ltd.
82. Ningbo Beilun Milfast Metalworks Co. Ltd.
83. Ningbo Beilun Pingxin Hardware Co., Ltd.
84. Ningbo Dexin Fastener Co. Ltd.
85. Ningbo Dongxin High-Strength Nut Co., Ltd.
86. Ningbo Exact Fasteners Co., Ltd.
87. Ningbo Fastener Factory
88. Ningbo Fengya Imp. and Exp. Co. Ltd.
89. Ningbo Fourway Co., Ltd.
90. Ningbo Haishu Holy Hardware Import and Export Co. Ltd.
91. Ningbo Haishu Wit Import & Export Co. Ltd.
92. Ningbo Haishu Yixie Import & Export Co. Ltd.
93. Ningbo Jinding Fastening Piece Co., Ltd.
94. Ningbo MPF Manufacturing Co. Ltd.
95. Ningbo Panxiang Imp. & Exp. Co. Ltd.

⁶ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

96. Ningbo Qianjiu Instrument Case Factory
97. Ningbo Seduno Imp. Exp. Co., Ltd.
98. Ningbo Yili Import & Export Co., Ltd.
99. Ningbo Yinzhou Dongxiang Accuracy Hardware Co., Ltd.
100. Ningbo Yinzhou Foreign Trade Co., Ltd.
101. Ningbo Yinzhou Woafan Industry & Trade Co., Ltd.
102. Ningbo Zhenghai Yongding Fastener Co., Ltd.
103. Ningbo Zhenhai Beisuda Equipment Co.
104. Ningbo Zhenhai Dingli Fastener Screw Co., Ltd.
105. Ningbo Zhenhai Jinhuan Fasteners
106. Ningbo Zhongjiang High Strength Bolts Co., Ltd.
107. Ningbo Zhongjiang Petroleum Pipes & Machinery Co. Ltd.
108. Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd.
109. Orient Rider Corporation Ltd.
110. Panxiang Imp. & Exp. Co., Ltd.
111. Pol Shin Fastener (Zhejiang) Co.
112. Prosper Business and Industry Co., Ltd.
113. Qingdao Free Trade Zone Health Intl.
114. Qingdao Top Steel Industrial Co. Ltd.
115. Sampulse Industrial Co., Ltd.
116. Shaanxi Succeed Trading Co., Ltd.
117. Shanghai Autocraft Co., Ltd.
118. Shanghai Beitra Fasteners Co., Ltd.
119. Shanghai East Best Foreign Trade Co.
120. Shanghai East Best International Business Development Co., Ltd.
121. Shanghai E-Heng Imp. & Exp. Co. Ltd.
122. Shanghai Fortune International Co. Ltd.
123. Shanghai Furen International Trading
124. Shanghai Hunan Foreign Economic Co., Ltd.
125. Shanghai Jiabao Trade Development Co. Ltd.
126. Shanghai Nanshi Foreign Economic Co.
127. Shanghai Overseas International Trading Co. Ltd.
128. Shanghai Prime Machinery Co. Ltd.
129. Shanghai Printing & Dyeing and Knitting Mill
130. Shanghai Printing & Packaging Machinery Corp
131. Shanghai Recky International Trading Co., Ltd.
132. Shanghai Sinotex United Corp. Ltd.
133. Shanghai Strong Hardware Co. Li
134. Shanghai Wischain Fasteners Ltd.
135. Shenzhen Fenda Technology Co., Ltd.
136. Shenzhen Haozhenghao Technology Co.
137. Shijiazhuang Huitongxiang Li Trade
138. Soyong Industrial Co., Ltd.
139. SRC Metal (Shanghai) Co. Ltd.
140. Suntec Industries Co., Ltd.
141. Suzhou Henry International Trading Co., Ltd.
142. T and C Fastener Co. Ltd.
143. T and L Industry Co. Ltd.
144. Taizhou Maixing Machinery Co.
145. Telsto Development Co., Ltd.
146. The Hoffman Group International
147. Tianjin Port Free Trade Zone Tianjin Star International Trade Co., Ltd.
148. Tong Ming Enterprise Co., Ltd.
149. Tong Win International Co., Ltd.
150. Tri Steel Co., Ltd.
151. Wischain Trading Limited
152. Wuxi Metec Metal Co. Ltd.
153. Xiamen Hua Min Imp. and Exp. Co. Ltd.
154. Xiamen Rongxinda Industry Co., Ltd.
155. Xiamen Yuhui Import & Export Co., Ltd.

156. Yogendra International
157. Yuyao Hualun Imp. & Exp. Co., Ltd.
158. Zhangjiagang Ever Faith Industry Co.
159. Zhejiang Heirmu Mechanical and Electrical Equipment Manufacturing Co Ltd.
160. Zhejiang Heiter Industries Co., Ltd.
161. Zhejiang Heiter Mfg & Trade Co. Ltd.
162. Zhejiang Jin Zeen Fasteners Co. Ltd.
163. Zhejiang Junyue Standard Part Co., Ltd.
164. Zhejiang Junyue Standard Parts Co., Ltd.
165. Zhejiang Laibao Precision Technology Co. Ltd.
166. Zhejiang Metals & Minerals Imp & Exp Co. Ltd.
167. Zhejiang Morgan Brother Technology Co. Ltd.
168. Zhejiang New Century Imp & Exp Co. Ltd.
169. Zhejiang New Oriental Fastener Co., Ltd.
170. Zhejiang Zhenglian Industry Development Co., Ltd.
171. Zhongsheng Metal Co., Ltd.
172. Zhoushan Zhengyuan Standard Parts Co., Ltd.

[FR Doc. 2020-09583 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA142]

Pacific Fishery Management Council; Public Meeting; Correction

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

ACTION: Notice of a correction to a public meeting.

SUMMARY: The Groundfish Subcommittee of the Pacific Fishery Management Council's (Pacific Council's) Scientific and Statistical Committee (SSC) and invited scientific experts will hold a meeting to review proposed length-based assessment methods followed by a workshop to explore data-moderate and data-limited assessment methods. The meeting is open to the public.

DATES: The Assessment Methodology Review webinar will be held from Tuesday, May 12, 2020 through Thursday, May 14, 2020 beginning at 8:30 a.m. and continuing until 5:30 p.m. Pacific Daylight Time each day or until business for the day has been completed.

ADDRESSES: The Assessment Methodology Review meeting will be an online meeting.

Instructions to attend the online meeting:

1. Use this link: <https://www.gotomeeting.com/webinar>

(Then click "Join a Webinar" in top right corner of page)

2. Enter the Webinar ID: 716-313-779
3. Please enter your name and email address (required)
4. You may use your telephone for the audio portion of the meeting by dialing this TOLL number +1 (415) 655-0060
5. Enter the Attendee phone audio access code 904-227-383
6. Enter your audio phone pin (shown after joining the webinar).

Technical Information

System Requirements

- PC-based attendees: Required: Windows® 10,8
- Mac®-based attendees: Required: Mac OS® X 10.5 or newer
- Mobile attendees: Required: iPhone®, iPad®, Android™ phone or Android tablet (See the *GoToMeeting Webinar Apps*)

You may send an email to Kris Kleinschmidt at (503) 820-2412 or Sandra Krause at (503) 820-2419 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Staff Officer, Pacific Fishery Management Council; telephone: (503) 820-2413.

SUPPLEMENTARY INFORMATION: The original notice published in the **Federal Register** on April 28, 2020 (85 FR 23507). The online information for the meeting has changed from what was published originally.

The purpose of the Assessment Methodology Review meeting is to review two proposed length-based assessment methodologies, a length-based Stock Synthesis (SS) modeling approach and the Length-based Integrated Mixed Effects (LIME) assessment platform. A review of data-moderate and data-limited assessment methods through the management strategy evaluation tool in the Data-Limited Methods Toolkit (DLMtool) will be conducted following the length-based assessment methods review (the draft proposed agenda will be posted on the Pacific Council's website).

No management actions will be decided by the Assessment Methodology Review panel members. The review panel members' role will be development of recommendations and reports for consideration by the SSC and Pacific Council at a future Council meeting.

Although nonemergency issues not contained in the meeting agendas may

be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent of the Assessment Methodology Review panel members to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (503) 820-2412 at least 10 days prior to the meeting date.

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

Dated: April 30, 2020.

Diane M. DeJames-Daly,

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

[FR Doc. 2020-09575 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA162]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a five-day public virtual meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The public virtual meeting will be held on May 18, 2020 through May 22, 2020. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: You may join the SSC public virtual meeting (via GoToMeeting) from a computer, tablet or smartphone by entering the following address: <https://global.gotomeeting.com/join/273252797>.

You can also dial in using your telephone.

(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (872) 240-3212

—One-touch: tel: +18722403212, 273252797#

Access Code: 273-252-797

Join from a video-conferencing room or system.

Dial in or type: 67.217.95.2 or

inroomlink.goto.com.

Meeting ID: 273 252 797.

Or dial directly: 273252797@67.217.95.2 or 67.217.95.2##273252797.

You may download the gotomeeting app to be ready when the meeting starts: <https://global.gotomeeting.com/install/273252797>.

FOR FURTHER INFORMATION CONTACT:

Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918-1903, telephone: (787) 766-5926.

SUPPLEMENTARY INFORMATION: The meetings will be held on May 18, 2020, from 10 a.m. to 4 p.m.; May 19, 2020, from 10 a.m. to 5 p.m.; May 20, 2020, from 10 a.m. to 12 noon; May 21, 2020, from 10 a.m. to 5 p.m.; and May 22, 2020, from 10 a.m. to 12 noon. All meetings will be at Eastern Standard Time.

The following items included in the tentative agenda will be discussed:

May 18, 2020

10 a.m.—Call to Order
10:15 a.m.—Adoption of Agenda
10:30 a.m.—National SSC August 2020 Update
10:30 a.m.—11:30 a.m.
—SEDAR 57 Spiny Lobster—Adyan Rios, SEFSC
—SEFSC Presentation on OFL and ABC for Spiny Lobster
—SSC Recommendations on ABC for Spiny Lobster for all Three Island Platforms

Goal of Meeting: Finalize the Generic Ecosystem Conceptual Model

2 p.m.—4 p.m.
—Summary 2019 Meeting—Chair Presentation to CFMC 168 and Next Steps
—Mental Modeler Review:
(1) Where Exactly we Left Off for Each Sub Model and the Full Model as a Whole
(2) How this is Going to Work in the Virtual Environment
—Begin 15-Minute Presentations on each Component (8) Followed by Discussion to Finalize Connections, Directions and Strengths
—SSC ECM components
1. Marine Ecosystem
2. Habitat

3. Water Quality
4. Fishing
5. Land-Based Uses
6. Socio-economic and Cultural Drivers
7. Competing Uses of Resources
8. Abiotic Factors

May 19, 2020

10 a.m.—12:00 p.m.
Continue 15-Minute Presentations on each Component (8) Followed by Discussion to Finalize Connections, Directions and Strengths

2 p.m.—3:30 p.m.
—Discussion continues

4 p.m.—5 p.m.
—Summary Determination of Direction and Strengths of the Boxes Representing Ecosystem Components (*e.g.*, Ecological, Economic, Social)

May 20, 2020

10 a.m.—12 noon
—Continue Discussion

May 21, 2020

10 a.m.—12 noon
Goal: Development of Three Ecosystem Conceptual Models—one each for Puerto Rico, St. Thomas/St. John, and St. Croix, Discuss development of Island Specific Ecosystem Model

2 p.m.—3 p.m.
—SSC Development of Puerto Rico Ecosystem Conceptual Model Determination of Critical Links that can serve as Indicators

3 p.m.—4 p.m.
—SSC Development of St. Thomas/St. John Ecosystem Conceptual Model Determination of Critical Links that can serve as Indicators

4 p.m.—5 p.m.
SSC Development of St. Croix Ecosystem Conceptual Model Determination of Critical Links that can serve as Indicators
—Recommendations to the CFMC

May 22, 2020

10 a.m.—12 noon
—Continue and Finalize Discussion of each Island Ecosystem Conceptual Model
—Other Business
—PR DNER E-Reporting Update
—Caribbean Ecosystem Status Report Update—SEFSC
—Adjourn

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on May 18, 2020, at 10 a.m. EST, and will end on May 22, 2020, at 12 noon EST. Other than the start time, interested parties should be aware that discussions may start earlier

or later than indicated, at the discretion of the Chair. In addition, the meeting may be completed prior to the date established in this notice.

Special Accommodations

Simultaneous interpretation will be provided. To receive interpretation in Spanish you can dial into the meeting as follows:

US/Canada: call +1-888-947-3988, when system answers, enter 1*999996#. Para interpretación en inglés marcar:

US/Canada: call +1-888-947-3988, cuando el sistema conteste, entrar el siguiente número 2*999996#.

For any additional information on this public virtual meeting, please contact Dr. Graciela García-Moliner, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918-1903, telephone: (787) 403-8337.

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

Dated: April 30, 2020.

Tracey L. Thompson,

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

[FR Doc. 2020-09558 Filed 5-4-20; 8:45 am]

BILLING CODE 3510-22-P

COMMODITY FUTURES TRADING COMMISSION

Renewal of the Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Market Risk Advisory Committee renewal.

SUMMARY: The Commodity Futures Trading Commission (Commission) is publishing this notice to announce the renewal of the Market Risk Advisory Committee (MRAC). The Commission has determined that the renewal of the MRAC is necessary and in the public's interest, and the Commission has consulted with the General Services Administration's Committee Management Secretariat regarding the MRAC's renewal.

FOR FURTHER INFORMATION CONTACT: Alicia Lewis, MRAC Designated Federal Officer, at 202-418-5862 or alewis@cftc.gov.

SUPPLEMENTARY INFORMATION: In support of the Commission's mission of promoting the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation, as well as the monitoring and management of systemic risk, the MRAC's objectives and scope of activities are to conduct public meetings, advise, and submit reports

and recommendations to the Commission on: (1) Systemic issues that impact the stability of the derivatives markets and other related financial markets; and (2) the impact and implications of the evolving market structure of the derivatives markets and other related financial markets. The MRAC will operate for two years from the date of renewal unless the Commission directs that the MRAC terminate on an earlier date.

A copy of the renewal charter will be posted on the Commission's website at <https://www.cftc.gov>.

Dated: April 30, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2020-09554 Filed 5-4-20; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: Chief Management Officer, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board will take place.

DATES: Wednesday, May 6, 2020, from 2:40 p.m. to 5:00 p.m.

ADDRESSES: Due to the current guidance on combating the Coronavirus, the meeting will be conducted telephonically only. To participate in the meeting, see the Meeting Accessibility paragraph in the **SUPPLEMENTARY INFORMATION** section for instructions.

FOR FURTHER INFORMATION CONTACT: Jennifer Hill, (571) 342-0070 (Voice), jennifer.s.hill4.civ@mail.mil (Email). Mailing address is Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301-1155. Website: <http://dbb.defense.gov/>. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102-3.140 and 102-3.150.

Due to circumstances beyond the control of the DoD and the Designated

Federal Officer, the Defense Business Board was unable to provide public notification required by 41 CFR 102-3.150(a) concerning the May 6, 2020 meeting of the Defense Business Board. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C.), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102-3.140 and 102-3.150.

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent advice which reflects an outside private sector perspective on proven and effective best business practices that can be applied to DoD. The CMO Assessment Task Group will present their findings and recommendations to the full Board for deliberation and vote.

Agenda

Administrative Session

- 1:00-1:05 p.m. Welcome—Jennifer Hill, Executive Director/Designated Federal Officer (DFO)
- 1:05-1:15 p.m. Chairman's Time/New Member Introductions—Hon. Michael Bayer, Chairman
- 1:15-2:00 p.m. CMO Update—Hon. Lisa W. Hershman, Chief Management Officer
- 2:00-2:30 p.m. Living Better Using Data—Jim Traficant, Partner, The Pinkston Group
- 2:30-2:40 p.m. Break

Open Session

- 2:40-2:45 p.m. Opening Remarks—Designated Federal Officer
- 2:45-4:15 p.m. Study: "Section 904 Assessment of the DoD Chief Management Officer"
- 4:15-4:25 p.m. Public Comments (if time permits)
- 4:25-4:55 p.m. Board Deliberations and Vote
- 4:55-5:00 p.m. Closing Remarks—Designated Federal Officer

Meeting Accessibility: Pursuant to FACA and 41 CFR 102-3.140, that portion of the meeting from 2:40 p.m. to 5:00 p.m. is open to the public. Persons desiring to participate in the meeting via teleconference are required to submit their name, organization, and email contact information to the Board at osd.pentagon.odam.mbx.defense-business-board@mail.mil not later than 4:30 p.m. on Tuesday, May 5, 2020.

Specific dial in instructions for participating in the meeting will be provided by reply email. The meeting agenda and task group presentation will be made available prior to the meeting on the Board's website at: <https://dbb.defense.gov/Meetings/Meeting-May-2020/>.

Written Statements: Written comments on this, or any other Defense Business Board related topic, may be submitted to the Designated Federal Officer via email to mailbox address: osd.pentagon.odam.mbx.defense-business-board@mail.mil in either Adobe Acrobat or Microsoft Word format. Comments received 24 hours prior to the scheduled meeting will be presented during the meeting, if time allows. After such time the statement will be distributed to the membership for their review and attached as a tab to the final study. Please note that because the Board operates under the provisions of the FACA, all submitted comments will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's website.

Dated: April 30, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020-09569 Filed 5-4-20; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of the Defense Science Board

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: The DoD is publishing this notice to announce that it is renewing the charter for the Defense Science Board ("the Board").

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703-692-5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix) and 41 CFR 102-3.50(d). The charter and contact information for the Board's Designated Federal Officer (DFO) are found at <https://www.facadatabase.gov/FACA/apex/FACAPublicAgencyNavigation>.

The Board, through the Under Secretary of Defense for Research and Engineering (USD(R&E)), shall provide

the Secretary of Defense and the Deputy Secretary of Defense independent advice and recommendations on matters concerning science, technology, manufacturing, acquisition process, and other matters of special interest to the Department in response to specific tasks from the Secretary of Defense, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense, or the USD(R&E).

The Board shall be composed of no more than 50 members, who are eminent authorities in the fields of science, technology, manufacturing, acquisition process, and other matters of special interest to the DoD.

Board members who are not full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed as experts or consultants, pursuant to 5 U.S.C. 3109, to serve as special government employee members. Board members who are full-time or permanent part-time Federal civilian officers, employees, or active duty members of the Armed Forces will be appointed pursuant to 41 CFR 102-3.130(a), to serve as regular government employee members.

All members of the Board are appointed to provide advice on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Except for reimbursement of official Board-related travel and per diem, members serve without compensation.

The public or interested organizations may submit written statements to the Board's membership about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements should be submitted to the Board's DFO, who will ensure that the written statements are provided to the membership for consideration.

Dated: April 30, 2020.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2020-09577 Filed 5-4-20; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of partially closed meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the U.S. Naval Academy Board of Visitors, hereafter "Board," will take place.

DATES: Open to the public, June 1, 2020, from 9 a.m. to 11 a.m. Closed to the public, June 1, 2020, from 11 a.m. to noon (12 p.m.).

ADDRESSES: This a virtual meeting that will be broadcasted live from the United States Naval Academy in Annapolis, MD. Escort is not required.

FOR FURTHER INFORMATION CONTACT: Major Raphael Thalakkottur, USMC, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402-5000, 410-293-1503, thalakot@usna.edu, or visit <https://www.usna.edu/PAO/Superintendent/bov.php>.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), the General Services Administration's (GSA) Federal Advisory Committee Management Final Rule (41 CFR part 102-3).

Purpose of Meeting: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board deems necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

Agenda

Proposed meeting agenda for June 1st, 2020.

0830-0900 Assemble/Members log on (Broadcasted to Public)

0900 Call to Order (Broadcasted to Public)

0900-1055 Business Session (Broadcasted to Public)

1055-1100 Break (Broadcasted to Public)

1100-1200 Executive Session (Closed to Public)

Current details on the board of visitors may be found at <https://www.usna.edu/PAO/Superintendent/bov.php>

The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on June 1st, 2020, will consist of discussions of new and pending administrative or minor disciplinary infractions and non-

judicial punishments involving midshipmen attending the Naval Academy to include but not limited to, individual honor or conduct violations within the Brigade, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public, as the discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the (Acting) Secretary of the Navy, in consultation with the Department of the Navy General Counsel, has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to noon (12 p.m.) will be concerned with matters protected under sections 552b(c) (5), (6), and (7) of title 5, United States Code.

Authority: 5 U.S.C. 552b.

Meeting Accessibility: Pursuant to FACA and 41 CFR 102–3.140, this meeting is virtually open to the public. This meeting will be broadcasted live from the United States Naval Academy to include audio and video. The broadcast will be close captioned for the duration of the public portion of the meeting. The link to view the meeting will be posted at <https://www.usna.edu/PAO/Superintendent/bov.php> forty-eight hours prior to the meeting. Due to expected health directives in light of COVID–19, the public cannot be accommodated to attend the meeting in person.

Written Statements: Per Section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration at any time, but should be received by the Designated Federal Officer a least 15 business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written statements should be submitted via mail to 121 Blake Rd, Annapolis MD 21402. Please note that since the Board operates under the provisions of the FACA, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the board website.

Dated: April 28, 2020.

D.J. Antenucci,

*Commander, Judge Advocate General's Corps,
U.S. Navy, Federal Register Liaison Officer.*

[FR Doc. 2020–09489 Filed 5–4–20; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Investigation and Record Requests

AGENCY: Office of the General Counsel, Department of Education.

ACTION: Notice.

SUMMARY: The Department publishes a letter, dated April 24, 2020, notifying the University of Texas System of an investigation related to the University of Texas System's reports of defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source.

FOR FURTHER INFORMATION CONTACT:

Patrick Shaheen, U.S. Department of Education, Office of the General Counsel, 400 Maryland Avenue SW, Room 6E300, Washington, DC 20202. Telephone: (202) 453–6339. Email: Patrick.Shaheen@ed.gov.

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

SUPPLEMENTARY INFORMATION: The Department publishes this letter, dated April 24, 2020, notifying the University of Texas System of an investigation related to the University of Texas System's reports of defined gifts and contracts, including restricted and conditional gifts or contracts, from or with a statutorily defined foreign source. The letter to the University of Texas System is in the Appendix of this notice.

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 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.

Reed D. Rubinstein,

Principal Deputy General Counsel, Delegated the Authority to Perform the Functions and Duties of the General Counsel.

Appendix—Letter to University of Texas System

April 24, 2020

James B. Milliken, Chancellor
Office of the Chancellor
The University of Texas System
210 West 7th St.
Austin, TX 78701

Re: Notice of 20 U.S.C. 1011f
Investigation and Record Request/
University of Texas System

Dear Chancellor Milliken:

Section 117 of the Higher Education Act of 1965 (20 U.S.C. 1011f) requires institutions of higher education (IHEs), including the University of Texas System (UT), to fully report statutorily defined gifts, contracts, and/or restricted and conditional gifts or contracts from or with a foreign source to the U.S. Department of Education (Department). These reports are posted at <https://studentaid.ed.gov/sa/about/data-center/school/foreign-gifts>.

According to UT's Medical Branch (UTMB), it is responsible for the operation of the Galveston National Laboratory (GNL) under UTMB's Institute for Human Infections and Immunity. GNL, in turn, has substantial contractual relations with a maximum biocontainment laboratory (MCL) in Wuhan, China (Wuhan MCL) (also known as the Wuhan Institute of Virology) which is upon information and belief owned by the Chinese government's Chinese Academy of Sciences. See <https://www.utmb.edu/gnl/news/2018/11/28/scientific-diplomacy-and-international-cooperation-key-say-bsl4-directors>; <https://nationalinterest.org/blog/coronavirus/wuhan-institute-virology-origin-coronavirus-or-conspiracy-nonsense-144082>; <https://www.foxnews.com/world/wuhan-laboratory-china-coronavirus-controversy>. On November 28, 2018, GNL claimed in SCIENCE Magazine:

We direct a newly constructed MCL in Wuhan, China (Z.Y.) and an established MCL in the United States (J.W.L), in Galveston, Texas. In preparation for the opening of the new

China MCL, we engaged in short- and long-term personnel exchanges focused on biosafety training, building operations and maintenance, and collaborative scientific investigations in biocontainment. We succeeded in transferring proven best practices to the new Wuhan facility. Both labs recently signed formal cooperative agreements that will streamline future scientific and operational collaborations on dangerous pathogens, although funding for research and the logistics of exchanging specimens are challenges that we have yet to solve.

<https://www.utmb.edu/gnl/news/2018/11/28/scientific-diplomacy-and-international-cooperation-key-say-bsl4-directors>.

Between June 6, 2014, and June 3, 2019, UT reported approximately twenty-four contracts with various Chinese state-owned universities and ten contracts with Huawei Technologies, all purportedly worth a reported total of \$12,987,896. It is not clear, however, whether UT has in fact reported all gifts from or contracts with or relating to the Wuhan MCL, the Wuhan Institute of Virology, and/or all other foreign sources, including agents and instrumentalities of the government of the Peoples' Republic of China. Therefore, to verify UT's compliance with Section 117, the Department requests that your Institution produce the following records within thirty (30) days. Unless otherwise noted, the relevant time frame for these requests is January 1, 2012 through the present.

1. True copies of each gift or donation agreement, contract, and/or conditional gift or donation agreement or contract to which your Institution and the Wuhan MCL, the Wuhan Institute of Virology, or the Chinese Academy of Sciences are parties.

2. True copies of each gift or donation agreement, contract, and/or conditional gift or donation agreement or contract with or between your Institution and any of the following:

- a. BGp Inc.
- b. Educational Advisors Deda Co. Ltd.
- c. Xi'an Jintong University
- d. University of Beijing
- e. University of Shanghai
- f. Dalian Auto Tech. Inc.
- g. Huawei Technologies Co. Ltd.
- h. Tafel New Energy Tech Co. Ltd.
- i. Zhejiang Normal University
- j. ATEC Shenzhen Expressway Engineering
- k. Huawei Software Technologies Co. Ltd.
- l. Beijing Normal University
- m. Nanjing University
- n. China University of Mining and Technology

- o. Chengdu Technological University
- p. Sichuan University
- q. Southwest Jiaotong University
- r. Jilin University
- s. South China University of Technology
- t. China University of Petroleum
- u. Southwest Petroleum University
- v. Shandong University of Science and Technology
- w. The Communist Party of China, its agents, employees, representatives, and instrumentalities (including but not limited to the agents, employees, representatives, and instrumentalities of entities such as the Communist Party of China's Central Committee, Central Office, and Politburo Standing Committee; the General Office of the Central Military Commission; the Chinese Ministry of Education; the Chinese Ministry of Science and Technology; the People's Liberation Army; the Chinese Ministry of State Security; the Chinese Ministry of Industry and Information Technology; the Chinese Ministry of Foreign Affairs; the Chinese Ministry of National Defense; the Central Bank of the People's Republic of China; and any People's Republic of China province, autonomous region, or municipality)

3. A complete list identifying and providing the last known contact information for your Institution's faculty and staff (including full and part time employees and contractors) involved in the administration, direction, or scientific and/or other research cooperation, fund raising, or any other efforts involving (a) the Wuhan MCL; and/or (b) persons employed by or agents for any of the entities listed in section 2(a)–(w) above. The geographic location of your Institution's faculty and staff and/or of the persons employed by or agents for any of the listed entities is not determinative of your obligations hereunder (*e.g.*, all employees, agents, lobbyists, and attorneys of or for the listed entities must also be identified and disclosed regardless of citizenship and place of residence). Provided contact information should include names, position(s) held, email addresses, mailing addresses, phone numbers, and a brief description of the administration, direction, scientific and/or other research cooperation, fund raising, and/or other efforts associated with the listed person.

4. A complete list identifying and providing last known contact information for your Institution's administrators, contractors, or other personnel with responsibility for and/or oversight of faculty and staff involved in any capacity with the Wuhan MCL. The

geographic location of the administrators, contractors, or other personnel at the time of cooperation or other execution of efforts is in no way determinative of such involvement. Provided contact information should include names, specific responsibilities, position(s) held, email addresses, mailing addresses, and phone numbers.

5. All records (including but not limited to emails and true copies of contracts and/or gift or donation agreements) of, regarding, or relating to (a) the Wuhan MCL, the Chinese Academy of Sciences, Wuhan MCL researcher Shi Zhengli, and Eric Yuan, Chief Executive Officer of Zoom Communications; and/or (b) any gift, contract, or conditional gift or contract from or with the Communist Party of China, its agents, employees, representatives, and instrumentalities.

6. All records (including but not limited to emails and true copies of contracts and/or gift or donation agreements) of, regarding, or related to gifts, contracts and/or restricted or conditional gifts or contracts to or with the Institution from or with any foreign source. The time frame for this request is January 1, 2016, to the present.

The Department requests that UT produce records as follows:

- Searches for records in electronic form should include searches of all relevant mobile devices, hard drives, network drives, offline electronic folders, thumb drives, removable drives, records stored in the cloud, and archive files, including, but not limited to, backup tapes. Do not time stamp or modify the content, the create date, or the last date modified of any record and do not scrub any metadata. Electronic records should be produced in native format. For emails, please place responses in one .pst file per employee. For .pdf files, please provide searchable file format and not image file format.

- All email searches should be conducted by the agency's information technology department, or its equivalent, and not by the individuals whose records are being searched. Please provide the name and contact information of the individual(s) who conducted the search, as well as an explanation of how the search was conducted.

- To the extent practicable, please produce all records in a searchable electronic format and not hardcopies. Should you have any questions about the method or format of production please contact the undersigned to coordinate.

As used in this Notice of Investigation and Information Request:

“Agent” has its plain and ordinary meaning, indicating that a person, organization, or entity, is acting on behalf of another person, organization, or entity, whether that agency is disclosed or undisclosed.

“Contract” has the meaning given at 20 U.S.C. 1011f(h)(1).

“Faculty” refers to all teaching positions at the university (including professors of all ranks, teachers, lecturers, and/or researchers whether in a classroom, laboratory, or other educational environment—whether physically or electronically present).

“Foreign source” has the meaning given at 20 U.S.C. 1011f(h)(2).

“Gift” has the meaning given at 20 U.S.C. 1011f(h)(3).

“Institution” has the meaning given at 20 U.S.C. 1011f(h)(4) and for the purposes of this request includes all UT campuses and facilities. Section 117 requires that when an institution receives the benefit of a gift from or a contract with a foreign source in the applicable amount, even if by an agent (e.g., employee) and through an intermediary (e.g., non-profit organization), it must disclose the gift or contract to the Department. Where a legal entity (e.g., centers, boards, foundations, research groups, partnerships, or non-profit organizations, whether or not organized under the laws of the United States and including, by way of example and not limitation, UTMB and GNL) operates substantially for the benefit or under the auspices of an IHE, there is a rebuttable presumption that when that legal entity receives money or enters into a contract with a foreign source, it is for the benefit of the institution, and, thus, must be disclosed.

“Record” means all recorded information, regardless of form or characteristics, made or received, and including metadata, such as email and other electronic communication, word processing documents, PDF documents, animations (including PowerPoint™ and other similar programs) spreadsheets, databases, calendars, telephone logs, contact manager information, internet usage files, network access information, writings, drawings, graphs, charts, photographs, sound recordings, images, financial statements, checks, wire transfers, accounts, ledgers, facsimiles, texts, animations, voicemail files, data generated by calendaring, task management and personal information management (PIM) software (such as Microsoft Outlook), data created with the use of personal data assistants (PDAs), data created with the use of document management software, data

created with the use of paper and electronic mail logging and routing software, and other data or data compilations, stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form. The term “recorded information” also includes all traditional forms of records, regardless of physical form or characteristics.

“Restricted or conditional gift or contract” has the meaning given at 20 U.S.C. 1011f(h)(5).

“Staff” refers to all members of the university involved in administration of the university and its obligations and commitments (including deans of all ranks, administration officials, and support personnel).

“Wuhan MCL” refers to the maximum biocontainment laboratory in Wuhan, China, as referenced in GNL documents, and which may also be known as the Wuhan Institute of Virology.

If UT asserts attorney-client or attorney-work product privilege for a given record, then it must prepare and submit a privilege log expressly identifying each such record and describing it so the Department may assess the claim’s validity. Please note that no other privileges apply. UT’s record and data preservation obligations are outlined at Exhibit A.

Please note that Section 117(f), 20 U.S.C. 1011f(f), provides that whenever it appears an IHE has failed to fully comply with the law, the Secretary of Education may, among other things, request that the Attorney General commence an enforcement action to compel compliance and to recover the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement. Please further note there may also be other penalties triggered by the knowing and intentional submission of false reports and/or information.

The Department recognizes that the COVID-19 virus may have a significant impact on certain UT operations. Nonetheless, the critical importance of the Department’s investigation into the accuracy of UT’s foreign source reporting with respect to the Wuhan MCL and other Chinese Communist Party-related persons and entities is not diminished. Accordingly, the Department expects UT’s timely response to this investigation.

This investigation is being directed by the Department’s Office of the General Counsel. To arrange transmission of the requested information, or should you have any other questions, please contact:

Paul R. Moore, Esq.
Office of the General Counsel
U.S. Department of Education
400 Maryland Ave. SW, Room 6E300
Washington, DC 20202
Paul.Moore@ed.gov.

Sincerely yours,
Reed D. Rubinstein,
Principal Deputy General Counsel delegated the authority and duties of the General Counsel.

[FR Doc. 2020-09567 Filed 5-4-20; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No. ED-2020-SCC-0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Evaluation To Inform the Teacher and School Leader Incentive Program

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

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 4, 2020.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Department of Education” under “Currently Under Review,” then check “Only Show ICR for Public Comment” checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Thomas Wei, 646-428-3892.

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: Impact Evaluation to Inform the Teacher and School Leader Incentive Program.

OMB Control Number: 1850-0950.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1,995.

Total Estimated Number of Annual Burden Hours: 853.

Abstract: This study will meet the Congressional mandate to evaluate the Teacher and School Leader Incentive Program (TSL) by including two evaluation components: (1) Descriptive study of Teacher and School Leader Incentive Program (TSL) grantees', and (2) Implementation, impact, and cost-effectiveness study of designating one or more "teacher leaders" as coaches in schools. It will provide updated information about the TSL program to help ED understand which strategies grantees are using and how effective a commonly-used strategy—designating teacher leaders to provide coaching to other teachers—is in improving educator effectiveness and ultimately student achievement.

Dated: April 30, 2020.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2020-09573 Filed 5-4-20; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG20-140-000.

Applicants: RWE Renewables Americas, LLC.

Description: Self Certification of EWG Status of Raymond Wind Farm, LLC.

Filed Date: 4/29/20.

Accession Number: 20200429-5192.

Comments Due: 5 p.m. ET 5/20/20.

Docket Numbers: EG20-141-000.

Applicants: RWE Renewables Americas, LLC.

Description: Notice of Self Certification of EWG Status of West Raymond Wind Farm, LLC.

Filed Date: 4/29/20.

Accession Number: 20200429-5224.

Comments Due: 5 p.m. ET 5/20/20.

Docket Numbers: EG20-142-000.

Applicants: RWE Renewables Americas, LLC.

Description: Notice of Self Certification of EWG Status of Boiling Springs Wind Farm, LLC.

Filed Date: 4/29/20.

Accession Number: 20200429-5226.

Comments Due: 5 p.m. ET 5/20/20.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14-264-006.

Applicants: Emera Maine.

Description: Notice of Change in Status of Emera Maine.

Filed Date: 4/29/20.

Accession Number: 20200429-5284.

Comments Due: 5 p.m. ET 5/20/20.

Docket Numbers: ER19-592-002; ER19-1635-002.

Applicants: Valentine Solar, LLC, Glaciers Edge Wind Project, LLC.

Description: Notice of Change in Status of Valentine Solar, LLC, et al.

Filed Date: 4/28/20.

Accession Number: 20200428-5260.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER19-1949-001.

Applicants: New York Independent System Operator, Inc.

Description: Compliance filing; Compliance filing Order Nos. 845 and 845-A re: LGIA and LGIP pro forma to be effective 4/20/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5218.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER19-2522-002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Exit Fee Compliance Revisions in Response to December 2019 Order to be effective 12/19/2019.

Filed Date: 4/29/20.

Accession Number: 20200429-5121.

Comments Due: 5 p.m. ET 5/20/20.

Docket Numbers: ER20-1039-001.

Applicants: GridLiance Heartland LLC.

Description: Compliance filing: GLH ITA Compliance Filing to be effective 7/1/2020.

Filed Date: 4/29/20.

Accession Number: 20200429-5046.

Comments Due: 5 p.m. ET 5/20/20.

Docket Numbers: ER20-1040-001.

Applicants: GridLiance West LLC.

Description: Compliance filing: GridLiance West LLC ITA Settlement Compliance Filing (7-1-20) to be effective 7/1/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5214.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER20-1166-001.

Applicants: Outlaw Wind Project, LLC.

Description: Tariff Amendment: Amendment to 2 to be effective 5/4/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5188.

Comments Due: 5 p.m. ET 5/8/20.

Docket Numbers: ER20-1675-000.

Applicants: Little Bear Solar 1, LLC.

Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised Market-Based Rate Tariff to be effective 4/29/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5198.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER20-1676-000.

Applicants: Little Bear Solar 3, LLC.

Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised Market-Based Rate Tariff to be effective 4/29/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5217.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER20-1677-000.

Applicants: Little Bear Solar 4, LLC.

Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised Market-Based Rate Tariff to be effective 4/29/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5220.

Comments Due: 5 p.m. ET 5/19/20.

Docket Numbers: ER20-1678-000.

Applicants: Little Bear Solar 5, LLC.

Description: § 205(d) Rate Filing: Notice of Non-Material Change in Status and Revised Market-Based Rate Tariff to be effective 4/29/2020.

Filed Date: 4/28/20.
Accession Number: 20200428–5227.
Comments Due: 5 p.m. ET 5/19/20.
Docket Numbers: ER20–1679–000.
Applicants: Vermont Transco LLC.
Description: § 205(d) Rate Filing: Shared Structure Participation Agreement and Operating and Maintenance Agreement to be effective 5/1/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5043.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1680–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3660 Solaer USA NM ACR, LLC GIA to be effective 4/17/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5083.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1681–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 4511; Queue No. AB1–127 re: Assignment to be effective 7/13/2016.

Filed Date: 4/29/20.
Accession Number: 20200429–5112.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1682–000.
Applicants: Clearway Power Marketing LLC.

Description: § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 4/30/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5117.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1683–000.
Applicants: Wabash Valley Power Association, Inc.

Description: Initial rate filing: Filing of Distributed Generation Policy D–11 to be effective 4/29/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5142.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1684–000.
Applicants: Midcontinent

Independent System Operator, Inc., Ameren Illinois Company, Ameren Transmission Company of Illinois.
Description: § 205(d) Rate Filing: 2020–04–29_Rate Schedule 55 Ameren-Prarie Power JPZ Adding GLH to be effective 4/1/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5149.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1685–000.
Applicants: Vermont Transco LLC.

Description: Notice of Cancellation of Bill-Back Agreement and Operating and Maintenance Agreement of Vermont Transco LLC.

Filed Date: 4/29/20.
Accession Number: 20200429–5159.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1686–000.
Applicants: TrailStone Energy Marketing, LLC.

Description: § 205(d) Rate Filing: Normal filing 2020 2 to be effective 4/30/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5172.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1687–000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Eliminate Attachment Z2 Revenue Credits to be effective 7/1/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5181.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1688–000.
Applicants: New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: NYPA 205 re: OATT 6.10.8 Regulated Transmission Facility Charge—AC Projects to be effective 7/1/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5244.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1689–000.
Applicants: Midcontinent

Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2020–04–29_TOA Lender Fix Filing to be effective 6/29/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5263.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1690–000.
Applicants: Republic Transmission, LLC.

Description: Baseline eTariff Filing: Republic Transmission Purchase and Operating Agreement Filing to be effective 6/1/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5269.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1691–000.
Applicants: Arkansas Electric Cooperative Corp.

Description: Notice of Change in Status for a Reactive Power Resource of Arkansas Electric Cooperative Corporation.

Filed Date: 4/29/20.
Accession Number: 20200429–5301.
Comments Due: 5 p.m. ET 5/20/20.
Docket Numbers: ER20–1692–000.
Applicants: New England Power Company.

Description: § 205(d) Rate Filing: Filing of Local Service Agreement with NSTAR Electric Company to be effective 3/30/2020.

Filed Date: 4/29/20.
Accession Number: 20200429–5323.
Comments Due: 5 p.m. ET 5/20/20.

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 29, 2020.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2020–09578 Filed 5–4–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FA17–4–001]

Xcel Energy Inc.; Notice of Filing

Take notice that on April 29, 2020, Xcel Energy Inc. submitted an Electric Refund Report, in compliance with the Federal Energy Regulatory Commission's (Commission) August 29, 2019 letter order; pursuant to audit report finding(s) Nos. 1, 2, and 4.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the

“eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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://www.ferc.gov>) using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission’s Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 20, 2020.

Dated: April 29, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020–09566 Filed 5–4–20; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3063–021]

Blackstone Hydro Associates; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application*: Subsequent Minor License.

b. Project No.: 3063–021.

c. Date filed: July 31, 2019.

d. *Applicant*: Blackstone Hydro Associates (BHA).

e. *Name of Project*: Central Falls Hydroelectric Project.

f. *Location*: On the Blackstone River, in the City of Central Falls, Providence

County, Rhode Island. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Mr. Robert Leahy, 130 Prospect Street, Cambridge, MA 02139; Phone at (617) 491–2320, or email at rleahy@theshorelinecorp.com.

i. *FERC Contact*: John Baummer, (202) 502–6837 or john.baummer@ferc.gov.

j. *Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions*: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

The Commission’s Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Project Description*: The existing Central Falls Project consists of: (1) A 190-foot-long, 24-foot-high, curved granite-masonry dam (Valley Falls Dam); (2) an approximately 64.5-acre impoundment with a normal maximum elevation of 49.5 feet National Geodetic Vertical Datum of 1929; (3) a granite block and wood-framed gatehouse that is adjacent to the dam and that contains ten gates that are 9 feet wide by 6 feet tall; (4) a 290-foot-long, granite block-lined headrace; (5) an intake structure with two 8-foot-high hydraulic gates and 24-foot-wide, 11.5-foot-high, inclined trashracks having 3-inch clear bar spacing; (6) two 30-foot-long, 7-foot-diameter penstocks; (7) an

approximately 53-foot-long, 32-foot-wide concrete powerhouse containing two Allis-Chalmers tube turbines with a total installed capacity of 700 kilowatts (kW); (8) an approximately 1,200-foot-long, 36-foot-wide tailrace; (9) two 55-foot-long, 480-volt generator lead lines; and (10) appurtenant facilities.

BHA operates the project as a run-of-river facility, such that outflow from the project approximates inflow. The project bypasses approximately 0.3 mile of the Blackstone River. A 108-cubic feet per second (cfs) minimum flow is released over the dam into the bypassed reach. BHA discharges a continuous minimum flow of 238 cfs, or inflow, whichever is less, as measured at the confluence of the tailrace and the river channel. The average annual generation of the project is approximately 1,230 megawatt-hours (MWh).

BHA proposes to: (1) Continue operating the project in a run-of-river mode; (2) retrofit the two existing turbines with variable pitch blade runners to allow for the project to be operated at different flows; (3) install a new bypassed flow pipe to provide a minimum flow of 210 cfs to the bypassed reach, approximately 215 feet downstream of the dam; (4) install a new 160-kW Natel Energy turbine-generator unit in the proposed bypassed flow pipe to increase the project’s capacity and provide downstream fish passage; (5) install a new trashrack with 1-inch clear bar spacing in the headrace to prevent fish impingement and entrainment; (6) install a new downstream fish passage facility in the headrace, immediately upstream of the new trashrack; (7) maintain a 13-cfs aesthetic flow over the Valley Falls Dam; (8) provide a flow of up to 3 cfs to the adjacent historic canal; (9) install an upstream eel passage facility at the project dam; and (10) install 20 long-eared bat boxes and implement a Northern Long Eared Bat Management and Protection Plan to protect bats. BHA estimates the project enhancements will result in an average annual generation of approximately 3,200 MWh.

m. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., license application) via the internet through the Commission’s Home Page (<http://www.ferc.gov>) using the “eLibrary” link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–3063). At this time, the Commission has suspended access to the Commission’s

Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19) issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3673 or (202) 502-8659 (TTY).

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's

Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions, or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from

the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

p. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Filing of interventions, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	June 2020.
Commission issues Environmental Assessment	November 2020.
Comments on Environmental Assessment	December 2020.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: April 29, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020-09564 Filed 5-4-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR20-46-001.

Applicants: AMP Intrastate Pipeline, LLC.

Description: Tariff filing per 284.123(b),(e)/: AMP Intrastate Amended SOC Filing to be effective 2/24/2020.

Filed Date: 4/24/2020.

Accession Number: 202004245069.

Comments/Protests Due: 5 p.m. ET 5/8/2020.

Docket Number: PR20-48-001.

Applicants: Bridgeline Holdings, L.P.

Description: Tariff filing per 284.123(b)(2),(: Amendment to 48 to be effective 4/1/2020.

Filed Date: 4/24/2020.

Accession Number: 202004245083.

Comments/Protests Due: 5 p.m. ET 5/8/2020.

Docket Numbers: RP18-923-008.

Applicants: Enable Mississippi River Transmission, LLC.

Description: Compliance filing Implement Settlement Tariff Sheets in Dockets RP18-923, RP20-131 and RP20-212 to be effective 1/1/2019.

Filed Date: 4/28/20.

Accession Number: 20200428-5139.

Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: RP20-809-000.

Applicants: ANR Pipeline Company.
Description: Compliance filing 2020 Operational Purchases and Sales Report.

Filed Date: 4/28/20.

Accession Number: 20200428-5001.

Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: RP20-810-000.

Applicants: Northern Border Pipeline Company.

Description: Compliance filing 2020 Operational Purchases and Sales Report.
Filed Date: 4/28/20.

Accession Number: 20200428-5070.

Comments Due: 5 p.m. ET 5/11/20.

Docket Numbers: RP20-811-000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Update Filing (Conoco May 20) to be effective 5/1/2020.

Filed Date: 4/28/20.

Accession Number: 20200428-5089.

Comments Due: 5 p.m. ET 5/11/20.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 29, 2020.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2020-09579 Filed 5-4-20; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 3777-011]

Town of Rollinsford, New Hampshire; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application*: Subsequent Minor License.

b. *Project No.*: 3777-011.

c. *Date filed*: August 29, 2019.

d. *Applicant*: Town of Rollinsford, New Hampshire (Town).

e. *Name of Project*: Rollinsford Project.

f. *Location*: On the Salmon Falls River in Strafford County, New Hampshire and York County, Maine. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact*: Mr. John Greenan, Green Mountain Power Corporation, 1252 Post Road, Rutland, VT 05701; Phone at (802) 770-2195, or email at John.Greenan@greenmountainpower.com.

i. *FERC Contact*: Bill Connelly, (202) 502-8587 or william.connelly@ferc.gov.

j. *Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions*: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY).

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of

that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Project Description*: The existing Rollinsford Project consists of: (1) A 317-foot long, 19-foot-high concrete-masonry dam; (2) a 70-acre impoundment with a gross storage capacity of 456 acre-feet at a normal elevation of 71.25 feet National Geodetic Vertical Datum of 1929, including the 15-inch spillway flashboards; (3) an 82-foot-long, 52-foot-wide intake facility; (4) a 350-foot-long, 10-square-foot concrete penstock that empties into a 250-foot-long, 9-foot diameter steel penstock that directs flow to a 30-foot-long, 40-foot-wide reinforced concrete forebay that is integral with the powerhouse; (5) a 38-foot-long, 60-foot-wide concrete and brick masonry powerhouse containing two, vertical Francis turbine-generator units rated at 750 kilowatts (kW) each, for a total installed capacity of 1,500 kW; (6) a 38-foot-long, 34-foot-wide tailrace channel; (7) a 100-foot-long underground transmission line that extends from the powerhouse to a step-up transformer, where voltage is increased from 4.16-kilovolt (kV) to 13.8 kV; and (8) appurtenant facilities.

The Town voluntarily operates the project in a run-of-river mode using an automatic pond level control system, such that outflow from the project approximates inflow. The existing license requires the licensee to release: (1) A continuous minimum flow of 10 cubic feet per second (cfs) or inflow, whichever is less, from the dam to the bypassed reach; and (2) a minimum flow of 115 cfs or inflow, whichever is less, through the powerhouse to the downstream reach. The average annual generation was 5,837.9 megawatt-hours for the period of record from 2005 to 2018.

The Town proposes to: (1) Continue to operate the project in a run-of-river mode; (2) provide a minimum flow release of 35 cfs or inflow, whichever is less, into the bypassed reach; (3) install and operate an upstream eel ramp; (4) install and operate a downstream fish passage facility for adult eels and resident and migratory fish species; (5) implement nighttime turbine shutdowns from 8 p.m. to 4 a.m. during the months of September and October for 3

consecutive nights following rain accumulations of 0.5 inch or more over a 24-hour period; (6) conduct a study to quantify movements of river herring and American shad migrating downstream from the project tailwater through the bypassed reach to the project dam; and (7) consult with the New Hampshire and Maine State Historic Preservation Officers to determine the need to conduct archaeological or historical surveys and to implement avoidance or mitigation measures before beginning any land-disturbing activities or alterations to known historic structures within the project boundary.

m. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (e.g., license application) via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document (P-3777). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19) issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3673 or (202) 502-8659 (TTY).

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must: (1) Bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the

heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular

application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

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- o. *A license applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.
- p. *Procedural Schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Filing of interventions, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	June 2020.
Commission issues Environmental Assessment	December 2020.
Comments on Environmental Assessment	January 2021.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Dated: April 29, 2020.

Kimberly D. Bose,
Secretary.

[FR Doc. 2020-09565 Filed 5-4-20; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0750; FRL-10008-11]

Pesticide Registration Review; Proposed Interim Decisions for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA’s proposed interim registration review decisions and opens a 60-day public comment period on the proposed interim decisions for the following pesticides: Bifenthrin, boscalid, chlorine gas, clopyralid, *Coniothyrium* species, cyfluthrin and beta-cyfluthrin, cyproconazole, deltamethrin, esfenvalerate, ethoxyquin, etoxazole, fenpropathrin, flower oils, fluzafop-P-butyl, formetanate hydrochloride, *Gliocladium* species, mecoprop, permethrin, phenol and salts, phenothrin, pinoxaden, prallethrin, pyraclostrobin, pyraflufen-ethyl, mandipropamid, tau-fluvalinate,

terbuthylazine, thiabendazole and salts, vegetable oils.

DATES: Comments must be received on or before July 6, 2020.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW,

Washington, DC 20460-0001; telephone number: (703) 305-7106; email address: biscoe.melanie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Background

Registration review is EPA’s periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the

Agency has completed proposed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide’s registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered

only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA’s proposed interim registration review decisions for the pesticides shown in Table 1 and opens a 60-day public comment period on the proposed interim registration review decisions.

TABLE 1—PROPOSED INTERIM DECISIONS

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Bifenthrin, Case Number 7402	EPA-HQ-OPP-2010-0384	Andrew Muench, muench.andrew@epa.gov , (703) 347-8263.
Boscalid, Case Number 7039	EPA-HQ-OPP-2014-0199.	Lauren Weissenborn, weissenborn.lauren@epa.gov , (703) 347-8601.
Chlorine gas, Case Number 4022	EPA-HQ-OPP-2010-0242	Daniel Halpert, halpert.daniel@epa.gov , (703) 347-0133.
Clopyralid, Case Number 7212	EPA-HQ-OPP-2014-0167	Andrew Muench, muench.andrew@epa.gov , (703) 347-8263.
<i>Coniothyrium</i> species, Case 6022	EPA-HQ-OPP-2013-0259	Daniel Schoeff, schoeff.daniel@epa.gov , (703) 347-0143.
Cyfluthrin and beta-Cyfluthrin, Case Number 7405.	EPA-HQ-OPP-2010-0684	Michelle Nolan, nolan.michelle@epa.gov , (703) 347-0258.
Cyproconazole, Case Number 7011	EPA-HQ-OPP-2015-0462	Carolyn Smith, smith.carolyn@epa.gov , (703) 347-8325.
Deltamethrin, Case Number 7414	EPA-HQ-OPP-2009-0637	Samantha Thomas, thomas.samantha@epa.gov , (703) 347-0514.
Esfenvalerate, Case Number 7406	EPA-HQ-OPP-2009-0301	Carolyn Smith, smith.carolyn@epa.gov , (703) 347-8325.
Etoxazole, Case Number 7616	EPA-HQ-OPP-2014-0133	Rachel Fletcher, fletcher.rachel@epa.gov , (703) 347-0512.
Ethoxyquin, Case Number 0003	EPA-HQ-OPP-2014-0780	Matthew B. Khan, khan.matthew@epa.gov , (703) 347-8613.
Fenpropathrin, Case Number 7601	EPA-HQ-OPP-2010-0422	Robert Little, little.robert@epa.gov , (703) 347-8156.
Flower Oils, Case 8202	EPA-HQ-OPP-2011-0628	Cody Kendrick, kendrick.cody@epa.gov , (703) 347-0468.
Fluazifop-P-butyl, Case 2285	EPA-HQ-OPP-2014-0779	Jonathan Williams, williams.jonathanr@epa.gov , (703) 347-0670.
Formetanate hydrochloride, Case Number 0091.	EPA-HQ-OPP-2010-0939	Patricia Biggio, biggio.patricia@epa.gov , (703) 347-0547.
<i>Gliocladium</i> species, Case 6020	EPA-HQ-OPP-2010-0439	Joseph Mabon, mabon.joseph@epa.gov , (703) 347-0177.
Mandipropamid, Case Number 7058	EPA-HQ-OPP-2019-0536	Michelle Nolan, nolan.michelle@epa.gov , (703) 347-0258
Mecoprop, Case Number 0377	EPA-HQ-OPP-2014-0361	Carolyn Smith, smith.carolyn@epa.gov , (703) 347-8325.
Permethrin, Case Number 2510	EPA-HQ-OPP-2011-0039	Ana Pinto, pinto.ana@epa.gov , (703) 347-8421.
Phenol and Salts, Case 4074	EPA-HQ-OPP-2012-0810	Peter Bergquist, bergquist.peter@epa.gov , (703) 347-8563.
Phenothrin, Case Number 0426	EPA-HQ-OPP-2011-0539	Patricia Biggio, biggio.patricia@epa.gov , (703) 347-0547.
Pinoxaden, Case Number 7266	EPA-HQ-OPP-2015-0603	Linsey Walsh, walsh.linsey@epa.gov , (703) 347-0588.
Prallethrin, Case Number 7418	EPA-HQ-OPP-2011-1009	Julie Javier, javier.julie@epa.gov , (703) 347-0790.
Pyraclostrobin, Case Number 7034	EPA-HQ-OPP-2014-0051	Sergio Santiago, santiago.sergio@epa.gov , (703) 347-8606.
Pyraflufen-ethyl, Case Number 7259	EPA-HQ-OPP-2014-0415	Ana Pinto, pinto.ana@epa.gov , (703) 347-8421.
Tau-fluvalinate, Case Number 2295	EPA-HQ-OPP-2010-0915	Linsey Walsh, walsh.linsey@epa.gov , (703) 347-0588.
Terbuthylazine, Case Number 2645	EPA-HQ-OPP-2010-0453	Rame Cromwell, cromwell.rame@epa.gov , (703) 308-9068.
Thiabendazole and Salts, Case 2670	EPA-HQ-OPP-2014-0175	Kent Fothergill, fothergill.kent@epa.gov , (703) 347-8299.
Vegetable Oils, Case 8201	EPA-HQ-OPP-2009-0904	Cody Kendrick, kendrick.cody@epa.gov , (703) 347-0468.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA’s rationales for conducting additional risk assessments for the registration review of the pesticides included in the tables in Unit IV, as well as the Agency’s subsequent risk findings and consideration of possible risk mitigation measures. These proposed interim registration review decisions are

supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in Table 1 in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decision. All comments should be submitted using the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Tables in Unit IV. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a "Response to Comments Memorandum" in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: <http://www.epa.gov/pesticide-reevaluation>.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 4, 2020.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2020-09571 Filed 5-4-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0052; FRL-10008-46]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before June 4, 2020.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the File Symbol of the EPA registration number of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets/about-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305-7090, email address: BPPDFRNotices@epa.gov; or Michael

Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305-7090, email address: RDFRNotices@epa.gov. The mailing address for each contact person is:

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 11).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through

www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments.

When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

A. Notice of Receipt—New Uses

1. **EPA Registration Numbers:** 279-3124, 279-3126, 279-3426, 279-9548. **Docket ID Number:** EPA-HQ-OPP-2019-0651. **Applicant:** FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. **Active Ingredient:** Zeta-cypermethrin. **Product Type:** Insecticide. **Proposed Use:** Basil (fresh and dried leaves); onion, bulb, subgroup 3-07A; onion, green, subgroup 3-07B; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13-07F; rapeseed subgroup 20A; sunflower subgroup 20B; cottonseed subgroup 20C; quinoa (grain, hay and straw); teff (forage, grain, hay and straw); individual crops of proposed crop subgroup 6-18A: Edible podded bean legume vegetable subgroup including French bean, edible podded; garden bean, edible podded; green bean, edible podded; scarlet runner bean, edible podded; snap bean, edible podded; kidney bean, edible podded; navy bean, edible podded; wax bean, edible podded; asparagus bean, edible podded; catjang bean, edible podded; Chinese longbean, edible podded; cowpea, edible podded; moth bean, edible podded; mung bean, edible podded; rice bean, edible podded; urd bean, edible

podded; yardlong bean, edible podded; goa bean, edible podded; guar bean, edible podded; jackbean, edible podded; lablab bean, edible podded; vegetable soybean, edible podded; sword bean, edible podded; winged pea, edible podded; velvet bean, edible podded; individual crops of proposed crop subgroup 6–18B: Edible podded pea legume vegetable subgroup including: Dwarf pea, edible podded; edible podded pea, edible podded; green pea, edible podded; snap pea, edible podded; snow pea, edible podded; sugar snap pea, edible podded; grass-pea, edible podded; lentil, edible podded; pigeon pea, edible podded; chickpea, edible podded; individual crops of proposed crop subgroup 6–18C: Succulent shelled bean subgroup including lima bean, succulent shelled; scarlet runner bean, succulent shelled; wax bean, succulent shelled; blackeyed pea, succulent shelled; moth bean, succulent shelled; catjang bean, succulent shelled; cowpea, succulent shelled; crowder pea, succulent shelled; southern pea, succulent shelled; andean lupin, succulent shelled; blue lupin, succulent shelled; grain lupin, succulent shelled; sweet lupin, succulent shelled; white lupin, succulent shelled; white sweet lupin, succulent shelled; yellow lupin, succulent shelled; broad bean, succulent shelled; jackbean, succulent shelled; goa bean, succulent shelled; lablab bean, succulent shelled; vegetable soybean, succulent shelled; velvet bean, succulent shelled; individual crops of proposed crop subgroup 6–18D: Succulent shelled pea subgroup including chickpea, succulent shelled; English pea, succulent shelled; garden pea, succulent shelled; green pea, succulent shelled; pigeon pea, succulent shelled; lentil, succulent shelled; individual crops of proposed crop subgroup 6–18E: Dried shelled bean, except soybean subgroup including African yam-bean, dry seed; American potato bean, dry seed; andean lupin bean, dry seed; blue lupin bean, dry seed; grain lupin bean, dry seed; sweet lupin bean, dry seed; white lupin bean, dry seed; white sweet lupin bean, dry seed; yellow lupin bean, dry seed; black bean, dry seed; cranberry bean, dry seed; dry bean, dry seed; field bean, dry seed; French bean, dry seed; garden bean, dry seed; great northern bean, dry seed; green bean, dry seed; kidney bean, dry seed; lima bean, dry seed; navy bean, dry seed; pink bean, dry seed; pinto bean, dry seed; red bean, dry seed; scarlet runner bean, dry seed; tepary bean, dry seed; yellow bean, dry seed; adzuki bean, dry seed; blackeyed pea, dry seed; asparagus bean, dry seed;

catjang bean, dry seed; Chinese longbean, dry seed; cowpea, dry seed; crowder pea, dry seed; mung bean, dry seed; moth bean, dry seed; rice bean, dry seed; southern pea, dry seed; urd bean, dry seed; yardlong bean, dry seed; broad bean, dry seed; guar bean, dry seed; goa bean, dry seed; horse gram, dry seed; jackbean, dry seed; lablab bean, dry seed; morama bean, dry seed; sword bean, dry seed; winged pea, dry seed; velvet bean, seed, dry seed; vegetable soybean, dry seed; individual crops of proposed crop subgroup 6–18F: Dried shelled pea subgroup including field pea, dry seed; dry pea, dry seed; green pea, dry seed; garden pea, dry seed; chickpea, dry seed; lentil, dry seed; grass-pea, dry seed; pigeon pea, dry seed. *Contact:* RD.

2. *EPA Registration Number:* 279–3618. *Docket ID Number:* EPA–HQ–OPP–2017–0187. *Applicant:* FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104. *Active Ingredient:* *Bacillus licheniformis* strain FMCH001 and *Bacillus subtilis* strain FMCH002. *Product Type:* Fungicide/nematicide. *Proposed Use:* Protection against fungal diseases and soil nematodes by seed treatment. *Contact:* BPPD.

3. *EPA Registration Number:* 8917–18. *Docket ID Number:* EPA–HQ–OPP–2019–0169. *Applicant:* J.R. Simplot Company, P.O. Box 27, Boise, ID 83707. *Active Ingredient:* Sulfuric Acid. *Product Type:* Desiccant. *Proposed Use:* Hop Vines. *Contact:* RD.

4. *EPA Registration Number:* 62719–559. *Docket ID Number:* EPA–HQ–OPP–2020–0133. *Applicant:* Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268–1054. *Active Ingredient:* Florasulam. *Product Type:* Herbicide MUP. *Proposed Use:* Grasses (seed crop). *Contact:* RD.

5. *File Symbol:* 84846–RU. *Docket ID Number:* EPA–HQ–OPP–2020–0146. *Applicant:* Spring Regulatory Sciences on behalf of FB Sciences, Inc., 153 N. Main St. Ste 100, Collierville, TN 38017. *Active Ingredient:* Complex Polymeric Polyhydroxy Acids (CPPA). *Product Type:* Plant Growth/Nematicide. *Proposed Use:* Plant growth regulator and nematicide when applied to foliage, soil and as a seed treatment. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 14, 2020.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2020–09607 Filed 5–4–20; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–10008–06]

Pesticide Registration Review; Pesticide Dockets Opened for Review and Comment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the EPA's preliminary work plans for the following chemicals: Chlorantraniliprole and sodium hydroxide. With this document, the EPA is opening the public comment period for registration review for these chemicals.

DATES: Comments must be received on or before July 6, 2020.

ADDRESSES: Submit your comments, to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: biscoe.melanie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for the EPA?

1. *Submitting CBI.* Do not submit this information to the EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to the EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the

public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Background

Registration review is the EPA’s periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. Registration review dockets contain information that will assist the public in understanding the types of information and issues that the agency may consider during the course of registration reviews. As part of the registration review process, the Agency has completed preliminary workplans for all pesticides listed in the Table in Unit IV. Through this program, the EPA is ensuring that each pesticide’s registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

The EPA is conducting its registration review of the chemicals listed in the

Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. Registration Reviews

A. What action is the Agency taking?

A pesticide’s registration review begins when the agency establishes a docket for the pesticide’s registration review case and opens the docket for public review and comment. Pursuant to 40 CFR 155.50, this notice announces the availability of the EPA’s preliminary work plans for the pesticides shown in the following table and opens a 60-day public comment period on the work plans.

Registration review case name and No.	Docket ID No.	Chemical Review Manager and contact information
Chlorantraniliprole, Case Number 7448	EPA-HQ-OPP-2020-0034	Andrew Muench, muench.andrew@epa.gov , (703) 347-8263.
Sodium hydroxide, Case Number 4065	EPA-HQ-OPP-2020-0152	SanYvette Williams, williams.sanyvette@epa.gov , (703) 305-7702.

B. Docket Content

The registration review docket contains information that the agency may consider in the course of the registration review. The agency may include information from its files including, but not limited to, the following information:

- An overview of the registration review case status.
- A list of current product registrations and registrants.
- **Federal Register** notices regarding any pending registration actions.
- **Federal Register** notices regarding current or pending tolerances.
- Risk assessments.
- Bibliographies concerning current registrations.
- Summaries of incident data.
- Any other pertinent data or information.

Each docket contains a document summarizing what the agency currently knows about the pesticide case and a preliminary work plan for anticipated data and assessment needs. Additional documents provide more detailed information. During this public comment period, the agency is asking that interested persons identify any additional information they believe the agency should consider during the registration reviews of these pesticides. The agency identifies in each docket the areas where public comment is specifically requested, though comment in any area is welcome.

The registration review final rule at 40 CFR 155.50(b) provides for a minimum 60-day public comment period on all preliminary registration review work plans. This comment period is intended to provide an opportunity for public

input and a mechanism for initiating any necessary changes to a pesticide’s workplan. All comments should be submitted using the methods in **ADDRESSES** and must be received by the EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Table in Unit IV. Comments received after the close of the comment period will be marked “late.” The EPA is not required to consider these late comments.

The agency will carefully consider all comments received by the closing date and may provide a “Response to Comments Memorandum” in the docket. The final registration review work plan will explain the effect that any comments had on the final work plan and provide the agency’s response to significant comments.

Background on the registration review program is provided at: <http://www.epa.gov/pesticide-reevaluation>.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 27, 2020.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2020-09570 Filed 5-4-20; 8:45 am]

BILLING CODE 6560-50-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for reinstatement without change of the information collection described below. The Commission is seeking public comments on the proposed reinstatement.

DATES: Written comments on this notice must be submitted on or before July 6, 2020.

ADDRESSES: You may submit comments using any of the following methods—please use only one method:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions on the website for submitting comments.

Mail: Comments may be submitted by mail to Bernadette B. Wilson, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507.

Fax: Comments totaling six or fewer pages can be sent by facsimile (“fax”) machine to (202) 663-4114 (This is not a toll-free number.) Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4070 (voice) or (800) 669-6820 (TTY). (These are not toll-free telephone numbers.)

Instructions: All comments received must include the agency name and docket number. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. However, the EEOC reserves the right to

refrain from posting libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

Although copies of comments received are usually also available for review at the Commission’s library, given the EEOC’s current 100% telework status due to the covid-19 pandemic, the Commission’s library is closed until further notice. Once the Commission’s library is re-opened, copies of comments received in response to the proposed rule will be made available for viewing by appointment only at 131 M Street NE, Suite 4NW08R, Washington, DC 20507, between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Kathleen Oram, Assistant Legal Counsel, (202) 663-4668, or Savannah Marion Felton, Senior Attorney, (202) 663-4909, Office of Legal Counsel, 131 M Street NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at 1-800-669-4000 (voice), 1-800-669-6820 (TTY), or 1-800-234-5122 (ASL Video Phone).

SUPPLEMENTARY INFORMATION: The Age Discrimination in Employment Act (ADEA) allows for individuals to waive rights and claims protected under the Act, provided certain circumstances are met; particularly that the waiver is knowing and voluntary. In order for an individual’s waiver in connection with a program to be considered knowing and voluntary, the employer must inform the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to (i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and (ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program. The EEOC’s regulations clarify that the relevant section of the ADEA addresses two principal issues: To whom information must be provided, and what information must be disclosed to such individuals. The purpose of the informational requirements is to provide an employee with enough information

regarding the program to allow an employee to make an informed choice whether or not to sign a waiver agreement. The employer does not provide this information to the EEOC; the ADEA and the EEOC’s regulation solely require that the employer provide this information to any employee it would apply to, and not to the Federal government.

The EEOC, in accordance with the PRA and OMB regulation 5 CFR 1320.8(d)(1), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the EEOC to assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public to understand the EEOC’s information collection requirements and provide the requested data in the desired format. The EEOC is soliciting comments on the information collection that is described below. The EEOC is especially interested in public comment that will assist the EEOC in the following: (1) Evaluating whether the collection of information is necessary for the proper performance of the Commission’s functions, including whether the collection has practical utility; (2) Evaluating the accuracy of the Commission’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) Enhancing the quality, utility, and clarity of the information to be collected; and (4) Minimizing the burden of the collection of information on those who are to respond, including 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. Please note that written comments received in response to this notice will be considered public records.

Overview of This Information Collection

Collection Title: Waivers of Rights and Claims Under the ADEA; Informational Requirements.

OMB Number: 3046-0042.

Type of Respondent: Business, state or local governments, not for profit institutions.

Description of Affected Public: Any employer with 20 or more employees that seeks waiver agreements in connection with an exit incentive or other employment termination program.

Number of Respondents: 2,425.

Burden Hours per Respondent: 16.19 hours.

Total Annual Burden Hours: 39,260.75.

Number of Forms: None.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA) which prohibits discrimination against employees and applicants for employment who are age 40 or older. The Older Workers Benefit Protection Act (OWBPA), enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to the EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at

29 CFR 1625.22 reiterates those disclosure requirements.

Burden Statement: In 2016, the EEOC conducted a limited survey as the foundation for estimating the burden hours per Respondent. The goal of the survey was to more accurately capture the actual costs of creating and distributing ADEA waivers and to better understand what type of employees were involved in this process.

For the current 2020 submission, the EEOC will rely again on this 2016 estimate of burden hours per respondent. Due to concerns about data quality given the current COVID-19 pandemic, and in accordance with OMB guidance memo M-20-16, the EEOC does not intend to conduct a new

limited survey to re-estimate burden hours per respondent at this time.

Based on data collected from employers participating in the 2016 limited survey, EEOC learned that the senior human resource managers and legal counsel bear the most significant brunt of the paperwork and human capital burden in drafting and distributing the waivers to employees. The burden hours for the creation of the ADEA waiver are estimated to be 8.25 per employer. Burden hours for the distribution of the ADEA waiver are estimated to be 7.94 per employer, for a total of 16.19 hours per employer.

The total annual burden hours is calculated by multiplying the number of Respondents by the burden hours per Respondent [$2,425 \times 16.19 = 39,260.75$].

TABLE 1—COMPUTATIONS RELATED TO PREPARING AND DRAFTING ADEA WAIVER BURDEN ESTIMATE *

	Wage rate (hour) ¹	Projected hours per employer	Cost per firm	Total cost
Number of Respondents: 2,425				
CLERICAL STAFF	\$18.69	0.11	\$2.06	\$4,985.56
SENIOR HUMAN RESOURCE MANAGERS	54.47	0.26	14.16	34,343.34
INTERNALCORPORATE LEGAL COUNSEL	58.13	2.23	129.63	314,352.51
EXTERNAL CORPORATE LEGAL COUNSEL	58.13	2.00	116.26	281,930.50
CHIEF EXECUTIVE OFFICERS	50.47	0.12	6.06	14,686.77
COMPUTER SPECIALIST (IT PROFESSIONAL)	25.70	0.42	10.79	26,175.45
HUMAN RESOURCE SPECIALIST	29.27	1.61	47.12	114,277.40
PARALEGAL	24.49	1.50	36.74	89,082.38
SUB TOTAL	319.35	8.25	362.82	879,833.89

* Totals may not sum due to rounding.

¹ Wage hour rates listed in first column are based on 2018 Median Pay for the occupation indicated and were obtained online from the U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, <http://www.bls.gov/oooh/>. Accessed April 8, 2020.

TABLE 2—COMPUTATIONS RELATED TO DISTRIBUTING ADEA WAIVER BURDEN ESTIMATE **

	Wage rate (hour) ¹	Projected hours per employer	Cost per firm	Total cost
Number of Respondents: 2,425				
HUMAN RESOURCE SPECIALIST	\$29.27	0.27	\$7.90	\$19,164.53
CLERICAL STAFF	18.69	0.5	9.35	22,661.63
SENIOR HUMAN RESOURCE MANAGERS	54.47	0.85	46.30	112,276.29
INTERNAL CORPORATE LEGAL COUNSEL	58.13	2.08	120.91	293,207.72
EXT CORPORATE LEGAL COUNSEL	58.13	2	116.26	281,930.50
PARALEGAL	24.49	1.5	36.74	89,082.38
PAYROLL SPECIALIST	19.02	0.2	3.80	9,224.70
ADMINISTRATIVE SERVICES MANAGER	46.24	0.27	12.48	30,275.64
DEPARTMENT EXECUTIVE	50.47	0.27	13.63	33,045.23
SUB TOTAL	358.91	7.94	367.37	890,868.61

** Totals may not sum due to rounding.

² Ibid.

Per Table 1 and 2 above, EEOC found that the approximate cost of preparing the ADEA waiver notice is \$362.82 per employer and the approximate cost of distributing the ADEA waiver notice is \$367.37 per employer. The total per

employer cost is therefore \$730.19. For all 2,425 employers who are projected to have reductions in force and request waiver notices, the total preparation cost is \$879,833.89, and \$890,868.61 for distribution. The total cost for all 2,425

employers is \$1,770,702.50. Table 1 reflects the calculation of the costs of creating the ADEA waiver and Table 2 reflects the calculation of the costs of distribution of the ADEA waiver.

For the Commission.

Janet L. Dhillon,
Chair.

[FR Doc. 2020-09603 Filed 5-4-20; 8:45 am]

BILLING CODE 6570-01-P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS20-05]

Appraisal Subcommittee; Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

SUPPLEMENTARY INFORMATION:

Description: In accordance with Section 1104(b) of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: Due to the COVID-19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (www.asc.gov) and access the provided registration link in the What's New box. You MUST register in advance to attend this Meeting.

Date: May 13, 2020.

Time: 10:00 a.m.

Status: Open.

Reports

Chairman
Executive Director
Delegated State Compliance Reviews
Grants Director
Financial Manager
Notation Vote

Action and Discussion Items

Approval of Minutes
February 12, 2020 Open Session
February 12, 2020 Closed Session
April 9, 2020 Special Meeting
Selection of ASC Vice Chair
Policy on Monitoring and Reviewing the Appraisal Foundation
Review and Approval of 2020 State Grant Notice of Funding Availability (NOFA) Summary
2019 ASC Annual Report

How to Attend and Observe an ASC Meeting: Due to the COVID-19 Pandemic, the meeting will be open to the public via live webcast only. Visit the agency's homepage (www.asc.gov) and access the provided registration link in the What's New box. The meeting space is intended to accommodate

public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC Meetings.

Dated: April 30, 2020.

Lori Schuster,

Management & Program Analyst.

[FR Doc. 2020-09584 Filed 5-4-20; 8:45 am]

BILLING CODE 6700-01-P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities; Extension of Comment Period

The company listed in this notice provided notice to the Board under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR part 225) to acquire or control voting securities of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in section 225.28 of Regulation Y (12 CFR 225.28), that the Board has determined by Order to be closely related to banking and permissible for bank holding companies, or that is otherwise permissible for financial holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The notice is available for inspection at the Federal Reserve Bank indicated. The public record of the notice, including all comments received also will be available on the Board's website at <https://www.federalreserve.gov/foia/readingrooms.htm>. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

The comment period for this notice has been extended in light of ongoing challenges for households and businesses caused by the COVID-19 emergency in order to provide additional opportunity for interested persons to submit comments. Comments regarding the notice 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; or <https://www.federalreserve.gov/apps/>

[ContactUs/feedback.aspx](#), not later than June 4, 2020.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001. Comments can also be sent electronically to comments.applications@ny.frb.org:

1. Morgan Stanley, New York, New York; to acquire E*TRADE Financial Corporation, and thereby indirectly acquire E*TRADE Bank and E*TRADE Savings Bank, all of Arlington, Virginia, pursuant to Section 4 of the BHC Act.

Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2020-09561 Filed 5-4-20; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 20, 2020.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521. Comments can also be sent electronically to Comments.applications@phil.frb.org:

1. Patriot Financial Partners, GP III, L.P., Patriot Financial Partners III, L.P., Patriot Financial Partners, GP III, LLC, Patriot Financial Advisors, L.P., Patriot Financial Advisors, LLC and W. Kirk Wycoff, James J. Lynch, and James F.

Deutsch (each of whom own the previously listed entities), all of Radnor, Pennsylvania; as members of a group acting in concert to acquire voting shares of Pacific Mercantile Bancorp and thereby indirectly acquire voting shares of Pacific Mercantile Bank, both of Costa Mesa, California.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Jeffrey L. Laudermilk and the Jeffrey L. Laudermilk 2012 Irrevocable Trust, Jeffrey L. Laudermilk, trustee, both of Sterling Kansas;* to acquire voting shares of Coronado, Inc. and thereby indirectly acquire voting shares of First Bank, both of Sterling, Kansas, and together with Terry A. Laudermilk; the Terry A. Laudermilk 2012 Irrevocable Trust, Terry A. Laudermilk, trustee; and Deborah Laudermilk, all of Wichita, Kansas; and Michelle K. Zaid-West and the Michelle Zaid-West 2012 Irrevocable Trust, Michelle K. Zaid-West, trustee, both of Sterling, Kansas; to be approved as members of the Laudermilk Family Group to acquire and/or retain voting shares of Coronado, Inc. and thereby indirectly acquire and/or retain voting shares of First Bank.

Board of Governors of the Federal Reserve System, April 30, 2020.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2020-09585 Filed 5-4-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0113; Docket No. 2020-0053; Sequence No. 3]

Information Collection; Acquisition of Helium

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning acquisition of Helium. DoD, GSA, and NASA invite comments on: Whether the

proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through July 31, 2020. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by July 6, 2020.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through <http://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite Information Collection 9000-0113, Acquisition of Helium. Comments received generally 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.

FOR FURTHER INFORMATION CONTACT: Bryon Boyer, Procurement Analyst, at telephone 817-850-5580, or bryon.boyer@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0113, Acquisition of Helium.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the Federal Acquisition Regulation (FAR) clause 52.208-8, Required Sources for Helium and Helium Usage Data. This clause implements the requirements of the Helium Act (50 U.S.C. 167, *et seq.*) and 43 CFR 3195. The clause, in paragraph(b)(2), requires contractors to: Purchase major helium

requirements, to be used in performance of a contract, from Federal helium suppliers to the extent supplies are available; and submit (within 10 days of such acquisition) the following information to the contracting officer: (1) The name of the supplier; (2) the amount of helium purchased; (3) the delivery date(s); and (4) the location where the helium was used.

The contracting officer will use the information to ensure compliance with contract clauses and will forward the information to the Department of the Interior, Bureau of Land Management. Without the information, Federal and contractor compliance with the applicable statutory requirements cannot be monitored effectively.

C. Annual Burden

Respondents: 26.

Total Annual Responses: 26.

Total Burden Hours: 26.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755, or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0113, Acquisition of Helium, in all requests.

Dated: April 30, 2020.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2020-09609 Filed 5-4-20; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0182; Docket No. 2020-0053; Sequence No. 4]

Information Collection; Privacy Training

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision and renewal concerning privacy training. DoD, GSA, and NASA

invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through July 31, 2020. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by July 6, 2020.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection by through <http://www.regulations.gov> and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202-501-4755 or GSARegSec@gsa.gov.

Instructions: All items submitted must cite Information Collection 9000-0182, Privacy Training. Comments received generally 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.

FOR FURTHER INFORMATION CONTACT: Bryon Boyer, Procurement Analyst, at telephone 817-850-5580, or bryon.boyer@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000-0182, Privacy Training.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirement:

- 52.224-3. This clause, in paragraph (d), requires contractors to:
 - (1) Maintain a record of initial and annual privacy training, for the contractor's employees that have:

(a) Have access to a system of records; (b) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of an agency; or (c) design, develop, maintain, or operate a system of records; and

- (2) provide the above information to the contracting officer if requested.

The contracting officer will use the information in contract administration and to establish that all applicable contractor and subcontractor employees comply with the privacy training requirements.

C. Annual Burden

Respondents/Recordkeepers: 33,162.

Total Annual Responses: 829.

Total Burden Hours: 99,690 (99,483 reporting hours + 207 recordkeeping hours).

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202-501-4755, or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000-0182, Privacy Training, in all requests.

Dated: April 30, 2020.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2020-09610 Filed 5-4-20; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Patient Safety Organizations: Voluntary Relinquishment for ABG Anesthesia Data Group, LLC

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of delisting.

SUMMARY: The Patient Safety and Quality Improvement Final Rule (Patient Safety Rule) authorizes AHRQ, on behalf of the Secretary of HHS, to list as a patient safety organization (PSO) an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be "delisted" by the Secretary if it is found to no longer meet the requirements of the Patient

Safety and Quality Improvement Act of 2005 (Patient Safety Act) and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. AHRQ accepted a notification of proposed voluntary relinquishment from ABG Anesthesia Data Group, LLC, PSO number P0068, of its status as a PSO, and has delisted the PSO accordingly.

DATES: The delisting was effective at 12:00 Midnight ET (2400) on April 29, 2020.

ADDRESSES: The directories for both listed and delisted PSOs are ongoing and reviewed weekly by AHRQ. Both directories can be accessed electronically at the following HHS website: <http://www.pso.ahrq.gov/listed>.

FOR FURTHER INFORMATION CONTACT: Cathryn Bach, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, MS 06N100B, Rockville, MD 20857; Telephone (toll free): (866) 403-3697; Telephone (local): (301) 427-1111; TTY (toll free): (866) 438-7231; TTY (local): (301) 427-1130; Email: pso@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety Act, 42 U.S.C. 299b-21 to 299b-26, and the related Patient Safety Rule, 42 CFR part 3, published in the **Federal Register** on November 21, 2008, 73 FR 70732-70814, establish a framework by which individuals and entities that meet the definition of provider in the Patient Safety Rule may voluntarily report information to PSOs listed by AHRQ, on a privileged and confidential basis, for the aggregation and analysis of patient safety events.

The Patient Safety Act authorizes the listing of PSOs, which are entities or component organizations whose mission and primary activity are to conduct activities to improve patient safety and the quality of health care delivery.

HHS issued the Patient Safety Rule to implement the Patient Safety Act. AHRQ administers the provisions of the Patient Safety Act and Patient Safety Rule relating to the listing and operation of PSOs. The Patient Safety Rule authorizes AHRQ to list as a PSO an entity that attests that it meets the statutory and regulatory requirements for listing. A PSO can be "delisted" if it is found to no longer meet the requirements of the Patient Safety Act and Patient Safety Rule, when a PSO chooses to voluntarily relinquish its status as a PSO for any reason, or when a PSO's listing expires. Section 3.108(d)

of the Patient Safety Rule requires AHRQ to provide public notice when it removes an organization from the list of PSOs.

AHRQ has accepted a notification of proposed voluntary relinquishment from ABG Anesthesia Data Group, LLC, a component entity of Anesthesia Business Group, LLC, to voluntarily relinquish its status as a PSO. Accordingly, ABG Anesthesia Data Group, LLC, P0068, was delisted effective at 12:00 Midnight ET (2400) on April 29, 2020.

ABG Anesthesia Data Group, LLC has patient safety work product (PSWP) in its possession. The PSO will meet the requirements of section 3.108(c)(2)(i) of the Patient Safety Rule regarding notification to providers that have reported to the PSO and of section 3.108(c)(2)(ii) regarding disposition of PSWP consistent with section 3.108(b)(3). According to section 3.108(b)(3) of the Patient Safety Rule, the PSO has 90 days from the effective date of delisting and revocation to complete the disposition of PSWP that is currently in the PSO's possession.

More information on PSOs can be obtained through AHRQ's PSO website at <http://www.pso.ahrq.gov>.

Virginia Mackay-Smith,
Associate Director.

[FR Doc. 2020-09562 Filed 5-4-20; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Child and Family Services Plan (CFSP), Annual Progress and Services Report (APSR), and Annual Budget Expenses Request and Estimated Expenditures (CFS-101) (0970-0426)

AGENCY: Children's Bureau, Administration on Children, Youth and

Families, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting a three-year extension of the collection of information under the Child and Family Services Plan (CFSP), the Annual Progress and Services Report (APSR), and the Annual Budget Expenses Request and Estimated Expenditures (CFS-101) collection (OMB #0970-0426, expiration 1/31/2021). There are minor changes to the APSR, the burden hours for the APSR, and CFS-101 form.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing infocollection@acf.hhs.gov. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:
Description: Under title IV-B, subparts 1 and 2, of the Social Security Act (the Act), states, territories, and tribes are required to submit a CFSP. The CFSP lays the groundwork for a system of coordinated, integrated, and culturally relevant family services for the subsequent five years (45 CFR 1357.15(a)(1)). The CFSP outlines initiatives and activities the state, tribe or territory will carry out in administering programs and services to promote the safety, permanency, and well-being of children and families, including, as applicable, those activities

conducted under the John H. Chafee Foster Care Program for Successful Transition to Adulthood (Section 477 of the Act) and the state grant authorized by the Child Abuse Prevention and Treatment Act. By June 30 of each year, states, territories, and tribes are also required to submit an APSR and a financial report called the CFS-101. The APSR is a yearly report that discusses progress made by a state, territory or tribe in accomplishing the goals and objectives cited in its CFSP (45 CFR 1357.16(a)). The APSR contains new and updated information about service needs and organizational capacities throughout the five-year plan period and, beginning with the submission due on June 30, 2021, will also include information on the use of the Family First Transition Grants and Funding Certainty Grants authorized by the Family First Transition Act included in Public Law (Pub. L.) 116-94. The CFS-101 has three parts. Part I is an annual budget request for the upcoming fiscal year. Part II includes a summary of planned expenditures by program area for the upcoming fiscal year, the estimated number of individuals or families to be served, and the geographical service area. Part III includes actual expenditures by program area, numbers of families and individuals served by program area, and the geographic areas served for the last complete fiscal year. The revisions made to the CFS-101 form are to streamline the data entry and to remove from Part III of the CFS-101 requests for prior year estimates on use of funds that are not required by law.

Respondents: States, territories, and tribes must complete the CFSP, APSR, and CFS-101. Tribes and territories are exempted from the monthly caseworker visits reporting requirement of the CFSP/APSR. There are approximately 180 tribal entities that currently receive IV-B funding. There are 53 states (including the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands) that must complete the CFSP, APSR, and CFS-101.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
APSR	233	3	82	57,318	19,106
CFSP	47	1	123	5,781	1,927
CFS-101, Part I, II, and III	233	1	5	1,165	1,165
Caseworker Visits	53	3	99.33	15,794	5,265

Estimated Total Annual Burden Hours: 27,463.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Title IV–B, subparts 1 and 2 of the Social Security Act (the Act), and title IV–E, section 477 of the Act; sections 106 and 108 of CAPTA (42 U.S.C. 5106a. and 5106d.); and Public Law 116–94, the Family First Transition Act within Section 602, Subtitle F, Title I, Division N of the Further Consolidated Appropriations Act, 2020.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2020–09605 Filed 5–4–20; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; StrokeNet Clinical Trials.

Date: May 6, 2020.

Time: 8:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NINDS, Neuroscience Center, 6001 Executive

Boulevard, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, Md 20892, (301) 435–6033, rajarams@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN K99/R00 to Promote Diversity.

Date: May 8, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NINDS, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Video Assisted Meeting).

Contact Person: Delany Torres, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, Neuroscience Center Building (NSC), 6001 Executive Blvd., Suite 3208, Bethesda, MD 20892, delany.torressalazar@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 29, 2020.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020–09541 Filed 5–4–20; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: June 3–4, 2020.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, fujij@csr.nih.gov.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.

Date: June 4–5, 2020.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Craig Giroux, Ph.D., Scientific Review Officer, BST IRC, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, girouxcn@csr.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.

Date: June 4–5, 2020.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892–7846, 301–827–7238, zhaow@csr.nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Guided Interventions and Surgery Study Section.

Date: June 4–5, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ileana Hancu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, Bethesda, MD 20817, 301–402–3911, ileana.hancu@nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Clinical Translational Imaging Science Study Section.

Date: June 4–5, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435-1195, Chengy5@csr.nih.gov.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Interventions to Prevent and Treat Addictions Study Section.

Date: June 4–5, 2020.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, (301) 523-0646, mintzermz@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

Date: June 4–5, 2020.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435-1712, ryansj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-RM-20-003: Real-Time Chromatin Dynamics and Function.

Date: June 4, 2020.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301-451-3388, seldens@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Biology Structure and Regeneration.

Date: June 5, 2020.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rajiv Kumar, Ph.D., IRG Chief Center for Scientific Review, National

Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301-435-1212, kumarra@csr.nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Bioengineering, Technology and Surgical Sciences Study Section.

Date: June 8–9, 2020.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301-435-2392, masoodk@csr.nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Development—2 Study Section.

Date: June 8–9, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rass M. Shaiyiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435-2359, shaiyiq@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section Behavioral Genetics and Epidemiology Study Section (BGES).

Date: June 9–10, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrew Loudan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20817, 301-435-1985, loudenand@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: Biomedical Technology Research Resource (P41).

Date: June 9–10, 2020.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301-806-8065, lijames@csr.nih.gov.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: June 9, 2020.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Dr., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, 301-451-3388, seldens@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 29, 2020.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-09543 Filed 5-4-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, June 18, 2020, 8:00 a.m. to June 19, 2020, 5:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 which was published in the **Federal Register** on April 10, 2020, 85 FR 20282.

This notice is being amended to change the meeting times. The teleconference meeting will now be held June 18, 2020, 10:00 a.m. to June 19, 2020, 4:00 p.m. The meeting is closed to the public.

Dated: April 29, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-09516 Filed 5-4-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; 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. 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: National Eye Institute Special Emphasis Panel; NEI Clinical Trial and Clinical Applications.

Date: June 1, 2020.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Hoshaw, Ph.D., Designated Federal Official, Division of Extramural Research, National Eye Institute, National Institutes of Health, 6700 B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 301-451-2020, hoshawb@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: April 29, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-09544 Filed 5-4-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from <https://www.genome.gov/event-calendar/89th-Meeting-of-National-Advisory-Council-for-Human-Genome-Research>.

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. 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: National Advisory Council for Human Genome Research.

Date: May 18-19, 2020.

Closed: May 18, 2020, 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700-B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Open: May 18, 2020, 12:30 p.m. to 4:30 p.m.

Agenda: To discuss matters of program relevance.

Place: National Human Genome Research Institute, National Institutes of Health, 6700-B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Closed: May 19, 2020, 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 6700-B Rockledge Drive, Suite 1100, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700-B Rockledge Drive, Suite 1100, Bethesda, MD 20817, (301) 402-0838, pozzatrr@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. The url link to this meeting is: <https://www.genome.gov/event-calendar/89th-Meeting-of-National-Advisory-Council-for-Human-Genome-Research>. Any member of the public may submit written comments no later than 15 days after the meeting.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: April 30, 2020.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2020-09618 Filed 5-4-20; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2020-0172]

Port Access Route Study: Seacoast of New Jersey Including Offshore Approaches to the Delaware Bay, Delaware

AGENCY: Coast Guard, DHS.

ACTION: Notice of study; request for comments.

SUMMARY: The Coast Guard is conducting a Port Access Route Study (PARS) to determine whether existing or additional vessel routing measures are necessary along the seacoast of New Jersey and approaches to the Delaware Bay. The PARS will consider whether existing or additional routing measures are necessary to improve navigation safety due to factors such as planned or potential offshore development, current port capabilities and planned improvements, increased vessel traffic, existing and potential anchorage areas, changing vessel traffic patterns, weather conditions, or navigational difficulty. Vessel routing measures are implemented to reduce the risk of marine casualties. Examples of potential measures include traffic separation schemes, two-way routes, recommended tracks, deep-water routes, precautionary areas, and areas to be avoided. The recommendations of the study may lead to future rulemakings or international agreements.

DATES: Comments and related material must be received on or before July 6, 2020. Requests for a public meeting must be submitted on or before June 4, 2020.

ADDRESSES: You may submit comments identified by docket number USCG-2020-0172 using the Federal eRulemaking Portal <http://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 notice of study, call or email Mr. Jerry Barnes, Fifth Coast Guard District (dpw), U.S. Coast Guard; telephone (757) 398-6230, email Jerry.R.Barnes@uscg.mil; or Mr. Matt Creelman, Fifth Coast Guard District (dpw), U.S. Coast Guard; telephone (757) 398-6225, email Matthew.K.Creelman2@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

ACPARS	Atlantic Coast Port Access Route Study
AIS	Automatic Identification System
COMDTINST	Commandant Instruction
DHS	Department of Homeland Security
EEZ	Exclusive Economic Zone
MTS	Marine Transportation System
PARS	Port Access Route Study
TSS	Traffic Separation Scheme
USCG	United States Coast Guard

II. Background and Purpose

A. Requirements for Port Access Route Studies: Under Section 70003 of Title 46 of the United States Code, the Commandant of the Coast Guard may designate necessary fairways and traffic separation schemes (TSSs) to provide safe access routes for vessels proceeding to and from U.S. ports. The designation of fairways and TSSs recognizes the paramount right of navigation over all other uses in the designated areas.

Before establishing or adjusting fairways or TSSs, the Coast Guard must conduct a PARS, *i.e.*, a study of potential traffic density and the need for safe access routes for vessels. Through the study process, the Coast Guard must coordinate with federal, state, and foreign state agencies (as appropriate) and consider the views of maritime community representatives, environmental groups, and other interested stakeholders. The primary purpose of this coordination is, to the extent practicable, to reconcile the need for safe access routes with other reasonable waterway uses such as anchorages, construction and operation of renewable energy facilities and other uses.

In addition to aiding the Coast Guard in establishing new or adjusting fairways or TSSs, this PARS may recommend establishing or amending other vessel routing measures. Examples of other routing measures include two-way routes, recommended tracks, deep-water routes (for the benefit primarily of ships whose ability to maneuver is constrained by their draft), precautionary areas (where ships must navigate with particular caution), and areas to be avoided (for reasons of exceptional danger or especially sensitive ecological and environmental factors).

B. Previous Port Access Route Studies: The Coast Guard last studied the Seacoast of New Jersey and approaches to the Delaware Bay in 1994, and published the final results in 1995 (60 FR 49237, September 22, 1995). The study was conducted in response to a number of near collisions and at least one collision between an outbound tug-barge and an inbound deep draft ship in

the eastern approach lane of the TSS. The previous study is available for review upon request (refer to **FOR FURTHER INFORMATION CONTACT**).

In 2016, the Coast Guard published a notice of its Atlantic Coast Port Access Route Study (ACPARS) (81 FR 13307, March 14, 2016) that analyzed the Atlantic Coast waters seaward of existing port approaches within the U.S. Exclusive Economic Zone (EEZ) and announced the report as final in 2017 (82 FR 16510, April 5, 2017). This multiyear study began in 2011, included public participation, and identified the navigation routes customarily followed by ships engaged in commerce between international and domestic U.S. ports. The study is available at <https://navcen.uscg.gov/?pageName=PARSReports>. The ACPARS analyzed waters located seaward of existing port approaches within the EEZ along the entire Atlantic Coast. Data and information from stakeholders, including Automatic Identification System (AIS) data from vessel traffic, were used to identify and verify deep draft and coastwise navigation routes that are typically followed by ships engaged in commerce between international and domestic U.S. ports. Additional analysis of sea space for vessels to maneuver in compliance with the International Regulations for Preventing Collisions at Sea led to the development of marine planning guidelines and recommendations for shipping safety fairways.

C. Need for a New Port Access Route Study: In 2019, the Coast Guard announced a new study of routes used by ships to access ports on the Atlantic Coast of the United States (84 FR 9541, March 15, 2019). This new study supplements and builds on the ACPARS. As part of the study, the Coast Guard will conduct several PARS to examine ports along the Atlantic Coast that are economically significant or support military or critical national defense operations and related international entry and departure transit areas that are integral to the safe and efficient and unimpeded flow of commerce to/from major international shipping lanes.

III. Information Requested

The purpose of this notice is to announce commencement of this PARS to examine the seacoast of New Jersey and approaches to the Delaware Bay in conjunction with the implementation of recommendations of the ACPARS, and to solicit public comments. Similar to the ACPARS, this PARS will use AIS data and information from stakeholders to identify and verify customary

navigation routes as well as potential conflicts involving alternative activities, such as Offshore Renewable Energy Installations. We encourage you to participate in the study process by submitting comments in response to this notice. Comments should address impacts to navigation along the seacoast of New Jersey and approaches to the Delaware Bay resulting from factors such as: Planned or potential offshore development including wind turbine placements and transmission corridors, current port capabilities and planned improvements, increased vessel traffic, changing vessel traffic patterns, weather conditions, potential conflicts or disruptions in uncharted or informal anchorage areas, or navigational difficulty.

IV. Public Participation and Request for Comments

We encourage you to participate in this study by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

A. Submitting Comments: If you submit comments to the online public docket, please include the docket number for this notice (USCG–2020–0172), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. We accept anonymous comments.

To submit your comment online, go to <http://www.regulations.gov>, and insert “USCG–2020–0172” in the “search box.” Click “Search” and then click “Comment Now.” We will consider all comments and material received during the comment period.

B. Public Meetings: The Coast Guard may hold a public meeting(s) if there is sufficient public interest. You must submit a request for one on or before June 4, 2020. You may submit your request for a public meeting online via <http://www.regulations.gov>. Please explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid in the study, we will hold a meeting at a time and place announced by a later notice in the **Federal Register**.

C. Viewing Comments and Documents: To view the comments and documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2020–0172” and click “Search.” Click the

“Open Docket Folder” in the “Actions” column.

D. Privacy Act: 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 Correspondence System of Records notice (84 FR 48645, September 26, 2018). Documents mentioned in this notice 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.

V. Seacoast of New Jersey Including Offshore Approaches to the Delaware Bay, Delaware PARS: Timeline, Study Area, and Process

The Fifth Coast Guard District and Coast Guard Sector Delaware Bay will conduct this PARS. The study will commence upon publication of this notice and may take 12 months or more to complete.

The study area is described as an area bounded by a line connecting the following geographic positions:

- 74° W 40°18' N
- 71°16' W 38°57' N
- 71°16' W 38°16' N
- 75°7' W 38°16' N

thence along the coast line back to the origin.

This area extends approximately 175 nautical miles seaward including the offshore area of New Jersey, Delaware, and Maryland used by private, commercial and public vessels transiting to and from these ports. An illustration showing the study area is available in the docket where indicated under **ADDRESSES**. Additionally, the study area is available for viewing on the Mid-Atlantic Ocean Data Portal at <http://portal.midatlanticocean.org/visualize/>. See “USCG Proposed Areas and Studies” under the “Maritime” portion of the Data Layers section.

This PARS will analyze navigation routes to/from the seacoast of New Jersey, Delaware, and Maryland including approaches to the Delaware Bay connecting to the proposed fairways outlined in the ACPARS including international routes to/from the United States. Current capabilities and planned improvements to handle maritime conveyances will be considered. Analyses will be conducted in

accordance with COMDTINST 16003.2B, Marine Planning to Operate and Maintain the Marine Transportation System (MTS) and Implement National Policy. Instruction available at https://media.defense.gov/2019/Jul/10/2002155400/-1/-1/0/CI_16003_2B.PDF.

We will publish the results of the PARS in the **Federal Register**. It is possible that the study may validate the status quo (no additional fairways or routing measures) and conclude that no changes are necessary. It is also possible that the study may recommend one or more changes to address navigational safety and the efficiency of vessel traffic management. The recommendations may lead to future rulemakings or international agreements.

This notice is published under the authority of 5 U.S.C. 552(a).

Dated: April 28, 2020.

Keith M. Smith,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2020–09538 Filed 5–4–20; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection [1651–0019]

Agency Information Collection Activities: Vessel Entrance or Clearance Statement

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted no later than May 19, 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (85 FR 1818) on January 13, 2020, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (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, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Vessel Entrance or Clearance Statement.

OMB Number: 1651–0019.

Form Number: CBP Form 1300.

Current Actions: CBP proposes to extend the expiration date of this information collection with a decrease to the burden hours due to updated agency estimates. There is no change to the information being collected.

Type of Review: Extension (with change).

Abstract: CBP Form 1300, *Vessel Entrance or Clearance Statement*, is used to collect essential commercial vessel data at time of formal entrance and clearance in U.S. ports. The form allows the master to attest to the truthfulness of all CBP forms associated with the manifest package, and collects information about the vessel, cargo, purpose of entrance, certificate numbers, and expiration for various certificates. It also serves as a record of fees and tonnage tax payments in order to prevent overpayments. CBP Form 1300 was developed through agreement by the United Nations Intergovernmental Maritime Consultative Organization (IMCO) in conjunction with the United States and various other countries. This form is authorized by 19 U.S.C. 1431, 1433, and 1434, and provided for by 19 CFR part 4, and accessible at <http://www.cbp.gov/newsroom/publications/forms?title=1300>.

Affected Public: Businesses.

Estimated Number of Respondents: 2,624.

Estimated Number of Responses per Respondent: 72.

Estimated Total Annual Responses: 188,928.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 94,464.

Dated: April 30, 2020.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2020-09542 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-14-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4509-DR; Docket ID FEMA-2020-0001]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA-4509-DR), dated April 1, 2020, and related determinations.

DATES: The declaration was issued April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 1, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the emergency conditions in the State of North Dakota resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lee K. dePalo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of North Dakota have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of North Dakota.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora

Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09501 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4526-DR; Docket ID FEMA-2020-0001]

Delaware; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Delaware (FEMA-4526-DR), dated April 5, 2020, and related determinations.

DATES: The declaration was issued April 5, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 5, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the emergency conditions in the State of Delaware resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Delaware.

In order to provide Federal assistance, you are hereby authorized to allocate from funds

available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, MaryAnn Tierney, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Delaware have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Delaware.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09508 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4534–DR; Docket ID FEMA–2020–0001]

Idaho; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Idaho (FEMA–4534–DR), dated April 9, 2020, and related determinations.

DATES: The declaration was issued April 9, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 9, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Idaho resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Idaho.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael F. O’Hare, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Idaho have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Idaho.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030,

Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09513 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4508–DR; Docket ID FEMA–2020–0001]

Montana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Montana (FEMA–4508–DR), dated March 31, 2020, and related determinations.

DATE: The declaration was issued March 31, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 31, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Montana resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Montana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds

available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lee K. dePalo, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Montana have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Montana.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09494 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4510-DR; Docket ID FEMA-2020-0001]

Hawaii; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Hawaii (FEMA-4510-DR), dated April 1, 2020, and related determinations.

DATE: The declaration was issued April 1, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 1, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Hawaii resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Hawaii.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert J. Fenton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Hawaii have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Hawaii.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030,

Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09495 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4479-DR; Docket ID FEMA-2020-0001]

South Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA-4479-DR), dated March 17, 2020, and related determinations.

DATE: The declaration was issued March 17, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 17, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of South Carolina resulting from severe storms, tornadoes, straight-line winds, and flooding during the period of February 6 to February 13, 2020, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Allan Jarvis, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of South Carolina have been designated as adversely affected by this major disaster:

Anderson, Chester, Greenville, Newberry, Oconee, Pickens, and Spartanburg Counties for Public Assistance.

All areas within the State of South Carolina are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09493 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4518-DR; Docket ID FEMA-2020-0001]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA-4518-DR), dated April 3, 2020, and related determinations.

DATES: The declaration was issued April 3, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 3, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Arkansas resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, George A. Robinson, of FEMA is appointed to act

as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arkansas have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Arkansas.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09504 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4529-DR; Docket ID FEMA-2020-0001]

New Mexico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Mexico (FEMA-4529-DR), dated April 5, 2020, and related determinations.

DATES: The declaration was issued April 5, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 5, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42

U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of New Mexico resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of New Mexico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, George A. Robinson, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New Mexico have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of New Mexico.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09510 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4522–DR; Docket ID FEMA–2020–0001]

Maine; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maine (FEMA–4522–DR), dated April 4, 2020, and related determinations.

DATES: The declaration was issued April 4, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 4, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Maine resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Maine.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Russell Webster, of FEMA is appointed to act as the

Federal Coordinating Officer for this major disaster.

The following areas of the State of Maine have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Maine.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09506 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4507–DR; Docket ID FEMA–2020–0001]

Ohio; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA–4507–DR), dated March 31, 2020, and related determinations.

DATES: The declaration was issued March 31, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated March 31, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency

Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Ohio resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James K. Joseph, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Ohio have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Ohio.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,
Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09500 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4511-DR; Docket ID FEMA-2020-0001]

Commonwealth of the Northern Mariana Islands; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of the Northern Mariana Islands (FEMA-4511-DR), dated April 1, 2020, and related determinations.

DATES: The declaration was issued April 1, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 1, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the Commonwealth of the Northern Mariana Islands resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the Commonwealth of the Northern Mariana Islands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the Commonwealth. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that

pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert J. Fenton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of the Northern Mariana Islands have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all islands in the Commonwealth of the Northern Mariana Islands.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,
Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09502 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4531-DR; Docket ID FEMA-2020-0001]

Minnesota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Minnesota (FEMA-4531-DR), dated April 7, 2020, and related determinations.

DATES: The declaration was issued April 7, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 7, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Minnesota resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Minnesota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James K. Joseph, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Minnesota have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Minnesota.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09511 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4528-DR; Docket ID FEMA-2020-0001]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA-4528-DR), dated April 5, 2020, and related determinations.

DATES: The declaration was issued April 5, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 5, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Mississippi resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Gracia B. Szczech, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Mississippi have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Mississippi.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09509 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4478-DR; Docket ID FEMA-2020-0001]

Mississippi; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA-4478-DR), dated March 12, 2020, and related determinations.

DATES: This change occurred on April 17, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jose M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Terry L. Quarles as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09499 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4533–DR; Docket ID FEMA–2020–0001]

Alaska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alaska (FEMA–4533–DR), dated April 9, 2020, and related determinations.

DATES: The declaration was issued April 9, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 9, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Alaska resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Alaska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael F. O’Hare, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alaska have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Alaska.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09512 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4516–DR; Docket ID FEMA–2020–0001]

New Hampshire; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Hampshire (FEMA–4516–DR), dated April 3, 2020, and related determinations.

DATES: The declaration was issued April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 3, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of New Hampshire resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of New Hampshire.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, W. Russell Webster, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New Hampshire have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of New Hampshire.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09498 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4524-DR; Docket ID FEMA-2020-0001]

Arizona; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arizona (FEMA-4524-DR), dated April 4, 2020, and related determinations.

DATES: The declaration was issued April 4, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 4, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Arizona resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Arizona.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert J. Fenton, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Arizona have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Arizona.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals

and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020-09507 Filed 5-4-20; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4515-DR; Docket ID FEMA-2020-0001]

Indiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA-4515-DR), dated April 3, 2020, and related determinations.

DATES: The declaration was issued April 3, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 3, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Indiana resulting from the Coronavirus Disease 2019 (COVID-19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Indiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any

Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, James K. Joseph, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Indiana have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Indiana.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09503 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4521–DR; Docket ID FEMA–2020–0001]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA–4521–DR), dated April 4, 2020, and related determinations.

DATES: The declaration was issued April 4, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 4, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the State of Nebraska resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Paul Taylor, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Nebraska have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the State of Nebraska.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially

Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

Pete Gaynor,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2020–09505 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4475–DR; Docket ID FEMA–2020–0001]

North Dakota; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Dakota (FEMA–4475–DR), dated January 21, 2020, and related determinations.

DATE: This amendment was issued April 24, 2020.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Dakota is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of January 21, 2020.

Dickey and Emmons Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036,

Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,
Administrator, Federal Emergency
Management Agency.

[FR Doc. 2020–09492 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4512–DR; Docket ID FEMA–2020–0001]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–4512–DR), dated April 2, 2020, and related determinations.

DATES: The declaration was issued April 2, 2020.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 2, 2020, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the emergency conditions in the Commonwealth of Virginia resulting from the Coronavirus Disease 2019 (COVID–19) pandemic beginning on January 20, 2020, and continuing, are of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), including direct Federal assistance, under the Public Assistance program throughout the Commonwealth. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance

will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, MaryAnn Tierney, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Virginia have been designated as adversely affected by this major disaster:

Emergency protective measures (Category B) not authorized under other Federal statutes, including direct Federal assistance, under the Public Assistance program at 75 percent federal funding for all areas in the Commonwealth of Virginia.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Pete Gaynor,
Administrator, Federal Emergency
Management Agency.

[FR Doc. 2020–09497 Filed 5–4–20; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2019–0047]

Privacy Act of 1974; System of Records

AGENCY: Department of Homeland Security.

ACTION: Notice of reopening of the comment period.

SUMMARY: The Department of Homeland Security is reopening the comment period for the Enterprise Biometric Administrative Records system of records notice published on March 16, 2020. This action will provide the public with additional time and opportunity to provide the Department

of Homeland Security with information regarding the Enterprise Biometric Administrative Records system of records. The comment period is reopened until May 19, 2020.

DATES: The comment period for the notice published on March 16, 2020 (85 FR 14955) is reopened. Comments must be submitted to the online docket via <https://www.regulations.gov> on or before May 19, 2020.

ADDRESSES: You may submit comments identified by docket number DHS–2019–0047 using the Federal eRulemaking Portal at <https://www.regulations.gov>. All submissions received must include the agency name and docket number DHS–2019–0047. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Constantina Kozanas, privacy@hq.dhs.gov, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION: This notice provides the public additional time and opportunity to provide the Department of Homeland Security with information regarding the Enterprise Biometric Administrative Records system of records first published on March 16, 2020. 85 FR 14955. We encourage you to review the initial notice and submit comments (or related material) on the Enterprise Biometric Administrative Records system of records notice. We will consider all submissions and may adjust our final action based on your comments. If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Constantina Kozanas,
Chief Privacy Officer, Department of
Homeland Security.

[FR Doc. 2020–09524 Filed 5–4–20; 8:45 am]

BILLING CODE 9910–9B–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2019–0046]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL–043 Enterprise Biometric Administrative Records (EBAR) System of Records**AGENCY:** Department of Homeland Security.**ACTION:** Notice of reopening of the comment period.

SUMMARY: The Department of Homeland Security is reopening the comment period for the proposed rulemaking associated with the Enterprise Biometric Administrative Records system of records notice published on March 16, 2020. This action will provide the public with additional time and opportunity to provide the Department of Homeland Security with information regarding the Enterprise Biometric Administrative Records system of records. The comment period is reopened until May 19, 2020.

DATES: The comment period for the notice published on March 16, 2020 (85 FR 14955) is reopened. Comments must be submitted to the online docket via <https://www.regulations.gov> on or before May 19, 2020.

ADDRESSES: You may submit comments identified by docket number DHS–2019–0046 using the Federal eRulemaking Portal at <https://www.regulations.gov>. All submissions received must include the agency name and docket number DHS–2019–0046. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Constantina Kozanas, privacy@hq.dhs.gov, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION: This notice provides the public additional time and opportunity to provide the Department of Homeland Security with information regarding the proposed rulemaking associated with the Enterprise Biometric Administrative Records system of records first published on March 16, 2020. 85 FR 14805. We encourage you to review the initial notice and submit comments (or

related material) on the proposed rulemaking associated with the Enterprise Biometric Administrative Records system of records notice. We will consider all submissions and may adjust our final action based on your comments. If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Constantina Kozanas,
Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2020–09530 Filed 5–4–20; 8:45 am]

BILLING CODE 9910–9B–P**DEPARTMENT OF HOMELAND SECURITY****Transportation Security Administration****Intent To Request Extension From OMB of One Current Public Collection of Information: Sensitive Security Information Threat Assessment Application****AGENCY:** Transportation Security Administration, DHS.**ACTION:** 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0042, abstracted below that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves TSA determining whether the party or representative of a party seeking access to sensitive security information (SSI) in a civil proceeding in federal district court, a prospective bidder seeking access to SSI for the purpose of perfecting a proposal in response to a TSA request for proposal, a party to other contractual agreements (e.g., bailments), a participant of other transaction agreements, or someone who receives other conditional SSI disclosures may be granted access to the SSI.

DATES: Send your comments by July 6, 2020.

ADDRESSES: Comments may be emailed to TSAPRA@tsa.dhs.gov or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <http://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Consistent with the requirements of Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, and E.O. 13777, Enforcing the Regulatory Reform Agenda, TSA is also requesting comments on the extent to which this request for information could be modified to reduce the burden on respondents.

Information Collection Requirement

OMB Control Number 1652–0042; Sensitive Security Information Threat Assessment. TSA is seeking to renew the control number (1652–0042) for the maximum three-year period in order to continue compliance with sec. 525(d) of the Department of Homeland Security Appropriations Act of 2007 (DHS Appropriations Act, Pub. L. 109–295, 120 Stat. 1382), as reenacted, and to continue the process for access to SSI. TSA developed this process for a party seeking access to SSI in a civil proceeding in federal district court who demonstrates a substantial need for relevant SSI in the preparation of the party's case, and who is unable without undue hardship to obtain the substantial equivalent of the information by other means. Under this process, the party or party's representative may request and

be granted conditional access to the SSI at issue in the case.

These procedures also apply to additional categories of individuals seeking access to SSI. They apply to witnesses retained by a party as experts or consultants and court reporters that are required to record or transcribe testimony containing specific SSI and do not have a current security clearance required for access to classified national security information as defined by E.O. 12958 as amended. The procedure is also used by a prospective bidder who is seeking to submit a proposal in response to a request for proposal by TSA so they may request certain SSI to perfect their bid, an individual involved in the performance of non-traditional contractual agreements (for example, bailments) or other transaction agreements, or an individual receiving access to SSI under 49 CFR 1520.15(e) regarding other conditional disclosures.

Applicants seeking access to SSI in federal district court litigation, bidders, and certain other applicants will be required to complete TSA Form 2211 in order to have a security threat assessment completed before they can receive the requested SSI. TSA will use the information collected to conduct the security threat assessment for the purpose of determining whether the provision of such access to the information for the proceeding or other reason presents a risk of harm to the Nation. TSA recently revised the collection of information to allow individuals who are members of TSA PreCheck™ (also known as TSA PreCheck®) Application Program) to provide a known traveler number (KTN) to facilitate the security threat assessment. This assessment includes: (1) A fingerprint-based criminal history records check (CHRC); (2) a name-based check to determine whether the individual poses or is suspected of posing a threat to transportation or national security, including checks against terrorism, immigration, or other databases TSA maintains or uses; and/or (3) implement other procedures and requirements for safeguarding SSI that are satisfactory to TSA including a professional responsibility check (for attorneys and court reporters). Based on the results of the security threat assessment, TSA will make a final determination on whether the individual may be granted access to the SSI.

TSA estimates that the total annual hour burden for this collection will be 275 hours, based on an estimated 256 annual respondents with a one-hour burden per respondent, plus 7 SSI

litigant respondents with a 2.68-hour burden per respondent.

Dated: April 29, 2020. .

Christina A. Walsh,

*TSA Paperwork Reduction Act Officer,
Information Technology.*

[FR Doc. 2020-09545 Filed 5-4-20; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000. L19200000.ET0000
LROROB1109000; CACA 016422]

Notice of Legal Descriptions for the El Centro Training Range Complex, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of legal land descriptions.

SUMMARY: This notice provides official publication of the legal land descriptions for the Department of the Navy's El Centro Training Range Complex (ECTRC) withdrawal created by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1997.

DATES: The lands described in this notice were withdrawn on September 23, 1996.

ADDRESSES: Maps and copies of the legal descriptions are available through mailed request to:

BLM, California State Office, Public Room, 2800 Cottage Way, W-1928, Sacramento, CA 95825-1886.

BLM, El Centro Field Office, 1661 S 4th Street, El Centro, CA 92243.

Naval Facilities Engineering Command (NAVFAC SW), 1220 Pacific Highway, San Diego, California 92132.

Facilities Management Division Director, Naval Air Facility El Centro, 1 Bennet Road, El Centro, CA 92243-5001.

FOR FURTHER INFORMATION CONTACT:

Heather Daniels, Realty Specialist, Bureau of Land Management, California State Office, telephone: 916-978-4674; email: hdaniels@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact Ms. Daniels. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Section 2923 of Public Law 104-201, enacted on September 23, 1996, and known as the NDAA for FY 1997, withdrew lands in

the ECTRC for military purposes based on a map dated March 1993. The FY 1997 NDAA required the Secretary of the Interior to publish the official legal description of the lands in the **Federal Register** as soon as practicable after enactment of the legislation. The withdrawal legal description for the ECTRC is described as follows:

Target 68, BLM Withdrawn Lands

San Bernardino Meridian, California

T. 14 S., R. 17 E.,
Sec. 3, lots 5 and 6, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
Secs. 4 and 5;
Sec. 6, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Secs. 7 thru 10, 15, 17, and 18;
Sec. 19, NE $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, NW $\frac{1}{4}$.

The areas described aggregate 7,688.29 acres.

Target 95, BLM Withdrawn Lands

San Bernardino Meridian, California

T. 13 S., R. 16 E.,
Sec. 1, lots 13, 14, 18 thru 23, and 25 thru 28 and S $\frac{1}{2}$;
Sec. 2, lots 13 thru 28 and S $\frac{1}{2}$;
Sec. 3, lots 15 thru 18 and 22 thru 27, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and E $\frac{1}{2}$;
Secs. 11 and 12;
Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14;
Sec. 15, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 13 S., R. 17 E.,
Sec. 6, lot 32;
Sec. 7, lots 3 thru 6, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lots 3 and 4.

The areas described aggregate 6,074.33 acres.

Target 101, BLM Withdrawn Lands

San Bernardino Meridian, California

T. 13 S., R. 11 E.,
Sec. 34, SW $\frac{1}{4}$ and E $\frac{1}{2}$;
Sec. 35.
T. 14 S., R. 11 E.,
Secs. 1, 2, and 3;
Sec. 10, N $\frac{1}{2}$;
Sec. 11, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 12;
Sec. 13, NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 14, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 13 S., R. 12 E.,
Sec. 31, lots 5 and 6 and E $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 14 S., R. 12 E.,
Sec. 6, lots 5 thru 9, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 7, lots 3 thru 6, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
Sec. 8, S $\frac{1}{2}$;
Sec. 9, S $\frac{1}{2}$;
Sec. 10, S $\frac{1}{2}$;
Sec. 11, SW $\frac{1}{4}$;
Secs. 14, 15, and 17;
Sec. 18, lots 3 and 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$;

Sec. 19, E $\frac{1}{2}$;
 Secs. 22 and 23;
 Sec. 24, NW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 26 and 27;
 Sec. 30, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 32, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 34, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$, and N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$, and
 NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 36, W $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$.

The areas described aggregate 15,216.30 acres.

Target 103, BLM Withdrawn Lands

San Bernardino Meridian, California

T. 15 S., R. 10 E.,
 Sec. 1, lots 9 thru 12 and SW $\frac{1}{4}$;
 Sec. 2, S $\frac{1}{2}$;
 Sec. 10, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 11 thru 14; sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$ and
 E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 23 and 24;
 Sec. 25, N $\frac{1}{2}$;
 Sec. 26, NE $\frac{1}{4}$.
 T. 15 S., R. 11 E.,
 Sec. 5, SW $\frac{1}{4}$;
 Sec. 6, lots 8 and 9, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 7, 8, and 17 thru 20;
 Sec. 29, NW $\frac{1}{4}$;
 Sec. 30, lots 3 and 4, NE $\frac{1}{4}$, and E $\frac{1}{2}$ NW $\frac{1}{4}$.

The areas described aggregate 10,269.37 acres.

Parachute Drop Zone, BLM Withdrawn Lands

San Bernardino Meridian, California

T. 15 S., R. 11 E.,
 Secs. 10 and 11;
 Sec. 12, W $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;
 Secs. 13, 14, and 15;
 Sec. 22, NE $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24.
 T. 15 S., R. 12 E.,
 Sec. 7, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 8, S $\frac{1}{2}$;
 Secs. 17 and 18;
 Sec. 19, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$,
 E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 7,345.52 acres.

The total area withdrawn describes an aggregate of 46,593.81 acres in Imperial County.

Subject to valid existing rights and except as otherwise provided in the FY 1997 NDAA, the lands are withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing or geothermal leasing laws or the mineral materials sales laws and reserved for the use by the Secretary of the Navy.

The lands were withdrawn on September 23, 1996.

Danielle Chi,

California Deputy State Director, Division of Natural Resources.

[FR Doc. 2020-09483 Filed 5-4-20; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Information Warfare Research Project Consortium

Notice is hereby given that, on April 15, 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”), Information Warfare Research Project Consortium (“IWRP”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. 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, Agile Defense Inc., Reston, VA; ALEX—Alternative Experts LLC, Dumfries, VA; Altron Incorporated, Mount Pleasant, SC; Aptima Inc., Woburn, MA; Aptive Resources LLC, Alexandria, VA; Assured Space Access Technologies Inc., Chandler, AZ; Attila Security, Columbia, MD; Aurotech Inc., Silver Spring, MD; Aviation & Missile Solutions LLC, Huntsville, AL; Azimuth Corporation, Beavercreek, OH; Box Inc., Redwood City, CA; Bracari LLC, Mount Pleasant, SC; Canvass Labs Inc., La Jolla, CA; Catalyst Solutions LLC, Stafford, VA; Colorado Engineering Inc., Colorado Springs, CO; CommScope Technologies LLC, Hickory, NC; Contour Crafting Corporation, Marina Del Rey, CA; Creol Consulting LLC, Bethesda, MD; CRISP LLC, Spotsylvania, VA; Cyber COAST Inc., Arlington, VA; Digital Receiver Technology, Germantown, MD; Dux Global Inc. dba EXEPRON, Lafayette, LA; Envistacom LLC, Atlanta, GA; EPS Corporation, Tinton Falls, NJ; FLIR Systems Inc., North Billerica, MA; General Atomics Aeronautical Systems Inc., Poway, CA; Genesis Dimensions LLC, Houston, TX; Herrick Technology Laboratories Inc., Germantown, MD; IDS International Government Services LLC, Arlington, VA; iGov Technologies Inc., Tampa, FL; Intuitive Research and Technology Corporation, Huntsville,

AL; JMark Services Inc., Colorado Springs, CO; Juno Technologies, Inc., Rancho Sante Fe, CA; KOAM Engineering Systems (KES), San Diego, CA; Kratos RT Logic Inc., Colorado Springs, CO; Lewiz Communications Inc., San Jose, CA; Lexington Solutions Group, Lexington, VA; Long Wave Inc., Oklahoma City, OK; Micro Focus Government Solutions LLC (MFGS), Vienna, VA; Newmoyer Geospatial Solutions LLC (NGS), Mount Pleasant, SC; NexTech Solutions LLC, Orange Park, FL; nGap Incorporated, Bonsall, CA; OneRAN LLC, Sunnyvale, CA; Optimal Solutions and Technologies (OST, Inc.), McLean, VA; Parallel Wireless Inc., Nashua, NH; PI Radio Inc., Brooklyn, NY; Polaris Alpha Advanced Systems Inc., Fredericksburg, VA; Redcom Laboratories Inc., Victor, NY; Ridgewood Technology Partners LLC, Reston, VA; Rubrik Inc., Palo Alto, CA; Shared Spectrum Company, Vienna, VA; Southeastern Computer Consultants Inc. (SCCI), Frederick, MD; SSI, Sterling Heights, MI; Steampunk Inc., Mclean, VA; Swish Data Corporation, McLean, VA; Teksouth Corporation, Gardendale, AL; TRABUS Technologies, San Diego, CA; TrellisWare Technologies Inc., San Diego, CA; Veritone Inc., Costa Mesa, CA; Vidoori, Silver Spring, MD; Vidrov Inc., New York, NY; Wireless Systems Solutions LLC, Cary, NC; and XSITE LLC, San Diego, CA have been added as parties to this venture.

Also, At The Table Productions, Santa Monica, CA; BCF Solutions Inc., Chantilly, VA; Management Services Group Inc. dba Global Technical Systems (GTS), Virginia Beach, VA; Mercom Incorporated (DBA Mercom Corporation), Pawleys Island, SC; Pacific Aerospace Consulting Inc., San Diego, CA; Planck Aerosystems Inc., San Diego, CA; Quark Security Inc., Columbia, MD; Rocket Technology Inc., Richmond, VA; Semper Valens Solutions Inc., Canyon Lake, TX; The Arcanum Group Inc., Englewood, CO; TrustedQA Inc., Reston, VA; Virginia Polytechnic Institute and State University (Virginia Tech), Blacksburg, VA; Wang Electro-Opto Corporation, Marietta, GA; and Wyle Laboratories (KBR), Lexington Park, MD have withdrawn from this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IWRP intends to file additional written notifications disclosing all changes in membership.

On October 15, 2018, IWRP 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 October 23, 2018 (83 FR 53499).

The last notification was filed with the Department on January 21, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 2020 (85 FR 5706).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020-09596 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Fire Protection Association

Notice is hereby given that, on April 7, 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”), National Fire Protection Association (“NFPA”) 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, NFPA has provided an updated and current list of its standards development activities, related technical committee and conformity assessment activities. Information concerning NFPA regulations, technical committees, current standards, standards development and conformity assessment activities are publicly available at nfpa.org.

On September 20, 2004, NFPA 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 October 21, 2004 (69 FR 61869).

The last notification was filed with the Department on January 6, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 30, 2020 (84 FR 55585).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2020-09589 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on April 14, 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”), National Armaments Consortium (“NAC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. 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, 3M Company, St. Paul, MN; Abaco Systems, Inc., Huntsville, AL; Aery Aviation, LLC, Newport News, VA; AI Signal Research, Inc., Huntsville, AL; Alare Technologies, LLC, Moorpark, CA; CatalystE, LLC, Huntsville, AL; Cortina Solutions, LLC, Huntsville, AL; CUBRC, Inc., Buffalo, NY; DELTA Resources, Inc., Alexandria, VA; DeLUX Engineering, LLC DBA DeLUX Advanced Manufacturing, LLC, Newark, DE; Dillon Aero, Inc., Scottsdale, AZ; EndoSec LLC, Washington, DC; Evans Capacitor Company, East Providence, RI; FD Software Enterprises, Bangor, PA; Fiore Industries, Inc., Albuquerque, NM; Fisheye Software, Inc., Maynard, MA; Guidehouse LLP, McLean, VA; Hanwha International, LLC, Arlington, VA; ITSC Secure Solutions, LLC, Fairfax, VA; Kratos RT Logic, Inc., Colorado Springs, CO; Maximum Technology Corporation, Huntsville, AL; Mi-Tech Tungsten Metals, LLC, Indianapolis, IN; NextGen Federal Systems, LLC, Morgantown, WV; Rafael Systems Global Sustainment, LLC, Bethesda, MD; Richter Precision Inc., East Petersburg, PA; Science, Engineering, Management Solutions, LLC, Albuquerque, NM; Scientific Applications & Research Associates, Inc. (SARA), Cypress, CA; SECOTEC, Inc., Huntsville, AL; Taylor Devices, Inc., North Tonawanda, NY; Techximus Corp., Joppa, MD; TETAC, Inc., Monterey, CA; Titan Robotics, Inc., Pittsburgh, PA; VersaTOL, LLC, McDonough, GA; Volunteer Aerospace, LLC, Knoxville, TN; Wittenstein Aerospace & Simulation, Inc., Bartlett, IL have been added as parties to this venture.

Also, 3rd Millenium Group, LLC, Boxborough, MA; Advanced Acoustic Concepts, LLC, Hauppauge, NY; Aeryone Defense USA, Inc., Denver, CO;

Aquabotix Technology Corporation, Fall River, MA; Beatty and Company Computing, Inc., Southlake, TX; Cree, Inc., Durham, NC; Defense Makers Incorporated, Huntsville, AL; DfR Solutions, LLC, Beltsville, MD; Fulcrum Concepts LLC, Mattaponi, VA; Gunger Engineering, Niceville, FL; Hart Scientific Consulting International, Tucson, AZ; Insight Engineering Solutions, Townsend, DE; Novateur Research Solutions LLC, Leesburg, VA; Per Vivo Labs, Inc., Kingsport, TN; Problem Solutions, LLC, Johnstown, PA; Programs Management Analytics & Technologies, Inc., Norfolk, VA; RedFish Trading, LLC, San Antonio, TX have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC 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 June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on January 10, 2020. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 31, 2020 (85 FR 5720).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020-09601 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Naval Surface Technology & Innovation Consortium

Notice is hereby given that, on April 7, 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”), Naval Surface Technology & Innovation Consortium (“NSTIC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. 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, Rigil Corporation,

Washington, DC; Qlik Tech, King of Prussia, PA; Aerojet Rocketdyne, Huntsville, AL; Command Post Technologies, Inc., Suffolk, VA; ASSETT, Inc., Manassas, VA; ASRC Federal Agile Decision Sciences, Huntsville, AL; ADI Technologies Inc., Chantilly, VA; Digital Cloak, LLC, Stafford, VA; Envistacom, LLC, Atlanta, GA; Science Applications International Corporation (SAIC), Reston, VA; Neya Systems, LLC, Warrendale, PA; NOVA Power Solutions, Inc., Sterling, VA; FLIR Commercial Systems, Goleta, CA; Lockheed Martin Aculight Corporation, Bothell, WA; Systems Engineering Group, Inc., Columbia, MD; Northrop Grumman Mission Systems, Linthicum, MD; Asymmetric Technologies, LLC, Dublin, OH; Sechan Electronics, Inc., Lititz, PA; Systecon North America, Arlington, VA; Innovative Concepts Engineering Inc., Greenbelt, MD; EFW Inc., an Elbit Systems of America, Fort Worth, TX; Peraton, Herndon, VA; Jankel Tactical Systems, LLC, Duncan, SC; Bowhead Professional Solutions, LLC, Springfield, VA; La Jolla Logic, Inc., San Diego, CA; Vertosoft LLC, Leesburg, VA; Broadband Antenna Tracking Systems Inc. (BATS), Indianapolis, IN; Wireless Technology Assoc., Inc., Setauket, NY; Technology Service Corporation (TSC), Arlington, VA; Agile Defense Inc., Reston, VA; Plasan North America, Walker, MI; Ace Electronics Defense Systems, Aberdeen Proving Ground, MD; Mills Marine & Ship Repair LLC, Suffolk, VA; Selex Gaileo Inc., Arlington, VA; L3 Harris/C5S, Camden, NJ; Certus Solutions, LLC, Fredericksburg, VA; ANDRO Computational Solutions, LLC, Rome, NY; Applied Visions, Inc. Secure Decisions Division, Northport, NY; Polaris Alpha Advanced Systems, Inc., Aberdeen Proving Ground, MD; Fabrisonic LLC, Columbus, OH; Honeywell, Phoenix, AZ; CACI, INC.—FEDERAL, Chantilly, VA; Bruker Detection Corporation, Billerica, MA; Design Interactive, Inc., Orlando, FL; Kratos Technology & Training Solutions, Inc., San Diego, CA; Franklin Engineering Group, Inc., Franklin, TN; RCT Systems, Baltimore, MD; Accenture Federal Services LLC, Arlington, VA; A-Tech Corporation, Albuquerque, NM; Composite Design & Development, Scarborough, Maine; Serco Inc., New London, CT; EngeniusMicro, Huntsville, AL; EWI, Columbus, OH; Applied Research Associates, Inc. (ARA), Albuquerque, NM; QUANTITATIVE SCIENTIFIC SOLUTIONS, LLC, Arlington, VA; Robotic Research, LLC, Gaithersburg, MD; IERUSTECH, Huntsville, AL; Materials Sciences LLC, Horsham, PA; Luna Innovations Incorporated, Roanoke, VA; Pacific Antenna Systems LLC, Camarillo, CA; II-VI Optical Systems, Murrieta, CA; Specialized Technical Systems, LLC, Tewksbury, MA; Toyon Research Corporation, Goleta, CA; Copious Imaging LLC, Lexington, MA; Planck Aerosystems, San Diego, CA; Metamagnetics Inc., Westborough, MA; Foster Miller Inc. dba QinetiQ North America, Waltham, MA; Aquabotix Technology Corporation, Jamestown, RI; RKF Engineering Solutions, LLC, Bethesda, MD; Summit Technical Solutions, LLC, Colorado Springs, CO; L3 Harris Technologies, Inc., Williamsport, PA; eTRANSERVICES Corp., Fredericksburg, VA; DataRobot, Boston, MA; Alliant Techsystems Operations LLC (NGIS Armaments Systems), Plymouth, MN; GhostWolf Industries, Bozeman, MT; Collins Aerospace, Cedar Rapids, IA; Cypress International, Alexandria, VA; DRS Laurel Technologies, Johnstown, PA; EWA Government Systems, Inc., Herndon, VA; JOHN H NORTHROP & ASSOCIATES INC (JHNA), Clifton, VA; Stardog Union, Arlington, VA; Altamira Technologies Corporation, McLean, VA; Southeastern Computer Consultants, Inc. (SCCI), King George, VA; Bridge 12 Technologies, Inc., Framingham, MA; Bach Pharma, Inc., North Andover, MA; En'Urga Inc., West Lafayette, IN; Ardalyt Federal, LLC, Annapolis, MD; Creare LLC, Hanover, NH; Applied Physical Sciences Corp., Groton, CT; Palantir USG, Inc., Palo Alto, CA; Applied Composites, San Diego, CA; Daylight Defense, LLC, San Diego, CA; SitScape, Inc., Vienna, VA; Big Metal Additive, LLC, Wheat Ridge, CO; Command Decisions Systems & Solutions, Inc., Stafford, VA; Harris Government Communication Systems, Palm Bay, FL; Whitespace Innovations, Inc., Huntsville, AL; Ashwin-Ushas Corporation, Holmdel, NJ; IPG Photonics Corporation, Oxford, MA; International Business Machines Corp. (IBM), Bethesda, MD; PeopleTec, Inc., Huntsville, AL; Lasertel, Inc., Tucson, AZ; Control Vision, Inc., Tucson, AZ; Soar Technology, Inc., Ann Arbor, MI; ORBIS Sibro, Inc., Charleston, SC; First Reliable Operations Group Inc., Suffolk, VA; General Dynamics Ordnance and Tactical Systems, Marion, IL; Systems & Technology Research, Woburn, MA; Dynamic Structures and Materials, LLC, Franklin, TN; Systima Technologies, Inc., Kirkland, WA; Tangram Flex, Inc., Dayton, OH; Allard Nazarian Group, Inc. dba Granite State Manufacturing, Manchester, NH; SimVentions, Inc., Fredericksburg, VA; Exact Solution Scientific Consulting LLC, Morristown, NJ; Evans Capacitor Company, East Providence, RI; Integration Services Incorporated, Colonial Beach, VA; Scientific Research Corporation, Atlanta, GA; SI2 Technologies, Inc., N. Billerica, MA; Astrapi Corporation, Dallas, TX; HT MicroAnalytical Inc., Albuquerque, NM; Rockwell Collins Simulation & Training Solutions, Cedar Rapids, IA; Radiance Technologies, Inc., Huntsville, AL; GBL Systems Corporation, Camarillo, CA; Invisible Interdiction Inc., Vero Beach, FL; Grey Matters Defense Solutions, LLC, Castle Rock, CO; Mide Technology Corp., Woburn, MA; Vectrus Mission Solutions Corporation, Alexandria, VA; Augustine Die and Mold, Inc., Somerset, PA; Forward Photonics, LLC, Woburn, MA; General Dynamics Information Technology, Inc. (GDIT), Falls Church, VA; Real-Time Innovations, Inc. (RTI), Sunnyvale, CA; Infinity Systems Engineering, Colorado Springs, CO; Arnold Magnetic Technologies, Rochester, NY; AT&T Corp., Oakton, VA; Griffon Aerospace Incorporated, Madison, AL; General Atomics, San Diego, CA; Colorado Engineering, Inc., Colorado Springs, CO; ICE ITS INC., Ashburn, VA; Integrity Consulting Engineering and Security Solutions (ICISS), Purcellville, VA; Specialty Systems, Inc., Toms River, NJ; Emerging Technology Ventures Inc., Alamogordo, NM; Telephonics Corporation, Farmingdale, NY; Cornerstone Defense LLC, Hanover, MD; Quality Aero Inc. dba Acquisition Logistics Engineering (ALE), Worthington, OH; ASU Research Enterprise (ASURE), Scottsdale, AZ; University of Notre Dame, Notre Dame, IN; AdValue Photonics Inc., Tucson, AZ; Streamline Automation, LLC, Huntsville, AL; Quantitative BioSciences, Inc., San Diego, CA; The Columbia Group, Inc., Washington, DC; AAI Corporation d/b/a Textron Systems, Hunt Valley, MD; Valkyrie Enterprises, Inc., Virginia Beach, VA; MetaTeq, Inc., Alexandria, VA; LS telcom, Inc., Bowie, MD; Karagozian and Case Inc., Glendale, CA; RAM Laboratories, Inc., San Diego, CA; Northrop Grumman Systems Corporation, Redondo Beach, CA; Stottler Henke Associates Inc. (SHAI), San Mateo, CA; KPMG LLP D.B.A. KPMG LLP Federal Services, McLean, VA; ITL LLC DBA ITL Solutions, Hampton, VA; Pathfinder Wireless Corp., Seattle, WA; Thornton Tomasetti, Inc., New York, NY; Iquro Development Group, LLC, Sheridan, WY; Geometric Data Analytics, Inc., Chapel Hill, NC; GBS Laboratories, LLC, Herndon, VA; Voxel, Inc., Beaverton, OR; ASR Corporation, Albuquerque, NM;

Propagation Research Associates, Inc., Marietta, GA; University of Florida Board of Trustees Division of Sponsored Programs, Gainesville, FL; Techie Innovation Solutions, LLC, Socorro, NM; Numerica Corporation, Fort Collins, CO; CTC Enterprise Ventures Corporation (EVC), Johnstown, PA; Two Six Labs, LLC, Arlington, VA; The Metamorphosis Group, Inc., Vienna, VA; Epsilon Systems Solutions, Inc., San Diego, CA; Rock West Composites, Inc., Goleta, CA; CoVar Applied Technologies, Inc., McLean, VA; Segue Technologies, Inc., Arlington, VA; Metal Improvement Co. LLC dba Para Tech Coating, Laguna Hills, CA; MZA Associates Corporation, Albuquerque, NM; Rolls-Royce North America, Inc., Reston, VA; Strategic Technology Consulting, Toms River, NJ; Purdue University, West Lafayette, IN; Reservoir Labs, Inc., New York, NY; Integrated Solutions For Systems (IS4S), Huntsville, AL; Texas Tech University, Lubbock, TX; NTT DATA Federal Services, Inc., Herndon, VA; FEDITC LLC, Rockville, MD; Reinventing Geospatial, Inc.(RGI), Fairfax, VA; NextStep Technology, Inc., Morgan Hill, CA; Rincon Research Corporation, Tucson, AZ; Siemens Digital Industries Software Inc. dba Siemens Product Lifecycle Management Inc., Plano, TX; Goleta Star LLC, Santa Barbara, CA; Ultramet, Pacoima, CA; Ishpi Information Technologies, Inc., Suffolk, VA; SIPPA Solutions, Bayside, NY; General Dynamics OTS (Niceville), Inc., Healdsburg, CA; Interlog Corporation, Anaheim, CA; Precision Products Inc., Dalton, GA; Raven Wireless Design, LLC, Chantilly, VA; VES LLC, Aberdeen Proving Ground, MD; Eikon Research, Inc., Huntsville, AL; Attollo Engineering, Camarillo, CA; T2S, LLC, Belcamp, MD; Spectral Sciences, Inc., Burlington, MA; Frequency Electronics, Inc., Mitchel Field, NY; Technology Management Group, Inc., King George, VA; DC Photonics LLC, Lucas, TX; Spectra Technologies, LLC, East Camden, AR; IQ-Analog, San Diego, CA; TVAR Solutions, LLC, McLean, VA; UVision-USA Corporation, Purcellville, VA; Barber-Nichols, Inc., Arvada, CO; Avatar Partners Inc., Huntington Beach, CA; Scaled Power, Inc., San Francisco, CA; Reynolds Systems Inc., Middletown, CA; WMD Guns, LLC, Stuart, FL; Probus Test Systems Inc., Lincroft, NJ; TMC Design Corporation, Las Cruces, NM; JAKTOOL LLC, Cranbury, NJ; Synthio Chemicals, Inc., Boulder, CO; JetCo Solutions, Grand Rapids, MI; Torrey Pines Logic, Inc., San Diego, CA; ECI Defense Group Inc., Lyles, TN; Nostromo, LLC, Alexandria,

VA; American Engineering & Manufacturing Inc., Elyria, OH; Inventive Response LLC, Torrance, CA; North Star Systems, Inc., Birmingham, AL; Edge Case Research, Inc., Pittsburgh, PA; Truston Technologies, Inc., Annapolis, MD; KEARNEY Group LLC, Stafford, VA; SimIS Incorporated, Portsmouth, VA; Programs Management Analytics & Technologies, Inc. (PMAT), Norfolk, VA; Aptima, Inc., Woburn, MA; Alytic, Inc., King George, VA; Logistics Management Institute (LMI), Tysons, VA; Trion Coatings LLC, South Bend, IN; Dignitas Technologies, LLC, Orlando, FL; Loc Performance Products, Inc., Plymouth, MI; Old Dominion University Research Foundation, Norfolk, VA; Pacific Scientific Energetic Materials Company (California) LLC, Chandler, AZ; nLogic, LLC, Huntsville, AL; Life Cycle Engineering, Inc., North Charleston, SC; BMT Designers & Planners, Inc., Arlington, VA; Stryke Industries, LLC, Fort Wayne, IN; Systems Technology Forum, Ltd., Fredericksburg, VA; X-Feds, San Diego, CA; Design West Technologies, Inc., Tustin, CA; Immersion Consulting, LLC, Annapolis, MD; Trident Research, Austin, TX; FIRST RF Corporation, Boulder, CO; Quantum Applied Science & Research (QUASAR), Inc., San Diego, CA; Anthem Engineering, LLC, Elkridge, MD; CMA Technologies, Inc., Orlando, FL; Setter Research, Inc., Greensboro, NC; Torch Research, LLC, Leawood, KS; L3 Technologies Inc., Telemetry & RF Products, Bristol, PA; Sayres and Associates Corp., Washington, DC; QUASAR Federal Systems, Inc., San Diego, CA; DEFENSEWERX, Niceville, FL; Regents of New Mexico State University, Las Cruces, NM; L3 Harris Technologies, Space and Airborne Systems, Fort Wayne, IN; The Charles Stark Draper Laboratory, Inc., Cambridge, MA; Teledyne Brown Engineering, Inc., Huntsville, AL; ADIT Solutions Inc., Chantilly, VA; Eastern Research Group, Inc. (ERG), Lexington, MA; Midwest Engineered Systems, Waukesha, WI; Black River Systems Company, Utica, NY; Hepburn and Sons LLC, Manassas, VA; JET Systems, LLC, Lexington Park, MD; Bridge Core, LLC, Tysons, VA; Raven Defense Corporation, Albuquerque, NM; Tantalum, LLC, Groton Long Point, CT; Augmnt, Inc., Grass Valley, CA; Precise Systems Inc., Lexington Park, MD; ArmorWorks Enterprises, Inc., Chandler, AZ; NCS Technologies, Inc., Gainesville, VA; Rocky Research, Boulder City, NV; Cape Henry Associates, Virginia Beach, VA; GE Research, Niskayuna, NY; SMART Embedded Computing, Inc., Tempe, AZ; Data Intelligence Technologies, Inc.,

Washington, DC; Jmark Services Inc., Colorado Springs, CO; MILCOTS, Mahwah, NJ; Teksouth Corporation, Gardendale, AL; PTI (Polymer Technologies, Inc.), Clifton, NJ; Vadum Inc., Raleigh, NC; CKS Technologies, Huntsville, AL; AT&T Government Solutions Inc. (GSI), Oakton, VA; Kestrel Corporation, Albuquerque, NM; Rite-Solutions, Inc., Pawcatuck, CT; University of South Alabama, Mobile, AL; Adranos, Inc., West Lafayette, IN; Rocky Mountain Scientific Laboratory, Littleton, CO; American Technical Coatings, Inc. dba ATC Materials, Inc., Westlake, OH; Agile Global Solutions LLC, Denver, NC; Bailey Tool, Lancaster, TX; Basic Engineering Concepts and Technology, Inc. (BecTech, Inc.), Alexandria, VA; Cintel Inc., Huntsville, AL; Conflict Kinetics Corporation, Sterling, VA; Cortina Solutions, LLC, Huntsville, AL; Envisioneering, Inc., Alexandria, VA; Genus Group, LLC, North Potomac, MD; Intelligent Automation, Inc., Rockville, MD; L3 Fuzing and Ordnance Systems, Inc., Cincinnati, OH; LMD Power of Light Corp., Rochester, NY; Science, Engineering, Management Solutions, LLC, Albuquerque, NM; Scientific Applications & Research Associates (SARA), Inc., Cypress, CA; Scot Forge Company, Spring Grove, IL; Space Data Corporation, Chandler, AZ; Summit Information Solutions, Inc., Glen Allen, VA; The Rector and Visitors of the University of Virginia, Charlottesville, VA; Thermal and Fluids Solutions Group, LLC, Fredericksburg, VA; Valitus Technologies, Inc., Coroma, CA; Vidrov, New York, NY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSTIC intends to file additional written notifications disclosing all changes in membership.

On September 08, 2019, NSTIC 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 12, 2019 (84 FR 61071).

Suzanne Morris,

Chief, Premerger and Division Statistics Unit, Antitrust Division.

[FR Doc. 2020-09590 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-11-P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****[Docket No. DEA-635]****Bulk Manufacturer of Controlled Substances Application: Research Triangle Institute****ACTION:** Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 6, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 4, 2020, Research Triangle Institute, 3040 East Cornwallis Road, Hermann Building, Room 106, Research Triangle Park, North Carolina 27709, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The purpose for the bulk manufacturing of the controlled substance is for the preparation and the sale of small quantities of Tetrahydrocannabinols (7370), which will be manufactured by synthesis for use by customers as analytical reference standards.

William T. McDermott,
Assistant Administrator.

[FR Doc. 2020-09555 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-09-P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. DEA-636]****Bulk Manufacturer of Controlled Substances Application: Patheon API Manufacturing, Inc.****ACTION:** Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 6, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on February 21, 2020, Patheon A PI Manufacturing, Inc, 309 Delaware Street, Greenville, South Carolina 29605, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Alpha-methyltryptamine	7432	I
Thebaine	9333	II
Noroxymorphone	9668	II

The company plans to bulk manufacture the above-listed controlled substances as an Active Pharmaceutical Ingredient (API) for distribution to its customers. No other activities for these drug codes are authorized for this registration.

William T. McDermott,
Assistant Administrator.

[FR Doc. 2020-09556 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-09-P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. DEA-626]****Importer of Controlled Substances Application: Alcami Carolinas Corporation****ACTION:** Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 4, 2020. Such persons may also file a written request for a hearing on the application on or before June 4, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All request for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette

Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on March 13, 2020, Alcami Carolinas Corporation, 1726 North 23rd Street, Wilmington, North Carolina 28405-1822, applied to be registered as an importer of the following basic class(es) of controlled substances:

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Psilocyn	7438	I
Thebaine	9333	II
Pentobarbital	2270	II

The company plans to import the listed controlled substances in bulk for the manufacturing of capsules/tablets for Phase II clinical trials. Approval of permit applications will occur only when the registrant's activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,
Assistant Administrator.

[FR Doc. 2020-09552 Filed 5-4-20; 8:45 am]

BILLING CODE 4410-09-P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration****[Docket No. DEA-611]****Importer of Controlled Substances Application: Unither Manufacturing LLC****ACTION:** Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 4, 2020. Such persons may also file a written request for a hearing on the application on or before June 4, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug

Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on February 27, 2020, Unither Manufacturing LLC, 331 Clay Road, Rochester, New York 14623, applied to be registered as an importer of the following basic class(es) of a controlled substance:

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II

The company plans to import the listed controlled substance solely for updated analytical testing purposes for European customer requirements. This analysis is required to allow the company to export domestically-manufactured finished dosage forms to foreign markets. Approval of permit applications will occur only when the registrant's activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

William T. McDermott,
Assistant Administrator.
[FR Doc. 2020-09514 Filed 5-4-20; 8:45 am]
BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration
[Docket No. DEA-634]

Bulk Manufacturer of Controlled Substances Application: Absolute Standards, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 6, 2020.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on March 12, 2020,

Absolute Standards, Inc., 44 Rossotto Drive, Hamden, Connecticut 06514-1335, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substances:

Controlled Substance	Drug Code	Schedule
Pentobarbital	2270	II

The company plans to bulk manufacture the above-listed controlled substance for distribution to customers.

William T. McDermott,
Assistant Administrator.
[FR Doc. 2020-09553 Filed 5-4-20; 8:45 am]
BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On April 29, 2020, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of Illinois in the lawsuit entitled *United States v. American Zinc Recycling Corp.*, Case No. 1:20-cv-02582.

The United States filed a Complaint seeking civil penalties and injunctive relief from Defendant American Zinc Recycling Corp. ("AZR") for alleged violations of the Clean Air Act, 42 U.S.C. 7401-7671q, at its electric arc furnace flue dust recycling facility in Chicago (the "Facility"). Among other things, the United States alleges that AZR has violated statutory and regulatory requirements limiting particulate matter emissions from the Facility, as well as corresponding requirements in AZR's Clean Air Act permits for the Facility.

When the Complaint was filed, the United States also lodged a proposed Consent Decree that would settle the claims asserted in the Complaint. The proposed Consent Decree would require that AZR implement appropriate injunctive relief to control air pollutant emissions from the Facility, including upgrading multiple bag collectors that filter and remove particulate matter from air exhausted from the Facility. The Consent Decree also assess a \$1,054,000 civil penalty. \$654,000 of the penalty assessment would be payable on discounted basis under AZR's 2016 Chapter 11 bankruptcy reorganization plan. The remaining \$400,000 would be paid in full.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Principal Deputy Assistant Attorney General,

Environment and Natural Resources Division, and should refer to *United States v. American Zinc Recycling Corp.*, D.J. Ref. No. 90-5-2-1-11205. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Principal Deputy Assistant Attorney General U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$18.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia A. McKenna,
Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.
[FR Doc. 2020-09595 Filed 5-4-20; 8:45 am]
BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and

financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed reinstatement of the “Well-being Supplement to the American Time Use Survey.” A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before July 6, 2020.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212.

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, at 202-691-7763 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The American Time Use Survey (ATUS) is the Nation’s first federally administered, continuous survey on time use in the United States. It measures, for example, time spent with children, working, sleeping, or doing leisure activities. In the United States, several existing Federal surveys collect income and wage data for individuals and families, and analysts often use such measures of material prosperity as proxies for quality of life. Time-use data substantially augment these quality-of-life measures. The data also can be used in conjunction with wage data to evaluate the contribution of non-market work to national economies. This enables comparisons of production between nations that have different mixes of market and non-market activities.

The ATUS is used to develop nationally representative estimates of how people spend their time. This is done by collecting a time diary about the activities survey respondents did over a 24-hour period “yesterday,” from 4 a.m. on the day before the interview until 4 a.m. on the day of the interview. In the one-time interview, respondents also report who was with them during the activities, where they were, how long each activity lasted, and if they were paid. All of this information has numerous practical applications for sociologists, economists, educators, government policymakers,

businesspersons, health researchers, and others.

The Well-being Module, a supplement to the ATUS, provides an additional dimension to data on time use by providing information about how Americans experience their time. Specifically, the Module collects information about how happy, tired, sad, and stressed individuals were yesterday, and the degree to which they felt pain, for three activities randomly selected from the time diary. The Well-being Module also collects data on whether people were interacting with anyone while doing the selected activities and how meaningful the activities were to them. Some general health questions, a question about overall life satisfaction, and a question about respondents’ overall affective experience yesterday also are asked.

Information collected in the Well-being Module will be published as a public data set to facilitate research on numerous topics, such as: How people experience time spent in different activities, times of social interaction, and pain; the relationship between health and time use; and the relationship between evaluative and experienced well-being. The Well-being Module supports the mission of the Bureau of Labor Statistics to provide relevant information on economic and social issues by providing a richer understanding of Americans’ use of time and workers’ affective experiences. For example, the data facilitate research on how workers experience pain on and off the job and whether this experience varies by occupation.

II. Current Action

Office of Management and Budget clearance is being sought to reinstate the collection of the ATUS Well-being Module, a supplement to the ATUS. The proposed reinstatement of the Well-being Module will collect information about how people experience their time, specifically how happy, tired, sad, stressed, and in pain they felt yesterday. Respondents will be asked these questions about three randomly selected activities from the activities reported in the ATUS time diary. The time diary refers to the core part of the ATUS, in which respondents report the activities they did from 4 a.m. on the day before the interview to 4 a.m. on the day of the interview. A few activities, such as sleeping and private activities, will never be selected. The module also will collect data on whether people were interacting with anyone while doing the selected activities and how meaningful the activities were to them. Some general health questions, a question

about overall life satisfaction, and a question about respondents’ overall emotional experience yesterday also will be asked.

The data from the proposed Well-being Module will support the BLS mission of providing relevant information on economic and social issues. The data will provide a richer description of work; specifically, it will measure how workers feel (tired, stressed, in pain) during work episodes compared to non-work episodes, and how often workers interact on the job. It can also measure whether the amount of pain workers experience varies by occupation and disability status.

The collection of Well-being data in late 2020 and 2021 is of particular interest in light of current world events. On March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. Researchers are interested in measuring the impact of the COVID-19 pandemic on workers’ well-being.

The proposed Well-being Module is identical to a module that was collected in 2012 and 2013. The proposed 2021 Well-being Module will be included in the ATUS from October 2020 through December 2021.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: Well-being Supplement to the American Time Use Survey.

OMB Number: 1220-0185.

Type of Review: Reinstatement without change of a previously approved collection.

Agency: Bureau of Labor Statistics.

Affected Public: Individuals or Households.

Total Respondents: 12,000.

Frequency: One time.

Total Responses: 12,000.

Average Time per Response: 5.6 minutes.

Estimated Total Burden Hours: 1,120 hours.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on April 29, 2020.

Mark Staniorski,

Chief, Division of Management Systems.

[FR Doc. 2020-09532 Filed 5-4-20; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

ACTION: Extension of deadline for nominations to serve on the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) from May 1, 2020, to May 16, 2020.

SUMMARY: The Secretary of Labor (Secretary) invites interested parties to submit nominations for individuals to serve on the Advisory Board for the EEOICPA.

DATES: Nominations for individuals to serve on the Board must be submitted (postmarked, if sending by mail; submitted electronically; or received, if hand delivered) by May 16, 2020.

ADDRESSES: People interested in being nominated for the Board are encouraged to review the **Federal Register** notice on nominations for membership and submit the requested information by May 16, 2020. Nominations may be submitted, including attachments, by any of the following methods:

- *Electronically:* Send to:

EnergyAdvisoryBoard@dol.gov (specify in the email subject line, "Advisory Board on Toxic Substances and Worker Health Nomination").

- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy of the documents listed above to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances

and Worker Health, Room S-3522, 200 Constitution Ave. NW, Washington, DC 20210.

Follow-up communications with nominees may occur as necessary through the process.

FOR FURTHER INFORMATION CONTACT: You may contact Michael Chance, Designated Federal Officer (DFO), at *chance.michael@dol.gov*, or Carrie Rhoads, Alternate DFO, at *rhoads.carrie@dol.gov*, U.S. Department of Labor, 200 Constitution Avenue NW, Suite S-3524, Washington, DC 20210, telephone (202) 343-5580.

This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Board is mandated by Section 3687 of EEOICPA. The Secretary established the Board under this authority and Executive Order 13699 (June 26, 2015) and in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The purpose of the Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices of the Department of Labor (DOL); (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; (4) the work of industrial hygienists and staff physicians and consulting physicians of the DOL and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; (5) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and (6) such other matters as the Secretary considers appropriate. In addition, the Board, when necessary, coordinates exchanges of data and findings with the Department of Health and Human Services' Advisory Board on Radiation and Worker Health, which advises the Department of Health and Human Services' National Institute for Occupational Safety and Health on various aspects of causation in radiogenic cancer cases under Part B of the EEOICPA program.

Notice of solicitation for nominations to serve on the Advisory Board was also published on April 1, 2020. The deadline for submission of nominations was 30 days from the date of publication, or May 1, 2020. The Secretary now extends the deadline for nomination by an additional 15 days, to May 16, 2020.

Signed at Washington, DC.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2020-09600 Filed 5-4-20; 8:45 am]

BILLING CODE 4510-24-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0104]

Information Collection: NRC Online Form, "Nuclear Materials Relief Requests"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget (OMB) for emergency processing; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) recently submitted a request for emergency processing to OMB for approval. OMB approved the information collection under approval number 3150-0243. The information collection is entitled, NRC Online Form, "Nuclear Materials Relief Requests."

DATES: Submit comments by July 6, 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-2020-0104. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail Comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T-6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0104 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2020–0104. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2020–0104 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <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. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML20114E292. The supporting statement is available in ADAMS under Accession No. ML20114E291.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Please include Docket ID NRC–2020–0104 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR 1320.13. We cannot reasonably comply with the normal clearance procedures because as unanticipated event has occurred, as stated in 5 CFR 1320.13(a)(2)(ii).

1. *The title of the information collection:* NRC Online Form, "Nuclear Materials Relief Requests."

2. *OMB approval number:* 3150–0243.

3. *Type of submission:* New Clearance.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On Occasion.

6. *Who will be required or asked to respond:* This information collection applies to holders of nuclear materials licenses (including byproduct material, uranium recovery, decommissioning (both materials and reactors), fuel facilities, and spent fuel storage licenses) who may need to seek regulatory relief during the COVID–19 Public Health Emergency (PHE).

7. *The estimated number of annual responses:* 470.

8. *The estimated number of annual respondents:* 470.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 940

10. *Abstract:* The NRC requested an emergency review of this information collection in order to obtain the approval of this information collection for a period of 6 months. The purpose of this information collection is to introduce the online form for COVID–19 related Nuclear Materials Relief Requests that simplifies the filing the relief requests described in the

following paragraphs because the existing system may be too burdensome for licensees under current conditions.

The U.S. Nuclear Regulatory Commission (NRC) requires licensed facilities to comply with requirements in Title 10 of the Code of Federal Regulations (CFR) as they relate to the safe and secure use of nuclear materials; medical, industrial, and academic applications; uranium recovery activities, low-level radioactive waste sites; and the decommissioning of previously operating nuclear facilities and power plants. These requirements can be found in 10 CFR parts 20, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 50, 70, 71, 72, 74, 75, and 150. The ability of licensed facilities to comply with these requirements may be negatively impacted by the Coronavirus Disease 2019 (COVID–19) PHE. To facilitate licensees' requests for exemptions to the requirements in the above regulations, the NRC is providing an online form to submit the required information for a specific exemption request.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: April 29, 2020.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2020–09488 Filed 5–4–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0093]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of two amendment requests. The amendment requests are for Braidwood Station, Units 1 and 2; Byron Station, Unit Nos. 1 and 2; and Sequoyah Nuclear Plant, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI) an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Comments must be filed by June 4, 2020. A request for a hearing or petitions for leave to intervene must be filed by July 6, 2020. Any potential party as defined in § 2.4 of title 10 of the Code of Federal Regulations (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by May 15, 2020.

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

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0093. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, telephone: 301-415-2242, email: Paula.Blechman@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2020-0093, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0093.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

B. Submitting Comments

Please include Docket ID NRC-2020-0093, facility name, unit number(s), docket number(s), application date, and subject in your comment submission.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly

disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission’s regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the

Commission may issue the amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the

hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be

found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time (ET) on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory

documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal

privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Exelon Generation Company, LLC, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Units 1 and 2 (Braidwood), Will County, Illinois and Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2 (Byron), Ogle County, Illinois

Date of amendment request: February 28, 2020. A publicly-available version is in ADAMS under Accession No. ML20063L400.

Description of amendment request: This amendment request contains SUNSI. The amendments would revise Technical Specification (TS) 5.6.5, "Core Operating Limits Report (COLR)," to replace the current NRC-approved loss-of-coolant accident (LOCA) methodologies with a single, newer NRC-approved LOCA methodology, the FULL SPECTRUM™ LOCA Evaluation Model (FSLOCA™ EM).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises TS 5.6.5.b to replace the current NRC approved LOCA methodologies listed in TS 5.6.5.b with another NRC approved methodology contained in WCAP-16996-P-A, Rev. 1, "Realistic LOCA Evaluation Methodology Applied to the Full Spectrum of Break Sizes (FULL SPECTRUM™) LOCA Methodology."

The proposed changes to the TS 5.6.5.b core operating limits methodologies, consists of replacing three current LOCA methodologies with a newer, single NRC approved methodology (the FSLOCA™ EM). The NRC review of the FSLOCA™ EM concluded that the analytical methods are acceptable as a replacement for the current LOCA analytical methods listed in TS 5.6.5.b.

The proposed change does not affect the design or function of any plant structures, systems, and components (SSCs). Thus, the proposed change does not affect plant operation, design features, or the capability of any SSC to perform its safety function. In addition, the proposed change does not affect any previously evaluated accidents in the UFSAR [Updated Final Safety Analysis Report], or any SSCs, operating procedures, and administrative controls that have the function of preventing or mitigating any accident previously evaluated in the UFSAR. Thus, the proposed use of the FSLOCA™ EM will continue to assure that the plant operates in the same safe manner as before and will not involve an increase in the probability of an accident.

The analyses results determined by use of the proposed new methodology will not increase the reactor power level or the core fission product inventory and will not change any transport assumptions or the shutdown margin requirements of the Braidwood and Byron TS. As such, Braidwood and Byron will continue to operate within the power distribution limits and shutdown margins required by the TS and within the assumptions of the safety analyses described in the UFSAR. As such, the proposed changes do not involve a significant increase in the consequences of an accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed change revises TS 5.6.5.b to replace the current NRC approved LOCA methodologies listed in TS 5.6.5.b with a single, newer NRC approved methodology contained in WCAP-16996-P-A, Rev. 1, "Realistic LOCA Evaluation Methodology Applied to the Full Spectrum of Break Sizes (FULL SPECTRUM™) LOCA Methodology." The NRC review of the FSLOCA™ EM concluded that the analytical methods are acceptable as a replacement for the current LOCA analytical methods listed in TS 5.6.5.b.

The proposed change provides revised analytical methods and does not change any system functions or maintenance activities. The change does not involve physical alteration of the plant; that is, no new or different type of equipment will be installed. The change does not impact the ability of any SSC to perform its safety function consistent with the assumptions of the safety analyses and continues to assure the plant is operated within safe limits. As such, the proposed change does not create new failure modes or mechanisms that are not identifiable during testing, and no new accident precursors are generated.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. The proposed change does not physically alter safety-related systems, nor does it affect the way in which safety-related systems perform their functions. The setpoints at which protective actions are initiated are not altered by the proposed change. Therefore, sufficient equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event. The NRC has reviewed and approved the new methodology for the intended use in lieu of the current methodologies; thus, the margin of safety is not reduced due to this change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Nancy L. Salgado.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: January 14, 2020. A publicly-available version is in ADAMS under Accession No. ML20016A396.

Description of amendment request: This amendment request contains SUNSI. The amendments would revise the Sequoyah Nuclear Plant (SQN) Units 1 and 2, UFSAR to reflect the results of the new hydrologic analysis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes reflect the updated hydrologic analysis, including changes in the PMP [probable maximum precipitation] used in the LIP [local intense precipitation] and the rivers and streams flooding models, revision of the geometry and reservoir overbank storage in the HEC-RAS [Hydrology Engineering Center River Analysis System] model, updated wind speed used in the wind wave analysis, updated seismically-induced dam failure flooding analysis to current NRC guidance,

and revision of the warning time plan resulting from these changes. The proposed changes result in additional margin between the revised design basis flood elevations and limiting safety-related systems, structures, and components. Implementation of these changes does not (1) prevent the safety function of any safety-related system, structure, or component during an external flood; (2) alter, degrade, or prevent action described or assumed in any accident described in the SQN Units 1 and 2 UFSAR from being performed, because the safety-related systems, structures, or components remain adequately protected from the effects of external floods; (3) alter any assumptions previously made in evaluating radiological consequences; or (4) affect the integrity of any fission product barrier.

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes reflect the updated hydrologic analysis, including changes in the PMP used in the LIP and the rivers and streams flooding models, revision of the geometry and reservoir overbank storage in the HEC-RAS model, updated wind speed used in the wind wave analysis, updated seismically-induced dam failure flooding analysis to current NRC guidance, and revision of the warning time plan resulting from these changes. The proposed changes do not introduce any new accident causal mechanisms, nor do they impact any plant systems that are potential accident initiators.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes reflect the updated hydrologic analysis, including changes in the PMP used in the LIP and the rivers and streams flooding models, revision of the geometry and reservoir overbank storage in the HEC-RAS model, updated wind speed used in the wind wave analysis, updated seismically-induced dam failure flooding analysis to current NRC guidance, and revision of the warning time plan resulting from these changes. The proposed changes do not alter the permanent plant design, including instrument set points, that is the basis of the assumptions contained in the safety analyses. The results of the updated hydrologic analysis increase the margin to the design analysis flood elevation required to protect safety-related systems, structures, or components during external flooding events. Therefore, the proposed changes do not prevent any safety-related structures, systems, or components from performing their required functions during an external flood. Consistent with existing regulatory guidance, including regulatory recommendations, and discussions regarding calibration of hydrology models using

historical flood data and consideration of sensitivity analyses, the hydrologic analysis is considered a reasonable best estimate that has accounted for uncertainties using the best data available.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Exelon Generation Company, LLC, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Units 1 and 2, Will County, Illinois and Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Hearings and Administration, Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov*, respectively.¹ The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order² setting forth terms and conditions to prevent the unauthorized or inadvertent

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

² Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether

granting or denying access) is governed by 10 CFR 2.311.³

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in

identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: April 15, 2020.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to SUNSI with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2020-08353 Filed 5-4-20; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0106]

Guidance for Changes During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG) DG-1321, "Guidance for Changes

During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52." This DG proposes new guidance that the NRC staff consider acceptable for implementation of a process for making changes to the design of structures, systems, and components of a facility being constructed under a combined license. The staff is also seeking input on whether to incorporate guidance on two issues into DG-1321: The continued viability of an existing process for treating changes during construction, *i.e.*, the preliminary amendment request process and the timing and review of license amendment requests submitted after the Commission publishes a Notice of Intended Operations.

DATES: Submit comments by July 6, 2020. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. In addition to general comments, the NRC is also requesting specific comments as discussed below in the **SUPPLEMENTARY INFORMATION** section of this document. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search

³ Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as

applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

for Docket ID NRC–2020–0106. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7A06, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marieliz Johnson, Office of Nuclear Reactor Regulation, telephone: 301–415–5861, email: Marieliz.Johnson@nrc.gov, and Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301–415–3104, email: Michael.Eudy@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0106 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, by the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0106.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library 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. DG–1321 is available in ADAMS under Accession No. ML19340B290 and the draft regulatory analysis (RA) is available in ADAMS under Accession No. ML20010G336.

B. Submitting Comments

Please include Docket ID NRC–2020–0106 in your comment submission. The NRC cautions you not to include

identifying or contact information in comment submissions that you do not want to be publicly disclosed. The NRC posts all comment submissions at <https://www.regulations.gov> and also enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Additional Information

The NRC is issuing for public comment a draft guide in the NRC’s “Regulatory Guide” series. This series was developed to describe to the public methods that the NRC staff considers acceptable for use in implementing specific parts of the NRC’s regulations, techniques that the staff uses in evaluating specific issues or postulated events, and information that the staff needs in its review of applications for permits and licenses. The staff is also issuing for public comment a draft Regulatory Analysis. The staff develops a Regulatory Analysis to assess the value of issuing a guide as well as alternative courses of action.

The DG, titled “Guidance for Changes During Construction for New Nuclear Power Plants Licenses Under 10 CFR Part 52,” is temporarily identified by its task number, DG–1321. DG–1321 proposes new guidance that the staff of the NRC will, if issued as a final regulatory guide, consider acceptable for implementation of a process for making proposed changes to a facility being constructed under a combined license covered by Part 52 of Title 10 of the *Code of Federal Regulations* (CFR). Specifically, this RG addresses the timing of the initiation of construction of a facility SSC in accordance with a proposed change to the design of the SSC. This DG also addresses the timing of submission of a 10 CFR 52.99(c)(1) ITAAC closure notification for an SSC constructed in accordance with a proposed change that requires an amendment under the applicable change process.

III. Backfitting, Forward Fitting, and Issue Finality

This DG, if finalized, would provide guidance on implementation of a process for making changes to the design of structures, systems, and components of a facility being constructed under a combined license. Issuance of this DG, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants”; or constitute forward fitting as defined in Management Directive 8.4, because, as explained in this DG, licensees are not required to comply with the positions set forth in this DG. If, in the future, the NRC were to impose a position in this DG in a manner that would constitute backfitting or forward fitting or affect the issue finality for a Part 52 approval, then the NRC would address the backfitting provision in 10 CFR 50.109, the forward fitting provision of Management Directive 8.4, or the applicable issue finality provision in Part 52, respectively.

IV. Specific Requests for Comments

In addition to the general request for comments on DG–1321, the NRC is also seeking specific comments that address the following questions:

1. Should the preliminary amendment request process described in Interim Staff Guidance COL–ISG–025, “Interim Staff Guidance on Changes During Construction under 10 CFR Part 52” (ADAMS Accession No. ML15058A383), be incorporated into this regulatory guide?

2. Should the regulatory guide discuss the timing and review of license amendment requests submitted after the Commission publishes the Notice of Intended Operation discussed in 10 CFR 52.103(a) and before the 10 CFR 52.103(g) finding, given that such changes could potentially impact ITAAC closure notifications? Are there issues related to the timing of ITAAC closure notifications? If so, then please provide input on the issues that should be addressed.

Dated: April 29, 2020.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2020–09491 Filed 5–4–20; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[NRC–2020–0103]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations**AGENCY:** Nuclear Regulatory Commission.**ACTION:** Biweekly notice.

SUMMARY: Pursuant to section 189.a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. This biweekly notice includes all amendments issued, or proposed to be issued, from approximately April 7, 2020, to April 20, 2020. The last biweekly notice was published on April 21, 2020.

DATES: Comments must be filed by June 4, 2020. A request for a hearing or petitions for leave to intervene must be filed by July 6, 2020.

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

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0103. Address questions about NRC Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Bernadette Abeywickrama, Office of

Nuclear Reactor Regulation, telephone: 301–415–4081, email:

Bernadette.Abeywickrama@nrc.gov, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments***A. Obtaining Information*

Please refer to Docket ID NRC–2020–0103, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0103.
- *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 ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2020–0103, facility name, unit number(s), docket number(s), application date, and subject in your comment submission.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC

does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown below, the Commission finds that the licensee’s analyses provided, consistent with title 10 of the *Code of Federal Regulations* (10 CFR) section 50.91 is sufficient to support the proposed determination that these amendment requests involve NSHC. Under the Commission’s regulations in 10 CFR 50.92, operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination, any hearing will take place after issuance. The Commission expects that the need to take action on an amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons

(petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-

recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign

submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory

documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the

reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The table below provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the "Obtaining Information and Submitting Comments" section of this document.

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 3, LLC; Indian Point Nuclear Generating Station, Unit No. 3; Westchester County, NY

Application Date	March 24, 2020.
ADAMS Accession No.	ML20084U773.
Location in Application of NSHC	Pages 13 and 14 of the Enclosure.
Brief Description of Amendments	The proposed amendment would incorporate into the Indian Point Unit 3 (IP3) licensing basis the installation and use of a new single failure proof auxiliary lifting device (<i>i.e.</i> , the Holtec International HI-LIFT) to handle a dry cask storage transfer cask in the IP3 fuel storage building. The change to the IP3 licensing basis would be documented via revision to the IP3 Updated Final Safety Analysis Report.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Bill Glew, Associate General Counsel, Entergy Services, Inc., 639 Loyola Avenue, 22nd Floor, New Orleans, LA 70113.
Docket Nos.	50-286.
NRC Project Manager, Telephone Number	Richard Guzman, 301-415-1030.

Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS, Entergy Louisiana, LLC and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA

Application Date	January 24, 2020.
ADAMS Accession No.	ML20024E597.
Location in Application of NSHC	Pages 6 and 7 of the Enclosure.
Brief Description of Amendments	The proposed amendments would adopt Technical Specifications Task Force (TSTF) Traveler TSTF-439, "Eliminate Second Completion Times Limiting Time from Discovery of Failure to Meet an LCO [Limiting Condition for Operation]," Revision 2, dated June 20, 2005 (ADAMS Accession No. ML051860296), into the Technical Specifications for Grand Gulf Nuclear Station, Unit 1 and River Bend Station, Unit 1.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
Docket Nos.	50-416, 50-458.
NRC Project Manager, Telephone Number	Siva Lingam, 301-415-1564.

Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS, Entergy Louisiana, LLC and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA

Application Date	January 24, 2020.
ADAMS Accession No.	ML20024F216.
Location in Application of NSHC	Pages 1 and 2 of the Enclosure.
Brief Description of Amendments	The proposed amendments would adopt Technical Specifications Task Force (TSTF) traveler TSTF-566, Revision 0, "Revise Actions for Inoperable RHR [Residual Heat Removal] Shutdown Cooling Subsystems," dated January 19, 2018 (ADAMS Accession No. ML18019B187), which is an approved change to the Improved Standard Technical Specifications, into the Grand Gulf Nuclear Station, Unit 1 and River Bend Station, Unit 1 Technical Specifications. The model safety evaluation was approved by the NRC in a letter dated February 21, 2019 (ADAMS Accession No. ML19028A285), using the consolidated line item improvement process.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Anna Vinson Jones, Senior Counsel, Entergy Services, Inc., 101 Constitution Avenue NW, Suite 200 East, Washington, DC 20001.
Docket Nos.	50-416, 50-458.
NRC Project Manager, Telephone Number	Siva Lingam, 301-415-1564.

Exelon Generation Company, LLC; Braidwood Station, Units 1 and 2, Will County, IL; Byron Station, Unit Nos. 1 and 2, Ogle County, IL, Exelon Generation Company, LLC; R. E. Ginna Nuclear Power Plant, Wayne County, NY

Application Date	February 6, 2020.
ADAMS Accession No.	ML20037A725.
Location in Application of NSHC	Pages 2, 3, and 4 of Attachment 1 to the Application.
Brief Description of Amendments	The amendments adopt TSTF-567, "Add Containment Sump TS to Address GSI-191 Issues," which adds a technical specification action to address the condition of the containment sump made inoperable due to containment accident generated and transported debris exceeding the analyzed limits. The action provides time to correct or evaluate the condition in lieu of an immediate plant shutdown.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos.	50-244, 50-454, 50-455, 50-456, 50-457.
NRC Project Manager, Telephone Number	Joel Wiebe, 301-415-6606.

R. E. Ginna Nuclear Power Plant, LLC and Exelon Generation Company, LLC; R. E. Ginna Nuclear Power Plant; Wayne County, NY

Application Date	March 25, 2020.
ADAMS Accession No.	ML20085H900.
Location in Application of NSHC	Pages 85 and 86 of Attachment 1.
Brief Description of Amendments	The proposed amendment would revise Technical Specification (TS) 3.3.1, "Reactor Trip System (RTS) Instrumentation," and TS 3.3.2, "Engineered Safety Feature Actuation System (ESFAS) Instrumentation." These changes are based on Westinghouse topical reports WCAP-14333, Revision 1, "Probabilistic Risk Analysis of the RPS [Reactor Protection System] and ESFAS Test Times and Completion Times," and WCAP-15376, Revision 1, "Risk-Informed Assessment of the RTS and ESFAS Surveillance Test Intervals and Reactor Trip Breaker Test and Completion Times."
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
Docket Nos.	50-244.
NRC Project Manager, Telephone Number	V. Sreenivas, 301-415-2597.

Susquehanna Nuclear, LLC and Allegheny Electric Cooperative, Inc.; Susquehanna Steam Electric Station, Units 1 and 2; Luzerne County, PA

Application Date	January 2, 2020.
ADAMS Accession No.	ML20002B254.
Location in Application of NSHC	Pages 16 and 17 of Enclosure 1.
Brief Description of Amendments	The proposed amendment would modify Technical Specification 5.5.2, "Primary Coolant Sources Outside Containment." The amendment would modify the current licensing basis for the design-basis accident (DBA) loss-of-coolant accident (LOCA) analysis described in the Susquehanna Final Safety Analysis Report. The proposed changes would utilize an updated version of the ORIGEN code, introduce a new source term to account for the introduction of ATRIUM 11 fuel, use new assumptions that decrease the assumed emergency safety feature leakage into secondary containment, increase the assumed maximum allowable standby gas treatment system exhaust flow rate from secondary containment, and increase the allowed control structure unfiltered in-leakage that is assumed in the DBA LOCA dose analysis.
Proposed Determination	NHSC.
Name of Attorney for Licensee, Mailing Address	Damon D. Obie, Esq, 835 Hamilton St., Suite 150, Allentown, PA 18101.
Docket Nos.	50-388, 50-387.
NRC Project Manager, Telephone Number	Sujata Goetz, 301-415-8004.

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN

Application Date	March 13, 2020.
ADAMS Accession No.	ML20073P120.
Location in Application of NSHC	Pages 14, 15 and 16 of the Enclosure to the Application.
Brief Description of Amendments	Modify technical specifications to update the turbine low oil pressure setpoints.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Sherry Quirk, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
Docket Nos.	50-327, 50-328.
NRC Project Manager, Telephone Number	Perry Buckberg, 301-415-1383.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Application Date	April 3, 2020.
ADAMS Accession No.	ML20097D315.
Location in Application of NSHC	Pages 4 and 5 of Enclosure.
Brief Description of Amendments	The proposed amendments would adopt Technical Specification Task Force (TSFT) Traveler 541, "Add Exceptions to Surveillance Requirements for Valves and Dampers Locked in the Actuated Position," which would add exceptions to certain surveillance requirements (SR) to consider the SR met when automatic valves or dampers are locked, sealed, or otherwise secured in the actuated position.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Sherry Quirk, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902.
Docket Nos.	50-390, 50-391.
NRC Project Manager, Telephone Number	Kimberly Green, 301-415-1627.

Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO

Application Date	March 10, 2020.
ADAMS Accession No.	ML20070R105.
Location in Application of NSHC	Page 7 of the Enclosure.
Brief Description of Amendments	The proposed amendment would revise Technical Specification (TS) 5.3.1 and delete TSS 5.3.1.1 and 5.3.2 in TS 5.3, "Unit Staff Qualifications," of the Administrative Controls section in order to remove details specified for the qualifications of certain positions within the unit's staff because such details are already and appropriately specified in the Operating Quality Assurance Manual.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jay E. Silberg, Pillsbury Winthrop Shaw Pittman LLP, 1200 17th St. NW, Washington, DC 20036.
Docket Nos.	50-483.
NRC Project Manager, Telephone Number	L. John Klos, 301-415-5136.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these

amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in

10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these

actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental

assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action, see (1) the application for

amendment; (2) the amendment; and (3) the Commission's related letter, Safety Evaluation, and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Indian Point, LLC; Indian Point Nuclear Generating Station, Unit Nos. 2 and 3; Westchester County, NY

Date Issued	April 10, 2020.
ADAMS Accession No.	ML20071Q717.
Amendment Nos.	292 (Unit 2) and 267 (Unit 3).
Brief Description of Amendments	The amendments revised certain organization, staffing, and training requirements contained in Technical Specification (TS) Section 1.1, "Definitions"; Section 4.0, "Design Features"; and Section 5.0, "Administrative Controls," of the Indian Point Units 2 and 3 TSs that will not be applicable to a permanently defueled facility once Indian Point, Unit 2, and subsequently, Indian Point, Unit 3, are permanently defueled.
Docket Nos.	50-247, 50-286.

Entergy Nuclear Operations, Inc.; Indian Point Nuclear Generating Station, Unit No. 1; Westchester County, NY, Entergy Nuclear Operations, Inc., Entergy Nuclear Indian Point 2, LLC, and Entergy Nuclear Indian Point, LLC; Indian Point Nuclear Generating Station, Unit Nos. 2 and 3; Westchester County, NY

Date Issued	April 15, 2020.
ADAMS Accession No.	ML20078L140.
Amendment Nos.	62 (Unit 1), 293 (Unit 2), and 268 (Unit 3).
Brief Description of Amendments	The amendments revised the on-shift staffing and the emergency response organization in the site emergency plan for the post-shutdown and permanently defueled condition.
Docket Nos.	50-003, 50-247, 50-286.

Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Pope County, AR

Date Issued	April 8, 2020.
ADAMS Accession No.	ML20087L803.
Amendment Nos.	320.
Brief Description of Amendments	The amendment increased both the individual and average control element assembly drop time limits in the Arkansas Nuclear One, Unit 2 technical specifications by 0.2 seconds to establish margin impacted by installation of new high temperature upper gripper coils associated with the control element drive mechanism for each control element assembly.
Docket Nos.	50-368.

Florida Power & Light Company; Turkey Point Nuclear Generating Unit Nos. 3. and 4; Miami-Dade County, FL

Date Issued	April 20, 2020.
ADAMS Accession No.	ML20029E948.
Amendment Nos.	292 (Unit 3) and 285 (Unit 4).
Brief Description of Amendments	The amendments revised the technical specifications related to reactor trip system instrumentation and resolved two non-conservative technical specifications.
Docket Nos.	50-250, 50-251.

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended

(the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed NSHC determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of NSHC. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as

appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its NSHC determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that NSHC is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves NSHC. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant

to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS

Date of Amendment	April 15, 2020.
Brief Description of Amendment	The amendment allowed a one cycle extension to the Grand Gulf Nuclear Station, Unit 1 integrated leak rate test, or Type A test, and the drywell bypass leak rate test from the currently ongoing End of Cycle 22 refueling outage to the next End of Cycle 23 refueling outage. These tests are required by Technical Specification (TS) 5.5.12, "10 CFR 50, Appendix J, Testing Program," for the integrated leak rate test, and Surveillance Requirement 3.6.5.1.1 of TS 3.6, "Containment Systems," for the drywell bypass leak rate test.
ADAMS Accession No.	ML20101G054.
Amendment Nos.	224.
Public Comments Requested as to Proposed NSHC (Yes/No).	Yes.
Docket Nos.	50-416.

Exelon Generation Company, LLC; Limerick Generating Station, Unit 1; Montgomery County, PA

Date of Amendment	April 9, 2020.
Brief Description of Amendment	This amendment revised Technical Specification 3/4.6.1, "Primary Containment," Limiting Condition for Operation 3.6.1.2, to allow for a one-time increase in the allowable leakage rate limit for one main steam isolation valve. The one-time increase is valid during operating cycle 19.
ADAMS Accession No.	ML20098C922.
Amendment Nos.	245.
Public Comments Requested as to Proposed NSHC (Yes/No).	NSHC.
Docket Nos.	50-352.

Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Unit 2; Rock Island County, IL

Date of Amendment	April 9, 2020.
Brief Description of Amendment	The amendment modified the Quad Cities Nuclear Power Station, Unit 2, Technical Specification 3.6.1.3, Surveillance Requirement 3.6.1.3.10 by revising the combined main steam isolation valve (MSIV) leakage rate limit for all four steam lines from 86 to 93 standard cubic feet per hour (scfh) and the leakage rate through each MSIV leakage path from 34 to 37 scfh. The proposed change in the allowable limits are a one-time change intended to be used for a single cycle (Cycle 26).
ADAMS Accession No.	ML20094F833.
Amendment Nos.	276.
Public Comments Requested as to Proposed NSHC (Yes/No).	No.
Docket Nos.	50-265.

Florida Power & Light Company; Turkey Point Nuclear Generating Unit No. 3; Miami-Dade County, FL

Date of Amendment	April 16, 2020.
Brief Description of Amendment	The amendment revised the Turkey Point Unit 3 Technical Specifications to allow a one-time extension to the requirement to inspect each steam generator every other refueling outage to the fall of 2021, when the next Unit 3 refueling outage is scheduled.
ADAMS Accession No.	ML20104B527.

Amendment Nos.	291.
Public Comments Requested as to Proposed NSHC (Yes/No).	NSHC.
Docket Nos.	50–250.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

Date of Amendment	April 17, 2020.
Brief Description of Amendment	The amendments revised Comanche Peak Nuclear Power Plant, Units 1 and 2, Technical Specification 5.5.9, “Unit 1 Model D76 and Unit 2 Model D5 Steam Generator (SG) Program,” to allow a one-time change in the Comanche Peak Unit 2 SG inspection frequency. The change allowed the licensee to defer the Unit 2 SG inspections for the spring 2020 refueling outage to the fall 2021 refueling outage.
ADAMS Accession No.	ML20108E878.
Amendment Nos.	173 (Unit 1) and 173 (Unit 2).
Public Comments Requested as to Proposed NSHC (Yes/No).	NSHC.
Docket Nos	50–445, 50–446.

For details, including the applicable notice period, see the individual notice in the **Federal Register** on the day and page cited.

Dated: April 23, 2020.

For the Nuclear Regulatory Commission.

Mohamed K. Shams,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2020–09046 Filed 5–4–20; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–27; NRC–2019–0193]

Humboldt Bay Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering the renewal of Special Nuclear Materials (SNM) License SNM–2514 for the Humboldt Bay independent spent fuel storage installation (ISFSI) (Humboldt Bay ISFSI) located in Humboldt County, California. The NRC has prepared an environmental assessment (EA) for this proposed license renewal in accordance with its regulations. Based on the EA, the NRC has concluded that a finding of no significant impact (FONSI) is appropriate. The NRC also is conducting a safety evaluation of the proposed license renewal.

DATES: The EA and FONSI referenced in this document are available on May 5, 2020.

ADDRESSES: Please refer to Docket ID NRC–2019–0193 when contacting the NRC about the availability of information regarding this document.

You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov/> and search for Docket ID NRC–2019–0193. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127 email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

FOR FURTHER INFORMATION CONTACT: Monika Coflin, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5932, email: Monika.Coflin@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering a license renewal request for SNM–2514 for the Humboldt Bay ISFSI located in Humboldt County, California (ADAMS Package Accession No. ML18215A202). The licensee, Pacific Gas & Electric (PG&E), is requesting to renew license SNM–2514 for the Humboldt Bay ISFSI for an additional 40 years. The current license will expire on November 17,

2025. If approved, PG&E would be able to continue to possess and store spent nuclear fuel at the Humboldt Bay ISFSI in accordance with the requirements in part 72 of title 10 of the *Code of Federal Regulations* (10 CFR), “Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste.”

The NRC staff has prepared a final EA as part of its review of this license renewal request in accordance with the requirements of 10 CFR part 51, “Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.” Based on the final EA, the NRC has determined that an environmental impact statement (EIS) is not required for this proposed action and a FONSI is appropriate. The NRC is also conducting a safety evaluation of the proposed license amendment pursuant to 10 CFR part 72, and the results will be documented in a separate Safety Evaluation Report (SER). If PG&E’s request is approved, the NRC will issue the license renewal following publication of this final EA and FONSI and the SER in the **Federal Register**.

II. Final Environmental Assessment Summary

PG&E is requesting to renew license SNM–2514 for the Humboldt Bay ISFSI for a 40-year period. The NRC has considered the proposed action and alternatives to the proposed action, including license renewal for an additional 20-year term, shipment of spent fuel to an offsite facility, and the no-action alternative of denying the license renewal request. The results of the NRC’s environmental review can be found in the final EA (ADAMS Accession No. ML19252A248). The NRC staff performed its environmental review in accordance with the requirements in 10 CFR part 51. In

conducting the environmental review, the NRC considered information in the license renewal application and from communications with the California State Historic Preservation Office; the State of California Native American Heritage Commission (NAHC); nine Native American Tribes; the California Department of Fish and Wildlife (CDFW); and the California State Department of Health Services.

Approval of PG&E's proposed license renewal request would allow the five (5) HI-STAR 100 HB casks containing spent fuel and one storage cask containing greater than Class C (GTCC) activated metal waste to continue to remain on the Humboldt Bay ISFSI for an additional 40 years. The estimated annual dose to the nearest resident from ISFSI activities is 0.0448 mSv/yr (4.48 mrem/yr), which is below the 0.25 mSv/yr (25 mrem/yr) limit specified in 10 CFR 72.104(a). Furthermore, PG&E maintains a radiation protection program for the ISFSI in accordance with 10 CFR part 20 to ensure that radiation doses are as low as is reasonably achievable (ALARA). Accordingly, no significant radiological or non-radiological impacts are expected to result from approval of the license renewal request, and the proposed action would not significantly contribute to cumulative impacts at the Humboldt Bay site. Additionally, the proposed action would not cause a significant impact on any population, nor did the staff identify significant percentages of minority or low-income populations within a 6 km (4 mi) radius of the ISFSI. The Commission has stated that absent "significant impacts, an environmental justice review should not be considered for an EA where a FONSI is issued unless special circumstances warrant the review."

In its license renewal request, PG&E is proposing no changes in how it handles or stores spent fuel at the Humboldt Bay ISFSI. Approval of the proposed action would not result in any new construction or expansion of the existing ISFSI footprint beyond that previously approved. The ISFSI is a largely passive facility that produces no liquid or gaseous effluents. No significant radiological or nonradiological impacts are expected from continued normal operations. Occupational dose estimates associated with the proposed action and continued normal operation and maintenance of the ISFSI are expected to be at ALARA levels and within the limits of 10 CFR 20.1201. Therefore, the NRC staff has determined that pursuant to 10 CFR 51.31, preparation of an EIS is not required for the proposed action, and

pursuant to 10 CFR 51.32, a FONSI is appropriate.

Furthermore, the NRC staff determined that, because approval of this license renewal request would maintain the status quo at the site, it does not have the potential to cause effects on historic properties; therefore, in accordance with 36 CFR 800.3(a)(1), no consultation is required under Section 106 of the National Historic Preservation Act of 1966. The NRC staff informed the California State Historic Preservation Officer (SHPO) of its determination via letter dated June 19, 2019 (ADAMS Accession No. ML19169A154) and informed nine Native American Tribes via letters dated November 15, 2018 (ADAMS Package Accession No. ML18303A365). The California SHPO responded via letter dated July 11, 2019, indicating that the SHPO does not object to a finding that no historic properties would be affected by this undertaking (ADAMS Accession No. ML19198A078). The NRC staff, with the assistance of the U.S. Fish and Wildlife Service Information for Planning and Consultation (IPaC) project planning tool, determined that the listed species and/or critical habitat would not be adversely affected by the proposed action.

III. Finding of No Significant Impact

Based on its review of the proposed action in the EA, in accordance with the requirements in 10 CFR part 51, the NRC has concluded that the proposed action, renewal of NRC Special Nuclear Materials License No. SNM-2514 for the Humboldt Bay ISFSI located in Humboldt County, California, will not significantly affect the quality of the human environment. Therefore, the NRC has determined, pursuant to 10 CFR 51.31, that preparation of an EIS is not required for the proposed action and a finding of no significant impact is appropriate.

Dated: April 30, 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. 2020-09598 Filed 5-4-20; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020-123 and CP2020-131; MC2020-124 and CP2020-132]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 7, 2020.

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

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

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

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s)

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2020–123 and CP2020–131; *Filing Title*: USPS Request to Add Priority Mail Contract 611 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 29, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 *et seq.*, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: May 7, 2020.

2. *Docket No(s)*: MC2020–124 and CP2020–132; *Filing Title*: USPS Request to Add Priority Mail Contract 612 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: April 29, 2020; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3040.130 *et seq.*, and 39 CFR 3035.105; *Public Representative*: Christopher C. Mohr; *Comments Due*: May 7, 2020.

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

Erica A. Barker,
Secretary.

[FR Doc. 2020–09557 Filed 5–4–20; 8:45 am]

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POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

TIME AND DATE: May 1, 2020, at 1:15 p.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Issues.
2. Strategic Issues.

On May 1, 2020, a majority of the members of the Board of Governors of the United States Postal Service voted unanimously to hold and to close to public observation a special meeting in Washington, DC, via teleconference. The Board determined that no earlier public notice was practicable.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the

meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,
Secretary.

[FR Doc. 2020–09714 Filed 5–1–20; 4:15 pm]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88768; File No. SR–CBOE–2020–015]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Increase Position Limits for Options on Certain Exchange-Traded Funds and Indexes

April 29, 2020.

I. Introduction

On February 26, 2020, Cboe Exchange, Inc. (“Exchange” or “Cboe”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to amend Interpretation and Policy .07 of Exchange Rule 8.30, Position Limits, and Rule 8.31, Position Limits for Broad-Based Index Options, to increase the position limits for options on the following exchange-traded funds (“ETFs”) and indexes: The Standard and Poor’s Depository Receipts Trust (“SPY”), iShares China Large-Cap ETF (“FXI”), iShares MSCI EAFE ETF (“EFA”), iShares iBoxx High Yield Corporate Bond Fund (“HYG”), Financial Select Sector SPDR Fund (“XLF”), Market Vectors Oil Services ETF (“OIH”),³ MSCI Emerging Markets Index (“MXEF”), and MSCI EAFE Index (“MXEA”). The proposed rule change was published for comment in the **Federal Register** on March 16, 2020.⁴ On April 16, 2020, the Exchange

submitted Amendment No. 1 to the proposed rule change.⁵ The Commission is publishing this notice to solicit comment on Amendment No. 1, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal, as Modified by Amendment No. 1

Currently, position limits for options on ETFs such as those subject to the proposal, as amended,⁶ are determined pursuant to Rule 8.30, and, with certain exceptions, vary by tier according to the number of outstanding shares and past six-month trading volume of the underlying security.⁷ Options in the highest tier—*i.e.*, options that overlie securities with the largest numbers of outstanding shares and trading volume—have a standard option position limit of 250,000 contracts (with adjustments for splits, re-capitalizations, etc.) on the same side of the market.⁸ In addition, Interpretation and Policy .07 of Rule 8.30 currently sets forth separate position limits for options on certain ETFs, including 1,800,000 contracts for options on SPY, and 500,000 contracts for options on FXI and EFA. Similarly, position limits for options on broad-based indexes such as those subject to the proposal, as amended,⁹ are determined pursuant to Rule 8.31, which provides a position limit of 25,000 contracts for options, restricted to no more than 15,000 near-term, on all broad-based indexes except those specifically listed under Rule 8.31 for

⁵ In Amendment No. 1, the Exchange: (1) Provided additional justification and analysis in support of the proposal, which is summarized below; (2) revised its proposal to eliminate the proposed increase to position limits for options on OIH; and (3) made technical, corrective, and clarifying changes. The full text of Amendment No. 1 is available on the Commission’s website at: <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015-7081714-215592.pdf>.

⁶ See Notice, *supra* note 4, at 15005–06, for descriptions provided by the Exchange regarding the composition and design of the underlying ETFs of each of the ETF options subject to this proposal.

⁷ Pursuant to Rule 8.42, Interpretation and Policy .02, which provides that the exercise limits for ETF options are equivalent to their position limits, the exercise limits for each of these options would be increased to the level of the new position limits.

⁸ To be eligible for this tier, either the recent six-month trading volume of the underlying security must have totaled at least 100,000,000 shares; or the most recent six-month trading volume of the underlying security must have totaled at least 75,000,000 shares and the underlying security must have at least 300,000,000 shares currently outstanding. See Rule 8.30, Interpretation and Policy .02(e). Options on XLF and HYG currently fall into this tier.

⁹ See Notice, *supra* note 4, at 15006–07, for descriptions provided by the Exchange regarding the composition and design of the underlying indexes of each of the index options subject to this proposal.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ As noted below, the Exchange subsequently amended its proposal to remove the proposed increase in position limits for options on OIH. See *infra* note 5.

⁴ See Securities Exchange Act Release No. 88350 (March 10, 2020), 85 FR 15003 (“Notice”). Comments on the proposed rule change can be found at: <https://www.sec.gov/comments/sr-cboe-2020-015/srcboe2020015.htm>.

which a separate position limit is provided.¹⁰

In the proposal, as amended, the Exchange proposes to revise Interpretation and Policy .07 to Rule 8.30 and Rule 8.31 to increase the position limits for options on certain ETFs and index options, as described more fully below.¹¹ The Exchange states its belief that increasing the position limits for these options will lead to a more liquid and competitive market environment for these options that will benefit customers interested in these products.¹²

First, the Exchange proposes to increase the position limits for options on XLF and HYG, each of which fall into the highest standard tier set forth in Rule 8.30. The Exchange proposes to increase the current position limit of 250,000 contracts for options on these securities to 500,000 contracts.¹³ In support of this change, the Exchange compares certain trading characteristics of XLF and HYG (the average daily trading volume of the security and of the overlying option), as well as the number of outstanding shares and market capitalization of each of these securities, to the same figures for the iShares 20+ Year Treasury Bond Fund ETF (“TLT”) and the iShares MSCI Japan ETF (“EWJ”) (and, for XLF only, the iShares MSCI Brazil Capped ETF (“EWZ”)), all of which currently have a position limit of 500,000 contracts.¹⁴

¹⁰ Pursuant to Rule 8.42(b), which provides that the exercise limits for index options are equivalent to their position limits, the exercise limits for each of these options would be increased to the level of the new position limits.

¹¹ The Exchange also proposes to update the PowerShares QQQ Trust (“QQQ”) symbol in Interpretation and Policy .07 of Rule 8.30 from QQQQ to QQQ to accurately reflect the current ticker symbol. See Notice, *supra* note 4, at 15005 n.19.

¹² See *id.* at 15007.

¹³ In connection with this change, the exercise limits for these options would rise to 500,000 contracts. See *supra* note 7.

¹⁴ See Notice, *supra* note 4, at 15005–06; Amendment No. 1, *supra* note 5, at 3–4. With respect to trading characteristics, specifically, the Exchange states that the average daily trading volumes of XLF and HYG for the periods analyzed were 48.8 million shares and 20.0 million shares, respectively. The figures for EWZ, TLT, and EWJ were 26.7 million shares, 9.6 million shares, and 7.2 million shares, respectively. With regard to the overlying options, trading volumes for XLF options and HYG options were 102,100 contracts and 193,700 contracts, respectively, while trading volumes for EWZ options, TLT options, and EWJ options were 186,500 contracts, 95,200 contracts, and 5,700 contracts, respectively. The Exchange further states that the total shares outstanding was 793.6 million for XLF and 216.6 million for HYG compared to 233 million for EWZ, 128.1 million for TLT, and 236.6 million for EWJ. Finally, the Exchange states that the fund market cap for XLF was \$24.6 billion and HYG was \$19.1 billion compared to \$11.3 billion for EWZ, \$17.5 billion for TLT, and \$14.2 billion for EWJ.

In addition, the Exchange proposes to increase the position limits for options on EFA and FXI from 500,000 contracts to 1,000,000 contracts.¹⁵ In support of the change for EFA options, the Exchange provides the trading characteristics of EFA, and compares the position limits for options on EFA to those of MXEA, the analogue index, which currently has a position limit of 25,000 contracts (proposed herein to be increased to 50,000 contracts), as adjusted using a notional value comparison by which approximately 29 EFA option contracts equal one MXEA option contract.¹⁶ The Exchange states that, accordingly, a position limit for EFA options that would be economically equivalent to the current position limit for MXEA options would be 725,000 contracts, and 1,450,000 contracts at the proposed increased MXEA position limit level.¹⁷ The Exchange therefore believes that the higher actual and economically equivalent trading volumes, notional value, and economically equivalent position limits for EFA options as compared to MXEA options supports the proposed increase in position limits.¹⁸ In support of the change for FXI options, the Exchange provides the trading characteristics for FXI shares and options, as well as the market capitalization of FXI and the components of the underlying FTSE China 50 Index, which the Exchange believes are both large enough to absorb potential price movements caused by a large trade in FXI.¹⁹

The Exchange also proposes to increase the position limits for options on SPY from 1,800,000 contracts to 3,600,000 contracts.²⁰ In support of this change, the Exchange compares the trading and other characteristics of SPY to those of QQQ and states that SPY is

¹⁵ In connection with this change, the exercise limits for these options would rise to 1,000,000 contracts. See *supra* note 7.

¹⁶ See Notice, *supra* note 4, at 15005–06. Specifically, the Exchange states that the average daily trading volume for EFA was 25.1 million shares, the average daily volume for the overlying options was 156,000 contracts, the total shares outstanding for EFA was 928.2 million, and the fund market cap for EFA was \$64.9 billion.

¹⁷ See *id.* at 15006.

¹⁸ See Amendment No. 1, *supra* note 5, at 9.

¹⁹ See Notice, *supra* note 4, at 15005–06. Specifically, the Exchange states that the average daily trading volume for FXI was 26.1 million shares, the average daily volume for the overlying options was 196,600 contracts, the total shares outstanding for FXI was 106.8 million, and the fund market cap for FXI was \$4.8 billion, while the market capitalization of the components of the reference index, the FTSE China 50 Index, was \$28 trillion.

²⁰ In connection with this change, the exercise limits for these options would rise to 3,600,000 contracts. See *supra* note 7.

significantly more liquid than QQQ, which is also currently subject to a position limit of 1,800,000 contracts.²¹

Finally, the Exchange proposes to increase the position limits for options on MXEA and MXEF from 25,000 contracts to 50,000 contracts and to eliminate the near-term position limit restriction on these options.²² In support of this change, the Exchange provides the trading characteristics and market capitalizations of MXEA and MXEF, and compares the notionally adjusted position limits for MXEA and MXEF to the position limits for options on EFA and EEM (currently 1,000,000 contracts for EEM and proposed herein to be 1,000,000 contracts for EFA), the ETFs that track the MXEA and MXEF indexes, respectively.²³ In Amendment No. 1, the Exchange provides additional support for its proposal to eliminate near-term position limit restrictions for MXEA and MXEF options by stating that such near-term restrictions introduce additional complexity for market participants utilizing these options to hedge.²⁴ In addition, the Exchange provides near-term and total open interest statistics comparing MXEA and MXEF to options on the S&P 100 Index (“OEX” and “XEO”), which are not currently subject to any near-term position limits.²⁵ Based on the

²¹ See Notice, *supra* note 4, at 15005–06; Amendment No. 1, *supra* note 5, at 3–4. Specifically, the Exchange states that the average daily trading volume for SPY was 70.3 million shares compared to 30.2 million shares for QQQ, while the average daily volume for options contracts overlying SPY was 2.8 million, as compared to 670,200 for QQQ. The Exchange further states that the total shares outstanding for SPY was 968.7 million compared to 410.3 million for QQQ. Finally, the Exchange states that the fund market cap for SPY was \$312.9 billion compared to \$88.7 billion for QQQ.

²² In connection with this change, the exercise limits for these options would rise to 50,000 contracts. See *supra* note 10.

²³ See Notice, *supra* note 4, at 15005–07. Specifically, the Exchange states that the average daily volume for options contracts overlying MXEA and MXEF was 594 contracts and 1,055 contracts, respectively. The Exchange further states that the number of component securities for MXEA and MXEF were 917 and 1,404, respectively. Finally, the Exchange states that the index market cap was \$14.9 trillion for MXEA and \$6.2 trillion for MXEF.

²⁴ See Amendment No. 1, *supra* note 5, at 5.

²⁵ See *id.* at 5–6. Specifically, the Exchange states that the average near-term open interest for MXEA and MXEF was 3,022 contracts and 10,915 contracts, respectively, as compared to 4,926 contracts for OEX and 6,789 contracts for XEO. The Exchange further states that the average total open interest was 13,380 contracts and 32,910 contracts for MXEA and MXEF, respectively, as compared to 10,489 contracts for OEX and 9,970 contracts for XEO. Finally, the Exchange states that the average daily volume for OEX and XEO options was 1,454 contracts and 891 contracts, respectively, which the Exchange believes is comparable to the average daily volume for options contracts overlying MXEA

information it gathered, the Exchange believes that the proposed elimination of near-term position limits for MXEA and MXEF is consistent with the existing limits of comparable indexes and would not raise any potential issues with respect to manipulation or disruption in the near months.²⁶

The Exchange states that the current position limits for the options subject to the proposal may have impeded the ability of market makers to make markets on the Exchange.²⁷ Specifically, the Exchange avers, the proposal is designed to encourage liquidity providers to provide additional liquidity to the Exchange and other market participants to shift liquidity from over-the-counter markets onto the Exchange, as well as other options exchanges on which they participate, which, it believes, will enhance the process of price discovery conducted on the Exchange through increased order flow.²⁸ The proposal will also benefit market participants, the Exchange maintains, by providing them with a more effective trading and hedging vehicle.²⁹

With regard to the concerns that position limits generally are meant to address, the Exchange represents that the structure of the underlying ETFs and indexes of the options subject to this proposal; the considerable market capitalization of the funds, underlying component securities, and indexed component securities; and the liquidity of the market for options on those ETFs and indexes and the underlying component securities mitigates concerns regarding potential manipulation of the products and disruption of the underlying markets due to the increased position limits.³⁰ The Exchange elaborates further and describes in detail: (i) The creation and redemption process for ETFs; (ii) the arbitrage activity that ensues when such instruments are overpriced or are trading at a discount to the securities on which they are based, and which, the Exchange maintains, helps to keep the instrument's price in line with the value of its underlying portfolio; and (iii) how these processes, in the Exchange's view, serve to mitigate the potential price impact of the ETF shares that might otherwise result from increased position limits.³¹

and MXEF, which was 594 contracts and 1,055 contracts, respectively.

²⁶ See *id.* at 6.

²⁷ See Notice, *supra* note 4, at 15003.

²⁸ See *id.* at 15003, 15008.

²⁹ See *id.* at 15008.

³⁰ See *id.*

³¹ See *id.* at 15007.

In addition, the Exchange states that (i) some of the subject ETFs are based on broad-based indexes that underlie cash-settled options that are economically equivalent to the relevant ETF and have no position limits; and (ii) others are based on broad-based indexes that underlie cash-settled options with position limits reflecting a notional value that is larger than the current position limit for their ETF analogue.³² According to the Exchange, if certain position limits are appropriate for the options overlying comparable indexes or comparable baskets of securities to those that the ETFs subject to the proposal track, or are appropriate for the ETFs that track the indexes subject to the proposal, then those same economically equivalent position limits should be appropriate for the options overlying the relevant ETFs or indexes.³³ For the other ETFs in the proposal where this does not apply (because there are currently no options listed on an index tracked by the ETF), the Exchange argues that, based on the liquidity, breadth, and depth of the underlying market of the components of such indexes, the index referenced by the ETF would be considered a broad-based index under the Exchange's rules.³⁴ Moreover, regarding the indexes subject to the proposal, the Exchange argues that the deep, liquid markets for and market capitalization of the component securities underlying such indexes support the proposed position limit increases for the options on those indexes.³⁵ The Exchange also cites data in support of its argument that the market capitalization of the underlying index or reference asset of each of the ETFs and indexes is large enough to absorb any price movements that may be caused by an oversized trade, and thus justifies increasing position limits for the options on these products.³⁶

As noted, in Amendment No. 1, the Exchange withdrew options on OIH from the subject of the proposal, stating that "the Exchange may propose an increase for position limits for options on OIH through a separate proposed rule change submitted at a later date."³⁷ Accordingly, this Order does not address position limits for options on OIH.

The Exchange also refers to other provisions in its rules, noting, for example, that the options reporting requirements of Exchange Rule 8.43

would continue to be applicable to the options subject to the proposal.³⁸ As set forth in Exchange Rule 8.43(a), each Trading Permit Holder ("TPH") must report to the Exchange certain information in relation to any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts in any single class of option contracts dealt in on the Exchange.³⁹ Further, Exchange Rule 8.43(b) requires each TPH (other than an Exchange market-maker or Designated Primary Market-Maker)⁴⁰ that maintains a position in excess of 10,000 non-FLEX equity option contracts on the same side of the market, on behalf of its own account or for the account of a customer, to report to the Exchange information as to whether such positions are hedged, and provide documentation as to how such contracts are hedged.⁴¹

The Exchange also represents that the existing surveillance procedures and reporting requirements at the Exchange and other self-regulatory organizations are capable of properly identifying disruptive and/or manipulative trading activity.⁴² The Exchange states that its surveillance procedures utilize daily monitoring of market activity via automated surveillance techniques to identify unusual activity in both options and the underlying ETFs and indexes, as applicable.⁴³ In addition, the Exchange states that its surveillance procedures have been effective in the past for the surveillance of trading in the options subject to this proposal, and will continue to be employed.⁴⁴

The Exchange also argues that the current financial requirements imposed by the Exchange and by the Commission adequately address concerns that a TPH or its customer may try to maintain a potentially large, unhedged position in the options subject to this proposal.⁴⁵ Current margin and risk-based haircut methodologies, the Exchange states, serve to limit the size of positions maintained by any one account by

³⁸ See Notice, *supra* note 4, at 41460.

³⁹ The report must include, for each such class of options, the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered. See Rule 8.43(a).

⁴⁰ According to the Exchange, market-makers (including Designated Primary Market-Makers) are exempt from the referenced reporting requirement because market-maker information can be accessed by the Exchange. See Notice, *supra* note 4, at 15007.

⁴¹ See *id.*

⁴² See *id.* at 15007–08.

⁴³ See *id.* at 15008.

⁴⁴ See *id.* at 15008 n.34.

⁴⁵ See *id.* at 15008.

³² See *id.* at 15004.

³³ See *id.* at 15005.

³⁴ See *id.* at 15004–05.

³⁵ See *id.* at 15005.

³⁶ See *id.*

³⁷ See Amendment No. 1, *supra* note 5, at 6–7.

increasing the margin and/or capital that a TPH must maintain for a large position held by itself or by its customer.⁴⁶ In addition, the Exchange notes that the Commission's net capital rule, Rule 15c3-1 under the Act,⁴⁷ imposes a capital charge on TPHs to the extent of any margin deficiency resulting from the higher margin requirement.⁴⁸

III. Discussion and Commission Findings

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁴⁹ In particular, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act,⁵⁰ 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.

Position and exercise limits serve as a regulatory tool designed to address manipulative schemes and adverse market impact surrounding the use of options. Since the inception of standardized options trading, the options exchanges have had rules limiting the aggregate number of options contracts that a member or customer may hold or exercise.⁵¹ These position and exercise limits are intended to prevent the establishment of options positions that can be used or might create incentives to manipulate the underlying market so as to benefit the options positions.⁵² In particular, position and exercise limits are designed to minimize the potential for mini-manipulations and for corners or squeezes of the underlying market.⁵³ In addition, such limits serve to reduce the

possibility of disruption of the options market itself, especially in illiquid classes.⁵⁴

Over the years, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits for option products overlying certain ETFs where there is considerable liquidity in both the underlying cash markets and the options markets, and, in the case of certain broad-based index options, toward elimination of such limits altogether.⁵⁵ The Commission has been careful to balance two competing concerns when considering proposals by self-regulatory organizations to change position and exercise limits. The Commission has recognized that the limits can be useful to prevent investors from disrupting the market in securities underlying the options.⁵⁶ To this point, commenters, writing in support of the proposal, noted that the characteristics of the products subject to the Exchange's proposal help to allay concerns about disruption in the underlying markets.⁵⁷ One commenter stated that the market capitalization of the underlying ETFs of the ETF options subject to the proposal, the ETF component securities, and the component securities of the underlying indexes subject to the proposal are all sufficiently large to mitigate any

concern about potential manipulation and/or disruption in the underlying markets upon increasing position limits for the overlying options.⁵⁸ Commenters also stated that the creation and redemption process for the underlying ETFs of the ETF options subject to the proposal will absorb price volatility caused by large trades in the underlying ETFs.⁵⁹

At the same time, the Commission has determined that limits should not be established in a manner that will unnecessarily discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.⁶⁰ Commenters stated that failing to increase the position limits for the options subject to the proposal would impede trading activity and investor strategies, such as the use of effective hedging vehicles or income-generating strategies.⁶¹ One of those commenters further stated that failing to increase the position limits for the options subject to the proposal may also impede the ability of market makers to make liquid markets with tighter spreads in such options.⁶²

After careful consideration of the proposal, as modified by Amendment No. 1, and the comments received, the Commission believes that it is reasonable for the Exchange to increase the position and exercise limits for options on XLF and HYG to 500,000 contracts, for options on EFA and FXI to 1,000,000 contracts, for options on SPY to 3,600,000 contracts, and for options on MXEA and MXEF to 50,000 contracts with no near-term position limit. As noted above, the markets for standardized options on these securities and for the underlying products themselves have substantial trading volume and liquidity. The Commission believes that this liquidity should reduce the possibility of manipulating these products and the disruption in the underlying markets that lower position limits may protect against.

The Commission also has considered the creation and redemption process for the ETFs subject to the proposal; the existence of an issuer arbitrage

⁵⁴ See *id.*

⁵⁵ The Commission's incremental approach to approving changes in position and exercise limits for option products overlying certain ETFs is well-established. See, e.g., Securities Exchange Act Release Nos. 82770 (February 23, 2018), 83 FR 8907 (March 1, 2018) (SR-CBOE-2017-057) (approving increase of position limits for options on certain ETFs); 67672 (August 15, 2012), 77 FR 50750, 50752 & n.42 (August 22, 2012) (SR-NYSEAmex-2012-29) (approving proposed rule change to eliminate position limits for SPY options on a pilot basis); 64695 (June 17, 2011), 76 FR 36942, 36943 & n.19 (June 23, 2011) (SR-Phlx-2011-58) (approving increase of SPY options position limit to 900,000 contracts). The Commission notes that the Exchange filed an immediately effective proposed rule change on June 4, 2018 to terminate its pilot program and impose the current 1,800,000 contract position limit for SPY options. See Securities Exchange Act Release No. 83415 (June 12, 2018), 83 FR 28274 (June 18, 2018) (SR-CBOE-2018-042).

⁵⁶ See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11).

⁵⁷ See letters to Vanessa Countryman, Secretary, Commission, dated April 6, 2020, from Ellen Greene, Managing Director, Equity and Options Market Structure, Securities Industry and Financial Markets Association ("SIFMA Letter"); Steve Crutchfield, Head of Market Structure, Chicago Trading Company ("CTC Letter"); and Venu Palaparthi, Managing Director, Dash Financial Technologies LLC ("Dash Letter"). One of these commenters agreed with the Exchange's statements in support of the proposal with respect to the highly liquid markets for the underlying securities, "even to the extent that trading in such securities is presenting somewhat differently during the current market volatility." SIFMA Letter at 2.

⁴⁶ See *id.*

⁴⁷ 17 CFR 240.15c3-1.

⁴⁸ See Notice, *supra* note 4, at 15008.

⁴⁹ 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).

⁵⁰ 15 U.S.C. 78f(b)(5).

⁵¹ See, e.g., Securities Exchange Act Release No. 45236 (January 4, 2002), 67 FR 1378 (January 10, 2002) (SR-Amex-2001-42).

⁵² See, e.g., Securities Exchange Act Release No. 47346 (February 11, 2003), 68 FR 8316 (February 20, 2003) (SR-CBOE-2002-26).

⁵³ See *id.*

⁵⁸ See SIFMA Letter at 1-2. A second commenter also stated that the market capitalization and diverse composition of the ETFs subject to the proposal are of sufficient size to support the proposed increase in position limits for the associated options. See Dash Letter at 1.

⁵⁹ See SIFMA Letter at 2; CTC Letter at 1.

⁶⁰ See Securities Exchange Act Release No. 39489 (December 24, 1997), 63 FR 276 (January 5, 1998) (SR-CBOE-97-11).

⁶¹ See SIFMA Letter at 2; CTC Letter at 1.

⁶² See SIFMA Letter at 2.

mechanism that helps keep each ETF's price in line with the value of its underlying portfolio when overpriced or trading at a discount to the securities on which it is based; and how these processes can serve to mitigate the potential price impact of the ETF shares that might otherwise result from increased position limits.⁶³

In addition, as discussed above, the Exchange believes that current margin and net capital requirements serve to limit the size of positions maintained by any one account.⁶⁴ The Commission agrees that these financial requirements should help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in the options subject to this proposal and will help to reduce risks if such a position is established.

The Commission further agrees with the Exchange that the reporting requirements imposed by Exchange Rule 8.43,⁶⁵ as well as the Exchange's surveillance procedures, together with those of other self-regulatory organizations,⁶⁶ should help protect against potential manipulation. The Commission expects that the Exchange will continue to monitor trading in the options subject to this proposal for the purpose of discovering and sanctioning manipulative acts and practices, and to reassess the position and exercise limits, if and when appropriate, in light of its findings.

In sum, given the measure of liquidity for the options subject to this proposal and the underlying products, the creation and redemption process and issuer arbitrage mechanisms that exist relating to the underlying instruments, the margin and capital requirements cited above, the Exchange's options reporting requirements, and the Exchange's surveillance procedures and agreements with other markets, the Commission believes that increasing the position and exercise limits for XLF and HYG options to 500,000 contracts, for EFA and FXI options to 1,000,000 contracts, for SPY options to 3,600,000 contracts, and for MXEA and MXEF options to 50,000 contracts with no near-term position limit is consistent with the Act.

IV. Solicitation of Comments on Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and

arguments concerning whether Amendment No. 1 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-CBOE-2020-015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-2020-015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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-CBOE-2020-015, and should be submitted on or before May 26, 2020.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal**

Register. As discussed above, in Amendment No. 1, the Exchange: (1) Provided additional justification and analysis in support of the proposal, which is summarized above; (2) revised its proposal to eliminate the proposed increase to position limits for options on OIH; and (3) made technical, corrective, and clarifying changes. The Commission notes that Amendment No. 1 does not otherwise modify the proposed rule change, which was subject to a full notice-and-comment period. Rather, Amendment No. 1 serves to narrow the scope of the original proposal by maintaining the existing position limit of 250,000 contracts for options on OIH. The Commission also notes that Amendment No. 1 provides additional accuracy, clarity, and justification to the proposal, thereby facilitating the Commission's ability to make the findings set forth above to approve the proposal. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁶⁷ to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁶⁸ that the proposed rule change, as modified by Amendment No. 1 (SR-CBOE-2020-015), be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶⁹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-09520 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday May 21, 2020, by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549. The meeting will begin at 10:00 a.m. (ET) and will be open to the public.

PLACE: The meeting will be conducted by remote means and/or at the

⁶⁷ 15 U.S.C. 78s(b)(2).

⁶⁸ *Id.*

⁶⁹ 17 CFR 200.30-3(a)(12).

⁶³ See *supra* notes 30-31 and accompanying text.

⁶⁴ See *supra* notes 45-48 and accompanying text.

⁶⁵ See *supra* notes 38-41 and accompanying text.

⁶⁶ See *supra* notes 42-44 and accompanying text.

Commission's headquarters, 100 F St. NE, Washington, DC 20549. Members of the public may watch the webcast of the meeting on the Commission's website at www.sec.gov.

STATUS: This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

MATTERS TO BE CONSIDERED: The agenda for the meeting includes welcome remarks, approval of previous meeting minutes, discussion of subcommittee recommendations, panel discussion regarding index funds, a non-public administrative session, panel discussion regarding credit rating agencies, and subcommittee reports.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: May 1, 2020.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2020-09710 Filed 5-1-20; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88771; File No. SR-CboeBZX-2020-011]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

April 29, 2020.

I. Introduction

On January 22, 2020, Cboe BZX Exchange, Inc. ("Cboe BZX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's compliance rules regarding the National Market System

Plan Governing the Consolidated Audit Trail ("CAT NMS Plan").³ The proposed rule change was published for comment in the **Federal Register** on February 5, 2020.⁴ On March 20, 2020, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to May 5, 2020.⁵ The Commission received no comments on the proposal. This order institutes proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove File No. SR-CboeBZX-2020-011.⁶

II. Description of the Proposed Rule Change

The Exchange proposes to amend certain rules within Rules 4.5 through 4.16 of the Exchange's rulebook ("Compliance Rule"), which sets forth rules regarding Industry Member⁷ compliance with the CAT NMS Plan. Specifically, the proposed rule change would make the following changes to the Compliance Rule to be consistent with certain proposed amendments to and exemption requests submitted by the Participants⁸ of the CAT NMS Plan: (1) Revise data reporting requirements for the Firm Designated ID⁹ based on a proposed amendment to the CAT NMS

³ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁴ See Securities Exchange Act Release No. 88101 (January 30, 2020), 85 FR 6589 ("Notice").

⁵ See Securities Exchange Act Release No. 88440, 85 FR 17141 (March 26, 2020).

⁶ 15 U.S.C. 78(s)(b)(2)(B).

⁷ Industry Member means a member of a national securities exchange or a member of a national securities association. See CAT NMS Plan, *supra* note 3, at Section 1.1.

⁸ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

⁹ As proposed, "Firm Designated ID" would mean a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account. See proposed Exchange Rule 4.5(f).

Plan filed with the Commission;¹⁰ (2) amend the dates for required testing and reporting in the Compliance Rule for Industry Member reporting;¹¹ (3) amend the rules to require Industry Members to submit trade reports for executions and cancellations for cancelled trades to the FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility;¹² (4) revise the timestamp granularity requirement to require Industry Members with order handling or execution systems that utilize time stamps in increments finer than milliseconds to report timestamps up to nanoseconds when reporting Industry Member data¹³ to the Central

¹⁰ See Notice, *supra* note 4, at 6590. See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (April 14, 2020). The Commission has not approved or disapproved the changes proposed in this amendment.

¹¹ See Notice, *supra* note 4, at 6593-98. On February 19, 2020, the Participants submitted a request for exemptive relief from the reporting dates required by the CAT NMS Plan. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020). On April 20, 2020, the Commission granted limited exemptive relief to allow for the implementation of phased reporting for Industry Members. See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020).

¹² See Notice, *supra* note 4, at 6598. On February 12, 2020, the Participants submitted a request for exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require Industry Members to record and report, if an order is executed, the SRO-Assigned Market Participant Identifier of the clearing broker, and if a trade is cancelled, the cancelled trade indicator. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (Feb. 12, 2020). If granted, the exemptive relief would revise CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information would be available from FINRA's trade reports submitted to CAT.

¹³ See Notice, *supra* note 4, at 6598. On February 3, 2020, the Participants filed a request for exemptive relief from the current CAT NMS Plan requirement to record and report Industry Member Data with time stamps consistent with their system, a requirement from which the Exchange requests an exemption. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020). On April 8, 2020, the Commission granted the exemptive relief for timestamp granularity. See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Repository;¹⁴ (5) revise the reporting requirements for circumstances in which an Industry Member uses an established trading relationship for an individual Customer, instead of an account, on the order reported to CAT;¹⁵ and (6) revise the CAT reporting requirements so Industry Members would not be required to report to the Central Repository dates of birth, social security numbers, or account numbers for individuals.¹⁶

The Exchange also proposes to amend the Exchange's Compliance Rule to facilitate the retirement of certain existing regulatory systems, specifically the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System, by adding additional data elements to the CAT reporting requirements for Industry Members,¹⁷ additional reporting requirements for alternative trading systems,¹⁸ and additional data elements related to OTC Equity Securities¹⁹ that FINRA

¹⁴ The Central Repository, as defined in the CAT NMS Plan, means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement." See CAT NMS Plan, *supra* note 3, at Section 1.1.

¹⁵ See Notice, *supra* note 4, at 6598–99. On February 3, 2020, the Participants filed a request for exemptive relief from the CAT NMS Plan requirement that Participants, through their Compliance Rules, require Industry Members to record and report to the Central Repository the account number, the date account opened, and the account type for individual customers in circumstances in which an Industry Member uses an established trading relationship for the individual customer. Instead, the Participant would require Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier instead of the account number, (ii) the "account type" as a "relationship", and (3) the account effective date instead of the "date account opened." See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

¹⁶ See Notice, *supra* note 4, at 6599. The Participants requested and have received exemptive relief from the requirement of Section 6.4(d)(ii)(C) of the CAT NMS Plan for the Participants, in their Compliance Rules, to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

¹⁷ See Notice, *supra* note 4, at 6590–91.

¹⁸ See Notice, *supra* note 4, at 6591–93.

¹⁹ OTC Equity Security, as defined in the CAT NMS Plan, means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such

currently receives from alternative trading systems that trade OTC Equity Securities.²⁰

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for possible disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,²³ 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," 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."²⁴ The Commission believes that several of the proposed rule changes are not consistent with the CAT NMS Plan or exemptive relief that has been granted as of the date of this Order.

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)²⁵ or any other provision of the Act, or the rules and regulations thereunder. Although there do not

association's equity trade reporting facilities. See CAT NMS Plan, *supra* note 3, at Section 1.1.

²⁰ *Id.* at 6593.

²¹ 15 U.S.C. 78s(b)(2)(B).

²² 15 U.S.C. 78s(b)(2)(B).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 26, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 9, 2020. 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 Numbers SR–CboeBZX–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–CboeBZX–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

²⁶ 17 CFR 240.19b–4.

²⁷ Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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-2020-011 and should be submitted on or before May 26, 2020. Rebuttal comments should be submitted by June 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-09523 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88767; File No. SR-MIAX-2020-08]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Options That Overlie Five Advanced Fundamentals LLC Commercial Real Estate Indexes

April 29, 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 17, 2020, Miami International Securities Exchange, LLC (“MIAX” 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 is filing a proposal to list and trade options that overlie five Advanced Fundamentals LLC (“Advanced Fundamentals”)

Commercial Real Estate Indexes (the “AF CRE Indexes”).

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX’s principal office, and at the Commission’s Public Reference Room.

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

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

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

1. Purpose

The purpose of this proposed rule change is to amend certain of the Exchange’s rules in connection with the Exchange’s plan to list and trade options on five AF CRE Indexes³—the AF CRE Residential Index, AF CRE Retail Index, AF CRE Office Index, AF CRE Hospitality Index⁴ and AF CRE Composite Index. The AF CRE Indexes measure real-time real estate returns representing the performance of real estate investment trusts (“REITs”) and/or publicly listed equity companies across various sectors. The AF CRE Sector Indexes measure real-time real estate returns representing the performance of REITs and/or publicly listed equity companies within one of the following sectors:

Sector	Symbol ⁵	Number of components ⁶
Residential	MXAFR	15
Retail	MXAFT	15
Office	MXAFO	14
Hospitality	MXAFH	14

Each constituent of an AF CRE Index is a REIT or equity company listed on

³ On April 16, 2020, the Exchange filed a Form 19b-4(e) with the Commission pursuant to Rule 19b-4(e) of the Act for the AF CRE Indexes.

⁴ The AF CRE Residential Index, AF CRE Retail Index, AF CRE Office Index and AF CRE Hospitality Index are collectively referred to herein as the “AF CRE Sector Indexes.”

⁵ These symbols represent each AF CRE Index.

a U.S. securities exchange. The individual components of each AF CRE Sector Index are determined from the REITs/equity companies that have the largest enterprise value (“Enterprise Value”)⁷ within each individual sector and that also meet certain minimum eligibility requirements.⁸ The components of the AF CRE Sector Indexes are each an NMS stock as defined in Rule 600 of Regulation NMS (“Reg NMS”) under the Act. The AF CRE Composite Index measures the weighted average returns of the four AF CRE Sector Indexes and consists of up to 60 publicly traded REITs and/or equity companies, which comprise the four underlying sector returns that are listed on a U.S. securities exchange.⁹ Refinitiv monitors and maintains each AF CRE Index and rebalances each AF CRE Index quarterly.

Initial and Maintenance Listing Criteria

The AF CRE Composite Index meets the definition of a broad-based index as set forth in Exchange Rule 1802(d) (an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries). Additionally, the AF CRE Composite Index option satisfies the initial listing criteria of a broad-based index, as set forth in Exchange Rule 1802(d):

(1) Options will be A.M.-settled index options;

(2) the index is capitalization-weighted, price-weighted, equal dollar-weighted, or modified capitalization-weighted, and consists of 50 or more component securities (the AF CRE Composite Index is modified capitalization-weighted);

(3) the component securities that account for at least ninety-five percent

⁶ If less than 15 components are eligible, the AF CRE Sector Indexes are calculated using less than 15 components, but no fewer than 10 components.

⁷ The term “Enterprise Value” refers to the measure of a company’s total value, calculated by adding the company’s market capitalization, total liabilities and preferred equity, then subtracting all cash and cash equivalents. See <https://www.investopedia.com/terms/e/enterprisevalue.asp>.

⁸ Refinitiv is the reporting authority for each of the AF CRE Indexes. See proposed Exchange Rule 1801, Interpretation and Policy .01. Thomson Reuters’ Financial & Risk (“F&R”) business unit was rebranded under the name “Refinitiv” in 2018 when Thomson Reuters sold a majority stake in its F&R business unit to private equity firm Blackstone Group LP. Refinitiv provides financial markets data and infrastructure in over 150 countries. Part of Refinitiv’s services include, but are not limited to, the calculation of various indexes. See Thomson Reuters Financial & Risk Business Announces New Company Name: Refinitiv (July 27, 2018), available at <https://www.thomsonreuters.com/en/press-releases/2018/july/thomson-reuters-financial-and-risk-business-announces-new-company-name-refinitiv.html>.

⁹ The symbol for the AF CRE Composite Index is “MXAFC.”

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

(95%) of the weight of the index have a market capitalization of at least \$75 million, except that component securities that account for at least sixty-five percent (65%) of the weight of the index have a market capitalization of at least \$100 million;

(4) component securities that account for at least eighty percent (80%) of the weight of the index satisfy the requirements of Rule 402 applicable to individual underlying securities;

(5) each component security that accounts for at least one percent (1%) of the weight of the index has an average daily trading volume of at least 90,000 shares during the last six month period;

(6) no single component security accounts for more than ten percent (10%) of the weight of the index, and the five highest weighted component securities in the index do not, in the aggregate, account for more than thirty-three percent (33%) of the weight of the index;

(7) each component security is an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act;

(8) non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not, in the aggregate, represent more than twenty percent (20%) of the weight of the index;

(9) the current index value is widely disseminated at least once every fifteen (15) seconds by OPRA, CTA/CQ, NIDS or one or more major market data vendors during the time options on the index are traded on the Exchange;

(10) the Exchange reasonably believes it has adequate system capacity to support the trading of options on the index, based on a calculation of the Exchange's current ISCA allocation and the number of new messages per second expected to be generated by options on such index;

(11) an equal dollar-weighted index will be rebalanced at least once every calendar quarter;

(12) if an index is maintained by a broker-dealer, the index is calculated by a third-party who is not a broker-dealer, and the broker-dealer has erected an informational barrier around its personnel who have access to information concerning changes in, and adjustments to, the index; and

(12) the Exchange has written surveillance procedures in place with respect to surveillance of trading options on the index.

Options on the AF CRE Composite Index will be subject to the maintenance and listing standards set forth in Exchange Rule 1802(e):

(1) The requirements set forth in subparagraphs (d)(1)–(d)(3) and (d)(9)–(d)(15) of Exchange Rule 1802 must continue to be satisfied. The requirements set forth in subparagraphs (d)(5)–(d)(8) of Exchange Rule 1802 must be satisfied only as of the first day of January and July in each year; and

(2) the total number of component securities in the index may not increase or decrease by more than ten percent (10%) from the number of component securities in the index at the time of its initial listing.¹⁰

Each of the AF CRE Sector Indexes meet the definition of a narrow-based index as set forth in Exchange Rule 1802(b) (an index designed to be representative of a particular industry or a group of related industries and include indices having component securities that are all headquartered within a single country). Additionally, the proposed options on the AF CRE Sector Indexes satisfy the initial listing criteria of a narrow-based index, as set forth in Exchange Rule 1802(b):

(1) Options will be A.M.-settled index options;

(2) the index is capitalization-weighted, price-weighted, equal dollar-weighted, or modified capitalization-weighted, and consists of ten or more component securities (the AF CRE Indexes are modified capitalization-weighted);

(3) each component security has a market capitalization of at least \$75 million, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, the market capitalization is at least \$50 million;

(4) trading volume of each component security has been at least one million shares for each of the last six months, except that for each of the lowest weighted component securities in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume has been at least 500,000 shares for each of the last six months;

(5) in a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30%

¹⁰In the event a class of index options listed on the Exchange fails to satisfy the maintenance listing standards set forth herein, the Exchange shall not open for trading any additional series of options of that class unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Exchange Act. See Exchange Rule 1802(e)(2).

of the total number of component securities in the index each have had an average monthly trading volume of at least 2,000,000 shares over the past six months;

(6) no single component security represents more than 30% of the weight of the index, and the five highest weighted component securities in the index do not in the aggregate account for more than 50% (65% for an index consisting of fewer than 25 component securities) of the weight of the index;

(7) component securities that account for at least 90% of the weight of the index and at least 80% of the total number of component securities in the index satisfy the requirements of Rule 402 applicable to individual underlying securities;

(8) each component security is an "NMS stock" as defined in Rule 600 of Reg NMS under the Act;

(9) non-U.S. component securities (stocks or ADRs) that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 20% of the weight of the index;

(10) the current index value is widely disseminated at least once every 15 seconds by OPRA, CTA/CQ, NIDS or one or more major market data vendors during the time the index options are traded on the Exchange;

(11) an equal dollar-weighted index will be rebalanced at least once every calendar quarter; and

(12) if an underlying index is maintained by a broker-dealer, the index is calculated by a third party who is not a broker-dealer, and the broker-dealer has erected an information barrier around its personnel who have access to information concerning changes in and adjustments to the index.

Options on each of the AF CRE Sector Indexes will be subject to the maintenance and listing standards set forth in Exchange Rule 1802(c):

(1) The requirements stated in subparagraphs (b)(1), (3), (6), (7), (8), (9), (10), (11) and (12) of Exchange Rule 1802 must continue to be satisfied, provided that the conditions stated in subparagraph (b)(6) must be satisfied only as of the first day of January and July in each year;

(2) the total number of component securities in the index may not increase or decrease by more than 33⅓% from the number of component securities in the index at the time of its initial listing, and in no event may be less than nine component securities;

(3) trading volume of each component security in the index must be at least 500,000 shares for each of the last six months, except that for each of the lowest weighted component securities

in the index that in the aggregate account for no more than 10% of the weight of the index, trading volume must be at least 400,000 shares for each of the last six months; and

(4) in a capitalization-weighted index or a modified capitalization-weighted index, the lesser of the five highest weighted component securities in the index or the highest weighted component securities in the index that in the aggregate represent at least 30% of the total number of stocks in the index each have had an average monthly trading volume of at least 1,000,000 shares over the past six months.¹¹

Expiration Months, Settlement, and Exercise Style

Consistent with existing rules for certain index options,¹² the Exchange will allow up to twelve near-term expiration months for options on the AF CRE Indexes.¹³ The Exchange will likely not initially list twelve near-term expiration months for options on the AF CRE Indexes; however, the Exchange elects to have the ability to list up to twelve near-term expiration months in the future.

The options on each of the AF CRE Indexes will be A.M., cash-settled contracts with European-style exercise.¹⁴ A.M.-settlement is consistent with the generic listing criteria for industry-based indexes¹⁵ (as well as broad-based indexes¹⁶), and thus it is common for index options to be A.M.-settled. The Exchange proposes to amend Exchange Rule 1809(a)(5) to add the options on the AF CRE Indexes to the list of other A.M.-settled options. The Exchange proposes to amend Exchange Rule 1809(a)(4) to add options on the AF CRE Indexes to the list of other European-style index options.

Capacity

The Exchange has analyzed its capacity and represents that it believes

¹¹ As is the case with other index options authorized for listing and trading on MIAX, in the event an AF CRE Index fails to satisfy the maintenance listing standards, the Exchange will not open for trading any additional series of options of that class unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination, or unless the continued listing of that class of index options has been approved by the Commission under Section 19(b)(2) of the Act. See Exchange Rule 1802(c)(4).

¹² See Securities Exchange Act Release No. 84417 (October 12, 2018), 83 FR 52865 (October 18, 2018) (SR-MIAX-2018-14) (Order Granting Approval of a Proposed Rule Change to List and Trade Options on the SPIKES™ Index).

¹³ See proposed Exchange Rule 1809(a)(3).

¹⁴ See proposed Exchange Rule 1809(a)(4)(ii)-(vi).

¹⁵ See Exchange Rule 1802(b)(1).

¹⁶ See Exchange Rule 1802(d)(2).

the Exchange and OPRA have the necessary systems capacity to handle the additional traffic associated with the listing of new series that would result from the introduction of options on each of the AF CRE Indexes up to the proposed number of possible expirations. Because the proposal is limited to five classes, the Exchange believes any additional traffic that would be generated from the introduction of options on the AF CRE Indexes would be manageable.

Component Selection for the AF CRE Sector Indexes

The composition of each AF CRE Index is determined in a reconstitution on a quarterly basis from audited REIT/equity company filings and supplemental filings with the Commission, updated each quarter and intra-quarter based on 8-K, 10-Q, and 10-K filings. The components in each of the AF CRE Sector Indexes are determined from the REITs/equity companies that have the largest Enterprise Value within each individual sector and that meet the following minimum eligibility requirements. To be eligible for inclusion in each of the AF CRE Sector Indexes, a REIT/equity company must: (i) Be classified as an equity REIT; (ii) be listed on a U.S. securities exchange; (iii) have a minimum Enterprise Value of \$1 billion; (iv) have at least 85% of its revenue derived from the associated asset class; and (v) have issued a quarterly filing or annual report after its initial listing. Adjustments are made to the values of the AF CRE Sector Indexes during the quarterly reconstitution taking into account changes in each AF CRE Sector Indexes' component's per unit value, where the unit for each AF CRE Sector Index is represented as follows:

- AF CRE Residential Index = amount of residential units owned by the component security.
- AF CRE Retail Index = amount of square footage owned by the component security.
- AF CRE Office Index = amount of square footage owned by the component security.
- AF CRE Hospitality Index = amount of hotel rooms owned by the component security.

Index Calculation and Modified Market-Capitalization Weighting Methodology

Each of the AF CRE Sector Indexes are calculated using a modified market capitalization-weighting ("MCW") methodology. The MCW is determined by starting with the standard market capitalization of each component REIT/equity security in each AF CRE Sector

Index and dividing such component's market capitalization by its enterprise value. Enterprise value identifies the amount of leverage (debt) and level of cash for each component security listed in that particular AF CRE Sector Index. With this modification, the debt portion of each component REIT/equity security is identified and effectively removed from the component's weighting, with the removed amount being represented as a static cash position in each AF CRE Sector Index. This modification process produces the benefit of being able to measure the performance of each of the components on a non-levered basis, creating a truer comparison between components and thus getting a more accurate representation of the value of the real estate holdings in the component's portfolio. Every component REIT/equity security in each of the AF CRE Sector Indexes goes through the same modification process in order to generate a modified market-capitalization weighting for each component. Component weights for the AF CRE Sector Indexes are adjusted and reset on a monthly basis. The most recent public company filings (10-K, 10-Q, 8-K) and share data are used as inputs at each reweighting. For the AF CRE Composite Index, each AF CRE Sector Index is weighted in a ratio of the sum of its components' enterprise values to the total sum of the enterprise values for all of the AF CRE Sector Indexes.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

the Section 6(b)(5)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal to list and trade options on the AF CRE Indexes will remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because the Exchange believes that the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. Currently, the Exchange believes that there is unmet market demand for exchange-listed security options listed on commercial real estate indexes representing residential, retail, office and hospitality sectors. Each AF CRE Sector Index consists of no more than 15 REITs/equity companies (but no less than 10 REITs/equity companies) listed on a U.S. securities exchange.²⁰ Each REIT/equity company must be listed on a U.S. securities exchange, have a minimum Enterprise Value of \$1 billion, have at least 85% of its revenue derived from the associated asset class, and have issued a quarterly filing or annual report after initial listing. For the AF CRE Composite Index, each of the AF CRE Sector Indexes are weighted in a ratio of the sum of each indexes' components enterprise values to the total sum of the enterprise values for all the AF CRE Sector Indexes. As a result, the Exchange believes that options on each of the AF CRE Indexes are designed to provide different and additional opportunities for investors to hedge or speculate on the market risk associated with the various sectors of the commercial real estate market by listing options directly on the AF CRE Indexes representing those sectors.

The options that the Exchange proposes to list on each of the AF CRE Indexes satisfies the initial listing standards for broad-based (for the AF CRE Composite Index) and narrow-based indexes (for the AF CRE Sector Indexes) pursuant to the Exchange's current rules. The proposed rule change adds the AF CRE Indexes to the table regarding reporting authorities for the Exchange's proprietary index options, to the Exchange's rule regarding the number of permissible expirations,²¹ to the list of European-style exercise index options, and to the list of A.M.-settled index options. These changes are consistent with existing rules and index

options currently authorized and listed for trading on the Exchange and other exchanges. The Exchange also represents that it has the necessary systems capacity to support the new option series for each of the AF CRE Indexes given these proposed specifications. The Exchange believes that options on the AF CRE Indexes, as proposed to be traded under Exchange Rules, would not be readily susceptible to manipulation. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new and innovative products to the marketplace. The Exchange believes that listing options on the AF CRE Indexes will provide an opportunity for investors to hedge, or speculate on, the market risk associated with the commercial real estate industry.

The Exchange believes that its existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on the AF CRE Indexes. The Exchange further notes that current Exchange Rules that apply to the trading of other index options traded on the Exchange, such as options on the SPIKES Index, would also apply to the trading of options on the AF CRE Indexes, such as, for example, Exchange Rules governing customer accounts, margin requirements and trading halt procedures. The Exchange also represents that it has the necessary systems capacity to support the new options series for each of the AF CRE Indexes.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The AF CRE Indexes satisfy initial listing standards set forth in the Exchange's rules, and the proposed number of expirations, settlement, and exercise style are consistent with current rules applicable to index options. Options on each of the AF CRE Indexes will provide investors with different and additional opportunities to hedge or speculate on the market associated with the AF CRE Indexes. Further, options on the AF CRE Indexes would be available for trading to all market participants.

The proposed rule change will facilitate the listing and trading of novel options products that will enhance competition among market participants, to the benefit of investors and the marketplace. The listing of options on the AF CRE Indexes will enhance

competition by providing investors with an additional investment vehicle, in a fully-electronic trading environment, through which investors can gain and hedge exposure to various sectors of the commercial real estate market. Further, these products could offer a competitive alternative to other existing investment products that seek to allow investors to gain broad market exposure via REITs in the same individual sectors as the AF CRE Indexes.

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

Written comments were neither solicited nor received.

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

Because the 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 Act²² and Rule 19b-4(f)(6) thereunder.²³

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:

²² 15 U.S.C. 78s(b)(3)(A).

²³ 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.

¹⁹ *Id.*

²⁰ See *supra* note 6.

²¹ See *supra* note 12.

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-MIAX-2020-08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2020-08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-MIAX-2020-08, and should be submitted on or before May 26, 2020.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-09519 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

²⁴ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88766; File No. SR-FICC-2020-005]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Government Securities Division Rulebook, Mortgage-Backed Securities Division Clearing Rules, and Mortgage-Backed Securities Division EPN Rules

April 29, 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 27, 2020, Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(4) thereunder.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The proposed rule change consists of modifications to the FICC Government Securities Division ("GSD") Rulebook ("GSD Rules"), the FICC Mortgage-Backed Securities Division ("MBS") Clearing Rules ("MBS Rules") and the FICC MBS EPN Rules ("EPN Rules," and together with the GSD Rules and the MBS Rules, the "Rules") to: (i) Delete terms that are no longer used in the GSD Rules; (ii) delete references to services and service-related provisions that are no longer provided and/or active in the GSD Rules and the MBS Rules; (iii) delete certain dates in the GSD Rules and the MBS Rules; (iv) make certain clarifications in the Rules; (v) make certain corrections to the Rules; (vi) replace an officer title in the GSD Rules and the MBS Rules; (vii) add a disclaimer regarding trademarks and servicemarks in the Rules and conform the usage of the registered trademark symbol in the GSD Rules; and (viii) make certain technical changes to the Rules.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(4).

⁵ Capitalized terms used herein and not defined shall have the meanings assigned to such terms in

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

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

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

1. Purpose

FICC is proposing to (i) delete terms that are no longer used in the GSD Rules; (ii) delete references to services and service-related provisions that are no longer provided and/or active in the GSD Rules and the MBS Rules; (iii) delete certain dates in the GSD Rules and the MBS Rules; (iv) make certain clarifications in the Rules; (v) make certain corrections to the Rules; (vi) replace an officer title in the GSD Rules and the MBS Rules; (vii) add a disclaimer regarding trademarks and servicemarks in the Rules and conform the usage of the registered trademark symbol in the GSD Rules; and (viii) make certain technical changes to the Rules.

(i) Proposal To Delete Terms That Are No Longer Used in the GSD Rules

FICC is proposing to remove the following defined terms and definitions in GSD Rule 1⁶ as these terms are defined, but not otherwise used, in the GSD Rules. Specifically, the terms proposed to be deleted are:

- "Announcement Date"
- "Collateral Management Service"
- "Money-Fill Repo Transaction"
- "Money Settlement Obligations"
- "Non-Zero"
- "Par-Fill Repo Transaction"
- "Refunding Issue Date"
- "Remaining Member"

the GSD Rules, MBS Rules and EPN Rules, as applicable, available at <http://www.dtcc.com/legal/rules-and-procedures.aspx>.

⁶ GSD Rule 1, *id*.

(ii) Proposal To Delete References to Services and Service-Related Provisions That Are No Longer Provided and/or Active in the GSD Rules and the MBSD Rules

A. GSD Rules

(1) Freddie Mac Auctions

The GSD Rules contain provisions related to Auction Purchases of Eligible Freddie Mac Securities, which is a service that was not utilized⁷ and which FICC does not expect to be utilized. As such, FICC proposes to delete all provisions associated with this service.

Specifically, FICC is proposing to make the following changes in GSD Rule 1:

a. Delete the last two sentences in the definition of “Auction Purchase” because these sentences relate to Freddie Mac auctions.

b. Delete the last sentence in the definition of “Average Auction Price” because this sentence relates to Freddie Mac auctions.

c. Delete the defined term “Eligible Freddie Mac Security.”

d. Delete the words “or Eligible Freddie Mac Securities” in the definition of “Issue Date.”

e. Delete the last sentence in the definition of “Netting-Eligible Auction Purchase” because this sentence relates to Freddie Mac auctions.

f. Delete the words “or an Eligible Freddie Mac Security” in the definition of “When Issued Transaction.”

Additionally, FICC is proposing to delete the following references in the GSD Rules to Freddie Mac auctions:

1. The second paragraph in Section 3 of GSD Rule 6C because this paragraph relates to Freddie Mac auctions.

2. The words “or Freddie Mac, as applicable,” from the only paragraph in Section 8 of GSD Rule 6C.

3. The third paragraph in Section 11 of GSD Rule 6C because this paragraph relates to Freddie Mac submitting data regarding a Netting Eligible Auction Purchase. FICC is also proposing to delete the words “or a Freddie Mac auction” and “or Freddie Mac, as applicable” each time these words appear in Section 11 of GSD Rule 6C.

4. The words “or Freddie Mac” from the only paragraph in Section 3 of GSD Rule 17.

5. The words “or Freddie Mac, as applicable,” each time the phrase appears in Section 4 of GSD Rule 17. In addition, FICC proposes to delete the words “or a Freddie Mac auction” and the sentence “Notwithstanding the foregoing, the Corporation must make this notification to Freddie Mac as soon as it is practicable for it do so.” in Sections 4 of GSD Rule 17. FICC is also proposing to delete two phrases that reference Freddie Mac in Section 5 of GSD Rule 17 and delete the two references to “or Freddie Mac” in Section 6 of GSD Rule 17.

⁷ For the avoidance of doubt, the auction purchase service regarding Treasury securities is active, and remains as such.

6. Section 7 of GSD Rule 17 because it relates to Freddie Mac auctions.

In connection with the foregoing proposed changes regarding Freddie Mac auctions, FICC is proposing to delete the defined term “Issuer” from GSD Rule 1 because the term only appears in Section 7 of GSD Rule 17, which FICC is proposing to delete. The defined term is not used in connection with the Treasury Department.

Finally, the GSD Rules contain a list of Designated Locked-In Trade Sources, who can submit trade data for Locked-In Trades. Currently, Freddie Mac is listed as a Designated Locked-In Trade Source. FICC is proposing to delete the reference to Freddie Mac from this list.

(2) Inter-Clearing Bank GCF Repo Service

In 2016, the Commission approved FICC’s proposed rule change to suspend the interbank service of the GCF Repo Service.⁸ The GCF Repo Service has operated on both an “interbank” and “intrabank” basis.⁹ “Interbank” means that the two GCF Repo Participants, which have been matched in a GCF Repo transaction, each clear at a different clearing bank.¹⁰ “Intrabank” means that the two GCF Repo Participants, which have been matched in a GCF Repo transaction, clear at the same clearing bank.¹¹

FICC does not expect to reinstitute the interbank service of the GCF Repo Service at this time and is proposing to remove all references to this service. Specifically, the following changes would be made:

a. In GSD Rule 1, FICC is proposing to delete “or interbank collateral allocation unwinds” in the defined term “Early Unwind Intraday Charge.”

b. In GSD Rule 1, FICC is proposing to delete the following defined terms because they relate to the interbank service.

- “Entitlement Holder”
- “GCF Collateral Excess Account”
- “GCF Custodian Bank”
- “GCF Premium Charge”
- “GCF Repo Event”
- “GCF Repo Event Parameter”
- “GCF Repo Event Clearing Fund Premium”
- “GCF Repo Event Carry Charge”
- “Interbank Cash Amount Debit”
- “Interbank Pledging Member”
- “NFE-Related Account”
- “NFE-Related Collateral”
- “Prorated Interbank Cash Amount”
- “Securities Account Agreement”
- “Security Entitlement”

⁸ Securities Exchange Act Release No. 78206 (June 30, 2016), 81 FR 44388 (July 7, 2016) (SR-FICC-2016-002).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

c. In Section 2 of GSD Rule 3, FICC would remove the fourth to last paragraph because the paragraph relates to the interbank service.

d. In Section 11 of GSD Rule 3B, FICC would remove subpart (a)(iii) because (a)(iii) relates to the interbank service. In connection with this proposed change, FICC would renumber current romanettes iv and v to account for this deletion.

e. In Section 1b(a)(iii) of GSD Rule 4, FICC would remove “the GCF Premium Charge and/or GCF Repo Event Premium and/or” because these terms relate to the interbank service.

f. In Section 3 of GSD Rule 20, FICC would remove the current third (beginning with “If an Interbank Pledging Member . . .”) and fourth (beginning with “The Corporation shall be entitled . . .”) to last paragraphs because these paragraphs relate to the interbank service.

g. FICC is proposing to delete the provisions of Section 3a of GSD Rule 20. This section describes scenarios when FICC would declare a GCF Repo Event. These instances relate to the interbank service, and therefore, FICC is proposing to delete this section. In connection with this proposed change, FICC would rename Section 3a “[RESERVED]” in order to not impact the numbering of the rest of the sections.

h. FICC is proposing to delete the entirety of Section 7 of GSD Rule 20 because this Section relates to the interbank service.

i. FICC is proposing to delete the current description of the 7:30 a.m. to 2:30 p.m. timeframe in the Schedule of GCF Repo Timeframes because this deadline relates to the interbank GCF Repo Service.

j. FICC is proposing to delete “, inclusive of inter-bank” in subsection (c) of Section IV.B.4 of the Fee Structure.

k. FICC is proposing to delete subsection (d) of Section IV.B.4 of the Fee Structure because this subsection relates to the interbank service. In connection with this proposed change, FICC would change current subsection (e) to (d).

(3) Proposal To Delete References to a Former FICC Clearing Bank From the GSD Rules

FICC is proposing to remove provisions related to J.P. Morgan (“JPM”) providing clearing bank services to FICC and its Members as JPM is no longer providing this service. Specifically, FICC is proposing to:

a. Delete “and J.P. Morgan Chase (“JPM”), as applicable,” in subsection (a) of Section IV.B.4 of the Fee Structure.

b. Delete “and to Dealer Accounts at JPM,” in subsection (c) of IV.B.4 of the Fee Structure.

c. Delete “For Dealer Accounts at BNY,” and capitalize the A in subsection (c)(i) of Section IV.B.4 of the Fee Structure because BNY is the sole bank providing clearing bank services to FICC.

d. Delete subsection (c)(ii) of Section IV.B.4 of the Fee Structure.

(4) Proposal To Delete References to “Clearing Fund Funds-Only Settlement Amount”

FICC is proposing to delete references to the term “Clearing Fund Funds-Only Settlement Amount” because this is an outdated Clearing Fund component that should have been deleted when GSD moved to a VaR-based Clearing Fund methodology. As such, FICC proposes to delete this term from the definitions in GSD Rule 1. FICC would delete “and Clearing Fund Funds-Only Settlement Amounts” from the definitions of “Collected/Paid Amount” and “Opening Balance” and delete “and Clearing Fund Funds-Only Settlement Amount” from the subheading of Section 2 of GSD Rule 13. In addition, FICC proposes to delete the last paragraph of Section 2 of GSD Rule 13 because this paragraph covers the calculation of the Clearing Fund Funds-Only Settlement Amount, which is proposed to be deleted.

B. MBSD Rules

FICC is proposing to delete the terms “RTTM Compare Report” and “RTTM Purchase and Sale Report” from MBSD Rule 1 and delete references and a parenthetical associated with these terms in Section 8 of MBSD Rule 5. FICC no longer generates these reports. The information that was formerly contained in these Reports is currently contained in the Open Commitment Report and the Purchase and Sale Report.

(iii) Delete Certain Dates in the GSD Rules and MBSD Rules

FICC is proposing to remove certain historical dates contained in the GSD Rules and MBSD Rules related to specific provisions. These dates refer to either the effective date of a specific provision or when such provision was added to the GSD Rules and/or MBSD Rules. When there is an update to the GSD Rules or MBSD Rules, the effective date of the GSD Rules or MBSD Rules, as applicable, found on the top right corner of the first page of the GSD Rules and MBSD Rules is updated. This effective date covers all of the GSD Rules and MBSD Rules, as applicable, including schedules, interpretive guidance, fee structures and statements of policy. However, the dates contained in these certain schedules, interpretive guidance, fee structures and statements of policy are not updated to reflect the most recent effective date of the GSD Rules and MBSD Rules, as applicable.

FICC believes that the inclusion of these historical dates in the GSD Rules and MBSD Rules is superfluous and

confusing as the GSD Rules and MBSD Rules are effective as of the date listed on the first page. Therefore, FICC is proposing to remove these dates from the Schedule of Money Tolerances, Fee Structure, Board Statements of Policy and Interpretive Guidance with Respect to Watch List Consequences in the GSD Rules and the Interpretive Guidance with Respect to Watch List Consequences in the MBSD Rules.

(iv) Proposal To Make Certain Clarifications in the Rules

A. GSD Rules

(1) Amend Certain Defined Terms in GSD Rule 1 To Clarify Their Meaning

FICC is proposing the following changes to better clarify the meaning and usage of certain defined terms in GSD Rule 1. While these changes do not change the substance of the defined terms, FICC believes these revisions would enhance the clarity of these defined terms.

First, FICC is proposing to amend the definition of “Close of Business” to add language to include the deadline for final input of trade data by Members as noted in the Schedule of Timeframes, as the context requires. This clarification is necessary to make clear that for trade submission purposes, Close of Business is not 5 p.m. but rather the deadline noted in the Schedule of Timeframes.

Second, FICC is proposing to amend the definition of “Fannie Mae” in GSD Rule 1 by deleting a portion of the current definition and replacing it with language to define Fannie Mae as “the Federal National Mortgage Association.” FICC is proposing to define this entity solely by its entity name and not by its government status. FICC believes that the government status of these entities does not impact the usage of the defined term and is therefore unnecessary.

Third, FICC is proposing to amend the definition of “Forward-Starting Repo Transaction” in GSD Rule 1 to restate the definition in the way that is generally understood by FICC’s Members. Specifically, a forward-starting repo transaction is one which is scheduled to start one or more Business Days after the date it is submitted to FICC. FICC believes that the current way the term is defined, by reference to when the trade is compared by FICC, could cause confusion.

Fourth, FICC is proposing to amend the definition of “Forward Trade” in GSD Rule 1 to restate the definition in the way it is generally understood by FICC’s Members. Specifically, a forward trade is one that settles two or more Business Days after the date it is submitted to FICC. In addition, FICC is

proposing to amend the definition of this term to make clear that it does not include Repo Transactions to reflect the way in which the term is used in the rest of the GSD Rules.

Fifth, FICC is proposing to amend the definition of “Government Securities Division” in GSD Rule 1 to add “or GSD” to the defined term and the definition. FICC has determined that both the terms “Government Securities Division” and “GSD” are used interchangeably in the GSD Rules to refer to GSD.

Sixth, FICC is proposing an additional revision to the defined term “Government Securities Division” in GSD Rule 1. The definition currently states that GSD provides clearing and other services related to government securities. FICC is proposing to change the reference from “government securities” to “Eligible Securities” for clarification purposes. Government securities are included in the definition of the term “Eligible Securities” and FICC believes that the term Eligible Securities better reflects the services that GSD provides.

Seventh, FICC is proposing to amend the definition of “Right of Substitution” to clarify the timing as to when a Repo Party may substitute new collateral in replacement of existing collateral transferred to the Reverse Repo Party. The phrase “during the period from the start of the Repo Transaction until its close” is vague. FICC is proposing to revise this language to read “during the period immediately after the Scheduled Settlement Date for the Start Leg of the Repo Transaction until the day prior to the Scheduled Settlement Date for the End Leg of the Repo Transaction.”

(2) Amend Certain Provisions in the GSD Rules To Clarify Their Meaning

FICC is proposing the following changes to better clarify the meaning of certain provisions in the GSD Rules. While these changes do not change the substance of the provisions, FICC believes these revisions would enhance the clarity of these provisions.

First, FICC is proposing to amend Section 14(c) of GSD Rule 3A (Sponsoring Members and Sponsored Members). This Section covers a scenario where FICC ceases to act for a Sponsoring Member in its capacity as a Sponsoring Member. FICC is proposing to add a sentence that gives FICC the discretion to determine whether to close-out the affected Sponsored Member Trades and/or to permit the Sponsored Members to complete their settlement. This sentence appears in Section 16(b) of GSD Rule 3A, which describes a scenario where FICC has

determined to treat a Sponsoring Member as insolvent. Both of these Sections describe similar situations and processes and therefore, for clarification purposes and consistency, FICC is proposing to add the sentence that appears in Section 16(b) to Section 14(c).

Second, FICC is proposing to replace “minimum Clearing Fund requirement” with the defined term “Minimum Charge” in the second to last paragraph in Section 1b of GSD Rule 4. FICC believes that using the defined term here would remove any confusion that may arise as to whether the existing language differs from the defined term.

Third, FICC is proposing to amend Section 4 of GSD Rule 18 by adding an additional sentence that states, “This paragraph does not apply to GCF Repo Transactions.” Section 4 provides instructions as to how a submitted General Collateral Repo Transaction that is also a Forward-Starting Repo Transaction may be included in a Member’s Net Settlement Position of the Repo Start Date. The GSD Rules provide that the term General Collateral Repo Transactions generally do not include GCF Repo Transactions (unless the context indicates otherwise).¹² Consistent with this definition, the proposed language would explicitly state that this Section does not apply to GCF Repo Transactions.

Fourth, FICC is proposing to move certain paragraphs within Section 3 of GSD Rule 20 and between Section 3 of GSD Rule 20 and Section 4 of GSD Rule 20 in order to improve the flow of these sections and the readability and also to put paragraphs under the more appropriate subheadings. These changes are as follows:

a. Move the current fourth paragraph of Section 3 beginning “Every Collateral Allocation Entitlement and Collateral Allocation Obligation . . .” to become part of the current first paragraph of Section 3.

b. Make the first two sentences of the current first paragraph of Section 3 a separate paragraph, and move the remaining sentences of the current first paragraph of Section 3 into the following paragraph, so the second paragraph of Section 3 would begin with the sentence “If a Netting Member does not satisfy its consequent Collateral Allocation Obligation . . .”.

c. Move the current sixth paragraph of Section 3 beginning “A Netting Member that has, on a particular Business Day, . . .” to follow the newly created paragraph discussed in the previous bullet.

d. Delete the current first paragraph of Section 4 because it does not relate to the subheading of Section 4 and is substantially similar to an existing paragraph in Section 3.

e. Move the current eighth paragraph of Section 3 beginning “On any Business Day (within the timeframes established by the Corporation . . .” to Section 4.

Fifth, FICC is proposing to amend Section 4 of GSD Rule 20 by adding a new paragraph that clarifies that a Netting Member may substitute collateral for cash in addition to substituting cash for collateral as this reflects current practice.

Sixth, FICC is proposing to add the word “and intraday” before “funds-only settlement” in the second 12:00 p.m. deadline and the 2:00 p.m. deadlines in the Schedule of Timeframes. FICC believes that the word “intraday” was inadvertently omitted in these two deadlines.

Seventh, FICC is proposing to amend the explanatory note in the Schedule of Timeframes related to the third 12:00 p.m. deadline, the 12:30 p.m. deadline and the 1:00 p.m. deadline. The note currently states that FICC may extend certain deadlines by one hour on days that FICC determines are high volume days or SIFMA has announced in advance will be high volume days. From an operational practice, FICC does not define high volume days. Additionally, SIFMA, as part of its operational procedures, no longer announces high volume days in advance. FICC is proposing to amend the note to allow FICC to extend deadlines on days that operational or systems difficulties would reasonably prevent members from satisfying the applicable deadline. FICC believes that this proposed change reflects the current practice as is stated in the previous footnote in the Schedule of Timeframes.

Eighth, FICC is proposing to amend subpart 1 of the Schedule of Required and Accepted Data Submission Items for Substitution. The Schedule lists the additional data items related to a Repo Transaction that are required to be received by FICC in order for FICC to process a substitution. The first data item on the list is the “Specific Existing Securities Collateral CUSIP Number.” FICC believes that the current formulation of this data item may be unclear and cause confusion as to the data item’s intended meaning. FICC proposes to revise subpart 1 to read, “the Specific CUSIP Number for the Existing Securities Collateral;”.

Ninth, FICC is proposing to amend subpart 1 of the Schedule of Required and Accepted Data Submission Items for New Securities Collateral. The Schedule lists the additional data items related to a Repo Transaction that are required to be received by FICC in order for FICC to process a substitution. The first data item on the list is the “Specific Existing

Securities Collateral CUSIP Number.” FICC believes that the current formulation of this data item may be unclear and cause confusion as to the data item’s intended meaning. Furthermore, this schedule refers to New Securities Collateral, while the data item refers to the “Specific Existing Securities Collateral.” FICC proposes to revise subpart 1 to read, “the Specific CUSIP Number for the New Securities Collateral;”. FICC believes that the reference to “Existing Securities Collateral” was made in error.

(3) Revise the Defined Term “Close Leg” to “End Leg”

FICC is proposing to replace the defined term “Close Leg” with the term “End Leg” and move “End Leg” to its correct placement alphabetically. The terms “Close Leg” and “End Leg” refer to the concluding settlement aspects of a Repo Transaction. FICC is proposing to replace Close Leg with End Leg because in the industry, “End Leg” is more often associated with “Start Leg” (which refers to the initial aspects of the settlement of a Repo Transaction and which term exists in the GSD Rules currently). FICC believes that this revision would enhance clarity in the GSD Rules.

In connection with the change, FICC would revise all the references to “Close Leg” to “End Leg.” This includes revising the defined term “Coupon-Eligible Close Leg” to “Coupon-Eligible End Leg” to make it consistent with the newly revised term, “End Leg.”

FICC would also revise “Close Leg” to “End Leg” in the following defined terms in GSD Rule 1 and move them into alphabetical order as necessary:

- a. “Contract Value”;
- b. “Coupon Adjustment Payment”;
- c. “Coupon-Eligible Close Leg” (including from “a Close Leg” to “an End Leg,” as applicable);
- d. “Credit Coupon Adjustment Payment”;
- e. “Debit Coupon Adjustment Payment”;
- f. “Fail Net Long Position”;
- g. “Fail Net Short Position”;
- h. “Forward Net Settlement Position”;
- i. “GCF Interest Rate Mark”;
- j. “Interest Rate Mark”;
- k. “Long Transaction”;
- l. “Repo Interest Rate Differential”;
- m. “Scheduled Settlement Date” (from “a Close Leg” to “an End Leg”);
- n. “Short Transaction”;
- o. “System Repo Rate”;
- p. “Term GCF Repo Transaction”; and
- q. “Term Repo Transaction”

FICC would amend the reference to “a Close Leg” with “an End Leg” in the first sentence of the second paragraph of Section 2 of GSD Rule 11 (which begins “Except to the extent that . . .”) and would amend “Close Leg” to read as

¹² See GSD Rule 1, definition of “General Collateral Repo Transaction,” *supra* note 5.

“End Leg” in subsections (ii), (iii) and current (vi) of the same paragraph. FICC would replace “Close Leg” with “End Leg” in Section 1(j) of GSD Rule 13, Section 5 of GSD Rule 18, Section 5 of GSD Rule 19, and the Schedule of Required and Other Data Submission Items For GCF Repo Transactions. FICC would also replace “a Close Leg” with “an End Leg” in Section VIII of the Fee Structure and “Close Leg” to “End Leg” the two times it appears.

In connection with this change and for alphabetical purposes, FICC is proposing to move the definition of “End Leg” from after the defined term “Clearing Organization” to after the defined term “Eligible Treasury Security” in GSD Rule 1.

(4) Clarify Certain GSD Rules Related to Inter-Dealer Broker Netting Members and Related Provisions

FICC is proposing to amend certain definitions and provisions related to “Inter-Dealer Broker Netting Members,” “Non-IDB Repo Brokers,” “Repo Brokers,” “Inter-Dealer Brokers” and “GCF-Authorized Inter-Dealer Brokers” in order to enhance the clarity of these provisions.

a. Clarifying Changes to GSD Rule 1 and the Fee Structure

By way of background, a “Repo Broker” is a member firm that acts in a brokered capacity with respect to activity in its Segregated Repo Account; there are two types of members that can be Repo Brokers: Inter-Dealer Broker Netting Members and non-IDB Repo Brokers.

FICC is proposing to amend the definition of “Non-IDB Repo Broker” in GSD Rule 1 by clarifying the characteristics of this type of broker. Specifically, FICC is proposing to move the description from the definition of “Repo Broker” to the definition of “Non-IDB Repo Broker.” FICC is also proposing to replace the reference to “Repo Broker” in the definition of “Non-IDB Repo Broker” with “Netting Member” to clarify that a Non-IDB Repo Broker is a Netting Member.

In connection with the proposed change discussed in the previous paragraph, FICC is proposing to delete the description contained in romanette (ii) in the definition of “Repo Broker.” Since this information would now be described in the definition of “Non-IDB Repo Broker,” FICC would replace this information with “a Non-IDB Repo Broker with respect to activity in its Segregated Repo Account.” The definition of “Repo Broker” previously included a reference to an Inter-Dealer

Broker Netting Member and the full description of a Non-IDB Repo Broker.

In the definition of “Brokered Repo Transaction” in GSD Rule 1, FICC is proposing to replace “an Inter-Dealer Broker Netting Member or Non-IDB Repo Broker with respect to activity in its Segregated Repo Account” with “a Repo Broker.” The proposed amended definition of “Repo Broker” refers to both Inter-Dealer Broker Netting Members and Non-IDB Repo Brokers with respect to activity in their Segregated Repo Accounts. FICC believes that this proposed change will enhance the readability of the GSD Rules by replacing these terms with the defined term.

Additionally, in connection with the proposed change to the definition of “Repo Broker,” FICC is proposing to delete Section IV.D of the Fee Structure, which is a definition of “Repo Broker” and is no longer necessary. In connection with this proposed change, FICC is proposing to delete “(as defined in subsection IV.D below)” in subsection 1(a) of Section IV.C of the Fee Structure since “Repo Broker” would no longer be defined in Section IV.D.

b. Clarifying Changes to Other Provisions and Rules

FICC is proposing to replace the reference to “Inter-Dealer Broker” with “Inter-Dealer Broker Netting Member” in the second sentence of Section 8(e) of GSD Rule 3. This Section describes the specific continuance standards that Inter-Dealer Broker Netting Members must comply with as ongoing membership requirements. FICC believes that this reference to “Inter-Dealer Broker” was incorrect and was intended to refer to “Inter-Dealer Broker Netting Members” as the rest of the paragraph does.

FICC is proposing to amend Section 2 of GSD Rule 6C to replace the reference to “Inter-Dealer Broker Netting Member” with “GCF Authorized Inter-Dealer Broker.” The term “GCF Authorized Inter-Dealer Broker” is more accurate in this respect because that is the term that is used regarding the GCF Repo Service. Similarly, FICC is proposing to amend the Schedule of GCF Repo Timeframes by removing the defined term “brokers” as set forth in the 7:00 a.m. timeframe and replacing the references to “Brokers” and “brokers” in the 7:00 a.m. and 3:00 p.m. timeframes, respectively, with “GCF-Authorized Inter-Dealer Brokers,” the more accurate defined term in this respect.

c. Proposed Changes Replacing References to “Inter-Dealer Broker Netting Member” and “Non-IDB Repo Broker”

Given the proposed rule changes discussed above in connection with the definition of “Repo Broker,” FICC proposes to delete references to “Inter-Dealer Broker Netting Members” and “Non-IDB Repo Brokers” when the context refers to both of these entity types and replace them with the term “Repo Broker.” In addition, there are instances where FICC proposes to replace “Inter-Dealer Broker Netting Member” with “Repo Broker” in order to reflect current practice. Specifically, FICC proposes the following:

i. Amend the definition of “GCF-Authorized Inter-Dealer Broker” in GSD Rule 1 to replace the two current references to “an Inter-Dealer Broker Netting Member” with “a Repo Broker.”

ii. Amend the definition of “Submitting Member” in GSD Rule 1 to replace the current reference to “an Inter-Dealer Broker” with “a Repo Broker.”

iii. Amend the second to the last paragraph of Section 1b of GSD Rule 4 by removing “an Inter-Dealer Broker Netting Member or a Netting Member that maintains one or more Broker Accounts” and replacing it with “a Repo Broker.”

iv. Replace the reference to “an Inter-Dealer Broker Netting Member” with “a Repo Broker” in Section 2(c) of GSD Rule 4.

v. Amend the subheading of Section 2 of GSD Rule 15 by replacing the reference to “Inter-Dealer Broker Netting Members” with “Repo Brokers.” In connection with this proposed change, FICC is proposing to replace the references to “Inter-Dealer Broker Netting Member” with “Repo Broker,” “an Inter-Dealer Broker Netting Member” with “a Repo Broker” and “Inter-Dealer Brokers” with “Repo Brokers” in the three paragraphs of this Section. Further, FICC would delete “Inter-Dealer Broker with the Non-Member” and replace it with “Repo Broker” in the third paragraph of Section 2 of GSD Rule 15.

vi. Amend the subheading of Section 2 of GSD Rule 19 by deleting “Inter-Dealer Broker Netting Members and non-IDB” so that only the reference to “Repo Brokers” remains.

vii. Amend the first paragraph of Section 2 of GSD Rule 19 by replacing “an Inter-Dealer Broker Netting Member or non-IDB Repo Broker” with “a Repo Broker.”

viii. Amend the second paragraph of Section 2 of GSD Rule 19 by replacing “An Inter-Dealer Broker Netting Member or a Non-IDB Repo Broker” with “A Repo Broker.” In both subsections (a) and (b) of this paragraph, FICC would delete “Inter-Dealer Broker Netting Member’s or Non-IDB” so that only “Repo Broker’s” remains.

ix. Amend the third paragraph of Section 2 of GSD Rule 19 by replacing “An Inter-Dealer Broker Netting Member or a Non-IDB Repo Broker” with “A Repo Broker.”

x. Amend the second sentence of Section 3 of GSD Rule 19 to replace “its counterparty Inter-Dealer Broker Netting Member or Non-

IDB Repo Broker with respect to activity in its Segregated Repo Account,” with “the Repo Broker’s counterparty.”

xi. Amend subpart 1 of the Schedule of Required Data Submission Items by replacing the reference to “an Inter-Dealer Broker Member” with “a Repo Broker.”

xii. Replace the references to “Inter-Dealer Broker Netting Members” in Sections IV.A.1 and IV.B.1 of the Fee Structure with “Repo Brokers.”

xiii. Replace the reference to “Inter-Dealer Broker Netting Member” in the footnote to Section IV.A of the Fee Structure with “Repo Broker.”

d. Proposed Changes Related to “non-Inter-Dealer Broker Netting Members” and “non GCF Authorized Inter-Dealer Brokers”

FICC is proposing to amend the definition of “GCF Counterparty” in GSD Rule 1 to delete “non-Inter-Dealer Broker” and add “, other than a Repo Broker,”. The term “non-Inter-Dealer Broker Netting Member” is not a defined term in the GSD Rules and FICC believes that this term is confusing. FICC believes that this term was intended to refer to Netting Members, other than Repo Brokers. FICC proposes the following:

i. Amend the second half of the third paragraph of Section 2 of GSD Rule 19 by replacing the reference to “non-Inter-Dealer Broker Netting Members” with “Netting Member counterparties.”

ii. Amend the subheading of Section 3 of GSD Rule 19 by replacing the reference to “a Non-Inter-Dealer Broker Netting Member” with “Netting Members With Respect to Their Brokered Repo Transactions,” as this change would reflect the purpose of this section. FICC is also proposing to replace the reference to “non-Inter-Dealer Broker Netting Member” in the first sentence of this Section with “Netting Member whose counterparty is a Repo Broker.” Furthermore, FICC is proposing to replace the reference to “a Non-Inter-Dealer Broker Netting Member” in the second sentence of this Section with “the Netting Member.”

iii. Amend Section 4 of GSD Rule 19 by deleting “Non-Inter-Dealer Broker” and adding “of the Repo Broker.”

FICC is proposing to replace the reference to “non Inter-Dealer Broker Member” with “GCF Counterparty to the GCF Authorized Inter-Dealer Broker” in the second paragraph of Section I.G of the Fee Structure.

Finally, the last sentence of the second paragraph of Section I.G of the Fee Structure refers to the Inter-Dealer Broker Member. FICC believes that the more precise term for this provision would be “GCF-Authorized Inter-Dealer Broker” and proposes the changes to effectuate this replacement.

(5) Delete Certain Times in the Schedule of Timeframes

FICC is proposing to delete the 8:30 a.m. time and the 3:00 p.m. deadlines in the GSD Schedule of Timeframes because these are external deadlines that FICC and its Members cannot control.

B. MBSD Rules

(1) Amend Certain Defined Terms To Clarify Their Meaning

FICC is proposing the following changes to clarify the meaning and usage of certain defined terms in MBSD Rule 1. While these revisions do not change the substance of the defined terms, FICC believes these revisions would enhance the clarity of these defined terms.

First, FICC is proposing to amend the defined term “Clearing Members” to “Clearing Member.” The defined terms in MBSD Rule are generally defined in their singular form. For example, the term “Dealer” is defined as “Dealer” and not “Dealers.” FICC uses the plural version of a defined term should the context necessitate. Furthermore, in the definition of “Clearing Members” FICC references the term “Clearing Member.”

Second, FICC is proposing to amend the definition of “Mortgage-Backed Securities Division” in MBSD Rule 1 to add “or MBSD” to the defined term and the definition. FICC has determined that both the terms “Mortgage-Backed Securities Division” and “MBSD” are used interchangeably in the MBSD Rules to refer to MBSD.

(2) Add Defined Terms to MBSD Rule 1

FICC is proposing to add two defined terms to MBSD Rule 1 in an effort to enhance the clarity of the MBSD Rules.

First, FICC is proposing to add the defined term “EPN Rules.” FICC is proposing this rule change because the term “EPN Rules” is used in the definition of “EPN Service.” FICC would define “EPN Rules” as “the rules of the Corporation relating to the EPN Service, as amended from time to time.”

Second, FICC is proposing to add the defined term “EPN User.” FICC is proposing this rule change because the term “EPN User” is used in the definition of “EPN Service.” FICC proposes to define “EPN User” the way in which the term is defined in the EPN Rules.

(3) Amend Certain Provisions To Clarify Their Meaning

FICC is proposing the following changes to clarify the meaning of certain provisions in the MBSD Rules. While these revisions do not change the

substance of the provisions, FICC believes these revisions would enhance the clarity of these provisions.

First, in Section 8(ii) of MBSD Rule 3, FICC is proposing to change the reference “EPN Only Members” to “EPN Users that are not Clearing Members.” “EPN Only Members” is not a defined term in the MBSD Rules and refers to EPN Users that are not Clearing Members. FICC believes that this change would enhance the clarity of the MBSD Rules by replacing an undefined term with a more useful descriptive phrase.

Second, in Section 6 of MBSD Rule 5, FICC is proposing to change the format of the first two paragraphs of this Section by deleting “a)” at the start of the second paragraph. There is no subsection b in this Section and therefore “a)” is superfluous and confusing. In connection with this proposed change, FICC is proposing to delete “The following Net Position Match Mode shall govern the comparison of” from the first paragraph. Since the section does not contain a list or additional subparts, FICC believes that this phrase can be confusing as it implies a list will be forthcoming. FICC proposes to start the section with “Each” and add “shall be governed by the” to the end of the current first paragraph. This addition would be used as the connecting phrase, and the next paragraph would be combined with the current first paragraph.

Third, additionally in Section 6 of MBSD Rule 5, FICC is proposing to capitalize the word “number” after CUSIP in order to reference the defined term “CUSIP Number.” FICC believes that the word “number” was inadvertently written with lowercase letters and that the current reference to CUSIP number was intended to refer to the defined term.

Fourth, FICC is proposing to amend the seventh paragraph of subsection (c) of MBSD Rule 17A by deleting the phrase “under a netting” from the phrase “netting under a netting.” FICC believes that this phrase is superfluous and creates confusion when reading this paragraph. The phrase “under a netting” does not provide any additional information and seems misplaced.

C. EPN Rules

(1) Amend Certain Defined Terms To Clarify Their Meaning

FICC is proposing the following changes to clarify the meaning and usage of certain defined terms in Rule 1 of Article I of the EPN Rules. While these revisions do not change the substance of the defined terms, FICC

believes these revisions would enhance the clarity of these defined terms.

First, FICC is proposing to make the following changes to the defined term “FNMA.” FNMA refers to the Federal National Mortgage Association. FICC is proposing to change the defined term “FNMA” to “Fannie Mae.” “Fannie Mae” is the defined term that is used in both the GSD Rules and the MBS Rules.

FICC is also proposing to define Fannie Mae as the Federal National Mortgage Association. Fannie Mae is more commonly used when referring to the entity and FICC believes that this change would enhance clarity across the EPN Rules.

Second, FICC is proposing to make the following changes to the defined term “FHLMC.” FHLMC refers to the Federal Home Loan Mortgage Corporation. FICC is proposing to change the defined term “FHLMC” to “Freddie Mac.” “Freddie Mac” is the defined term that is used in both the GSD Rules and the MBS Rules. Freddie Mac is more commonly used when referring to the entity and FICC believes that this change would enhance clarity across the EPN Rules.

FICC is also proposing to define “Freddie Mac” as the Federal Home Loan Mortgage Corporation. Currently, the FHLMC definition also refers to the fact that FHLMC is a corporate instrumentality of the United States of America. FICC is proposing to remove this reference in the revised definition of Freddie Mac. FICC believes that the government status of Freddie Mac does not affect the usage of the defined term and is therefore unnecessary. FICC is also proposing these changes to enhance consistency across the Rules as the GSD Rules and the MBS Rules do not reference Freddie Mac’s government status.

Third, FICC is proposing to make the following changes to the defined term “GNMA.” GNMA refers to the Government National Mortgage Association. FICC is proposing to change the defined term “GNMA” to “Ginnie Mae.” “Ginnie Mae” is the defined term that is used in both the GSD Rules and the MBS Rules. Ginnie Mae is more commonly used when referring to the entity and FICC believes that this change would enhance clarity across the EPN Rules.

FICC is also proposing to define “Ginnie Mae” as the Government National Mortgage Association. Currently, the GNMA definition also refers to the fact that GNMA is a corporate instrumentality of the U.S. Department of Housing and Urban Development. FICC is proposing to remove this reference in the revised definition

of Ginnie Mae. FICC believes that the government status of Ginnie Mae does not affect the usage of the defined term and is therefore unnecessary. FICC is also proposing these changes to enhance consistency across the Rules as the GSD Rules and MBS Rules do not reference Ginnie Mae’s government status.

In connection with these proposed changes, FICC is proposing to revise the order in which the revised terms “Fannie Mae” and “Freddie Mac” appear in Rule 1 of Article I of the EPN Rules. While the current placement of “FHLMC” and “FNMA” are in correct alphabetical order, the revised term “Fannie Mae” should appear before “Freddie Mac.”

Finally, in connection with these proposed changes, FICC is proposing to amend the definition of “Mortgage-Backed Securities.” The defined terms “GNMA,” “FHLMC” and “FNMA” are used in this definition. FICC would change the references from “GNMA” to “Ginnie Mae,” “FHLMC” to “Freddie Mac” and “FNMA” to “Fannie Mae” to conform to the proposed changes described above.

(2) Amend the Governing Law Provision for Clarity

FICC is proposing to amend Section 1 of Rule 9, Article V of the EPN Rules to change the governing law provision so that it is consistent with similar provisions in the GSD Rules and MBS Rules, and therefore provide clarity to Members. This proposed change would also conform the EPN provision to similar provisions in the GSD Rules and MBS Rules, and therefore, provide clarity to members who use two or more of these services.

(v) Make Certain Corrections to the Rules

A. GSD Rules

(1) Capitalize Terms To Refer to the Defined Term as Set Forth in GSD Rule 1

Capitalized terms used throughout the GSD Rules have the meaning set forth in GSD Rule 1. FICC has determined that certain defined terms were subsequently not capitalized when later used in the GSD Rules. FICC believes that this was done inadvertently and proposes to amend these instances as follows:

a. Amend the definition of “Early Unwind Intraday Charge” in GSD Rule 1 by capitalizing the word “service” in the phrase “GCF Repo service” to reflect the defined term, “GCF Repo Service” as set forth in GSD Rule 1.

b. Capitalize the two current references to “broker” in Section 8(e) of GSD Rule 3 in order to reflect to the defined term “Broker” as set forth in GSD Rule 1.

c. Capitalize “federal funds rate” both times it appears in the second paragraph of Section 14 of GSD Rule 11 in order to reflect to the defined term “Federal Funds Rate” as set forth in GSD Rule 1.

d. Capitalize “brokered transaction” in the Schedule of Required Data Submission Items in order to reflect the defined term, “Brokered Transaction” as set forth in GSD Rule 1.

e. Capitalize “Transaction” in subpart (6) of the Schedule of Required and Accepted Data Submission Items for a Substitution and in subpart (6) of the Schedule of Required and Accepted Data Submission Items for New Securities Collateral to reflect the defined term “Transaction” as set forth in GSD Rule 1.

f. Amend Section I.G of the Fee Structure to amend a reference to “Locked-in Trade Source” and “locked-in trade data” by capitalizing the “i” in “Locked-in Trade Source” and the “l,” “i” and “t” in “locked-in trade data.”

g. Capitalize the “i” in the reference to “Locked-in-Trades” in Section 6 of GSD Rule 17.

(2) Revise Terms To Reflect the Defined Terms

FICC is proposing to amend the GSD Rules in order to amend various terms that do not match the defined term used in GSD Rule 1 but were otherwise intended to do so. These proposed changes include instances where a defined term was used in the GSD Rules but was not capitalized.

First, FICC is proposing to amend the definition of “Account” in GSD Rule 1 to replace the references to “Segregated Broker Account” and “Non-IDB Broker” with “Segregated Repo Account” and “Non-IDB Repo Broker,” respectively. The proposed changes would reflect the defined terms as set forth in GSD Rule 1. FICC believes that these terms were used in error since “Segregated Broker Account” and “Non-IDB Broker” are not defined terms in the GSD Rules. FICC believes that these terms were intended to refer to their respective defined terms.

Second, FICC is proposing to correct certain references to the defined term “GCF Repo Service” where the word “Service” was inadvertently omitted. FICC believes that these terms refer to the defined term “GCF Repo Service” and is proposing this change to enhance the clarity of the GSD Rules. Specifically, the following changes would be made:

a. Revise the current references to “GCF Repo Deliver Obligation” and “GCF Repo Deliver Obligations” to add “Service” so that they read “GCF Repo Service Deliver Obligation” and “GCF Repo Service Deliver Obligations,” respectively, in subsection (c) of Section IV.B.4 of the Fee Structure.

b. Revise the current reference “GCF Repo Receive Obligation” to “GCF Repo Service

Receive Obligation” in subsection (c)(i) of Section IV.B.4 of the Fee Structure.

Third, FICC is proposing to amend the definition of “VaR Charge” in GSD Rule 1 by replacing “Clearing” with “Netting” so that the term reads “Netting Member’s.” FICC is proposing this change so that this term reflects the defined term “Netting Member” as set forth in GSD Rule 1. Clearing Member is not a defined term in the GSD Rules and FICC believes that this reference was intended to be to “Netting Member.”

Fourth, FICC is proposing to amend the first sentence of the second paragraph in Section 9(ii) of GSD Rule 3 by replacing the reference to “GSD Comparison Only Members” with “Comparison-Only Members.” FICC is proposing this change so that this term reflects the defined term “Comparison-Only Members” as set forth in GSD Rule 1.

Fifth, FICC is proposing to amend the first sentence of the first paragraph in Section 2 of GSD Rule 19 by replacing “Repo Brokered” with “Brokered Repo.” FICC is proposing this change so that this term reflects the defined term “Brokered Repo Transaction” as set forth in GSD Rule 1. Repo Brokered Transaction is not a defined term and FICC believes that this reference was intended to refer to the defined term “Brokered Repo Transaction.”

Sixth, FICC is proposing to replace “Start date for Repo” with “Scheduled Settlement Date for the Start Leg of the Transaction” in subpart (4) of the Schedule of Required and Accepted Data Submission Items for a Substitution and subpart (4) of the Schedule of Required and Accepted Data Submission Items for New Securities Collateral in order to use the applicable defined terms.

(3) Amend Certain References to Third Party Names and Services

Throughout the GSD Rules, FICC references certain third party names as well as certain third party services. FICC has determined that some of these references were incorrectly written.

FICC is proposing to amend the defined term “FedWire” in GSD Rule 1 to replace the defined term with “Fedwire.” It appears that throughout the GSD Rules, FICC has written the term “Fedwire” as both “FedWire” and “Fedwire.” For consistency, FICC has decided to conform all references of the term and believes, based on a review of Federal Reserve materials, that the correct term should be “Fedwire.”

Specifically, FICC is proposing to replace “FedWire” with “Fedwire” in the definition of “Close of Business” in

GSD Rule 1, Section 3b of GSD Rule 4, Section 14 of GSD Rule 11, Sections 2, 6 and 10 of GSD Rule 12, Section 7 of GSD Rule 13 and Section 2 of GSD Rule 19.

Second, FICC is proposing to correct the definition of “The Securities Industry and Financial Market Association” (“SIFMA”) to remove “The” from the defined term. In reviewing SIFMA’s materials, FICC has determined that the correct name of the organization is “Securities and Financial Market Association.” FICC is proposing to update the defined term to reflect SIFMA’s correct name.

In connection with this proposed change, FICC is proposing to lowercase the word “The” in each reference to SIFMA. Specifically this proposed change would occur in the definition of “The Securities Industry and Financial Markets Association” in GSD Rule 1, Section 11 of GSD Rule 6C, and paragraph (f) of GSD Rule 29. Also in paragraph (f) of GSD Rule 29, the term “The Bond Market Association” would be deleted and replaced with “the Securities Industry and Financial Market Association,” correcting the outdated reference to this association’s name.

Furthermore, in connection with this change, FICC is proposing to move the updated definition of “Securities Industry and Financial Market Association” from its current placement in GSD Rule 1, after the definition of “Termination Date,” to after the definition of “SEC.” FICC is proposing this change in an effort to keep the defined terms listed in GSD Rule 1 in alphabetical order.

(4) Other Corrections

FICC is proposing to revise the definitions of “Clearance Difference Amount,” “Credit Clearance Difference Amount” and “Debit Clearance Difference Amount” in GSD Rule 1 to remove references to money differences derived from pairoffs. FICC is proposing this change because the Clearance Difference does not include money differences derived from pairoffs as FICC does not currently engage in pairoffs.

FICC is proposing to revise the definitions of “Fail Net Long Position” and “Fail Net Short Position” in GSD Rule 1 to state that the position is open “one Business Day after its original Scheduled Settlement Date.” This is because GSD re-nets fails and as such the language regarding one or more Business Days is no longer applicable. The word “original” is proposed to be added for clarity.

FICC is proposing to revise the definition of “Netting-Eligible Auction Purchase” to delete subsection (2) in its entirety because it references an outdated practice and is not currently applicable. FICC would also delete “: (1)” as it would no longer be needed.

FICC is proposing to revise the definition of “Right of Substitution” to delete the last sentence. The process referenced in the last sentence is outdated. FICC currently facilitates rights of substitution by passing through requests from one member to the member on the other side of the transaction. Consistent with this change, FICC also proposes to delete the last sentence of Section 3(a) of GSD Rule 18. In addition, FICC proposes to correct the reference to the two Netting Members in Section 3(a) of GSD Rule 18 to reflect that it is the one Netting Member that is the Repo Party that would send in the notification for a request for substitution.

FICC is proposing to delete the subheading and contents of Section 3 of GSD Rule 13 and designate this section as “Reserved.” The subject of Section 3 of GSD Rule 13 is intraday funds-only settlement collections, which is already covered by the third and fourth paragraphs of Section 2 of GSD Rule 13. In connection with this change, FICC also proposes to amend the reference to “Section 3” in Section 6 of GSD Rule 13 to read “Section 2.”

FICC is proposing to amend the seventh paragraph of GSD Rule 22C by deleting the phrase “under a netting” from the phrase “netting under a netting.” FICC believes that the phrase proposed to be deleted was added in error.

B. MBSD Rules

(1) Amend References to Certain Third Party Names and Services

Throughout the MBSD Rules, FICC references certain third party names as well as certain third party services. FICC has determined that some of these references were incorrectly written.

FICC is proposing to amend the defined term “FedWire” to replace the defined term with “Fedwire.” It appears that throughout the MBSD Rules, FICC has written the term “Fedwire” as both “FedWire” and “Fedwire.” For consistency, FICC has decided to conform all references of the term and believes, based on a review of Federal Reserve materials, that the correct term should be “Fedwire.” Specifically, in connection with this change, FICC is proposing to replace “FedWire” with “Fedwire” in the definition of “Close of Business” in MBSD Rule 1, Section 3b

of MBSD Rule 4, Sections 2 and 9 of MBSD Rule 9, Section 7(h) of MBSD Rule 11 and MBSD Rule 12.

Second, FICC is proposing to correct the definition of “Securities Industry and Financial Market Association” to remove “The” from the defined term. As stated above, in reviewing SIFMA’s materials, FICC has determined that the correct name of the organization is “Securities and Financial Market Association.” FICC is proposing to update the defined term to reflect SIFMA’s correct name. FICC believes that when the defined term was added to the MBSD Rules the word “The” was incorrectly included in the definition. In connection with this correction, FICC is proposing to lowercase (or delete, as the context requires) the word “The” in each reference to SIFMA. Specifically, this proposed change would occur in the definition of “The Securities Industry and Financial Markets Association” in MBSD Rule 1, the definition of “SIFMA Guidelines” in MBSD Rule 1 and MBSD Rule 22.

(2) Other Correction

FICC is proposing to amend the defined term “EPN Service” in MBSD Rule 1 by deleting “and EPN procedures” at the end of the definition. FICC is proposing this change because FICC does not maintain EPN Procedures. In 2018, the Commission approved FICC’s proposed rule change proposing to, in part, delete references to the term “EPN Procedures” in the EPN Rules.¹³ FICC believes that this reference to EPN procedures was left in the MBSD Rules in error. FICC believes that this change would enhance the clarity of the rules and conform the MBSD Rules to the EPN Rules.

C. EPN Rules

(1) Revise Terms To Match the Defined Term in Rule 1 of Article I

FICC is proposing to correct certain references to the defined term “EPN Service” where the word “Service” was inadvertently omitted. Specifically, the following changes would be made:

a. In Section 3 of Rule 1 of Article III of the EPN Rules, “in the event of an EPN system disruption” would be revised to “in the event of an EPN Service system disruption.”

b. In Section 3 of Rule 1 of Article III of the EPN Rules, “the next Business Day after the EPN system has been recovered” would be revised to “the next Business Day after the EPN Service system has been recovered.”

c. The title of “FIXED INCOME CLEARING CORPORATION MORTGAGE-BACKED

SECURITIES DIVISION (“MBSD”) EPN SCHEDULE OF CHARGES” would be revised to “FIXED INCOME CLEARING CORPORATION MORTGAGE-BACKED SECURITIES DIVISION (“MBSD”) EPN SERVICE SCHEDULE OF CHARGES.”

(2) Add Defined Term in Rule 1 of Article I

FICC is proposing to add the defined term “Officer of the Corporation” to Rule 1 of Article I of the EPN Rules. FICC is proposing this rule change because the term “Officer of the Corporation” is used in Rule 12 of Article V of the EPN Rules.

In connection with this change, FICC is proposing to capitalize the word “officer” in the phrase “officer of the Corporation” in Section 2 of Rule 7 of Article V of the EPN Rules.

(3) Other Corrections

On August 9, 2018, FICC filed a proposed rule change with the Commission proposing to, in part, delete references to the term “EPN Procedures” in the EPN Rules.¹⁴ FICC decided to conform the EPN Rules to its practices by deleting EPN Procedures from the EPN Rules. The Commission approved this rule filing on September 25, 2018.¹⁵ After the Commission approved this rule filing all references to EPN Procedures were removed from the EPN Rules.

On January 2, 2018, FICC filed a proposed rule change with the Commission proposing to adopt the Recovery & Wind-down Plan of FICC and related rules¹⁶ (the “R&W Proposed Rule Change”). On July 13, 2018, FICC filed Amendment No. 1 to the proposed rule change to amend and replace in its entirety the proposed rule change¹⁷ (along with the R&W Proposed Rule Change, the “R&W Filing”). The Commission approved the proposed rule change on August 28, 2018.¹⁸ When the proposed rule change and subsequent amendment were filed, there were proposed changes to the EPN Rules that added references to EPN Procedures. Specifically, these proposed changes were in Sections 5 and 6 of Rule 1 of Article III of the EPN Rules.

The R&W Filing was approved after FICC submitted SR-FICC-2018-007,

¹⁴ Securities Exchange Act Release No. 83808 (August 9, 2018), 83 FR 40611 (August 15, 2018) (SR-FICC-2018-007).

¹⁵ *Supra* note 13.

¹⁶ Securities Exchange Act Release No. 82431 (January 2, 2018), 83 FR 871 (January 8, 2018) (SR-FICC-2017-021).

¹⁷ Securities Exchange Act Release No. 83630 (July 13, 2018), 83 FR 34213 (July 19, 2018) (SR-FICC-2017-021).

¹⁸ Securities Exchange Act Release No. 83973 (August 28, 2018), 83 FR 44942 (September 4, 2018) (SR-FICC-2017-021).

and therefore, these new references to EPN Procedures were not included in SR-FICC-2018-007 to be removed. Due to this oversight, there are now references to EPN Procedures in Sections 5 and 6 of Rule 1 of Article III of the EPN Rules, which FICC is proposing to delete. FICC is proposing this change because FICC has removed all references to “EPN Procedures” in the EPN Rules.

Specifically, in Section 5 of Rule 1 of Article III of the EPN Rules, FICC is proposing to amend the clause that references EPN Procedures and that begins “as if references” to read as follows: as if references to “Members” therein were reference to “EPN Users” and references to “Rules” and “Procedures” therein were references to “EPN Rules”. FICC is proposing this change so that the references to “Rules” and “Procedures” in MBSD Rule 17B and MBSD Rule 40 will only reference EPN Rules since all references to “EPN Procedures” have been removed from the EPN Rules.

Additionally, the R&W Filing added roman numerals before specific provisions in Section 5 of Rule 1 of Article III of the EPN Rules. Since SR-FICC-2018-007 removed references to EPN Procedures, there is currently a stray romanette (ii). FICC is proposing to delete romanette (iii) in the first sentence in Section 5 of Rule 1 of Article III of the EPN Rules, renumber current romanette (iv) to (iii) and revise the subsequent references from items (iii) and (iv) to items (ii) and (iii), respectively.

Finally, FICC is proposing to delete “or EPN Procedures” from the last sentence of Section 6 of Rule 1 of Article III of the EPN Rules. The R&W Filing added this sentence to the EPN Rules and included the reference to EPN Procedures. FICC is proposing this change because FICC has removed all references to “EPN Procedures” in the EPN Rules.

(vi) Proposal To Replace an Officer Title in the GSD Rules and MBSD Rules

In 2018, the Commission approved FICC’s proposed rule change to amend FICC’s By-Laws.¹⁹ FICC, as part of the rule filing, proposed changing the title of “Vice President” to “Executive Director” and updating the related powers and duties.

FICC is proposing to change the references to the title “Vice President” to “Executive Director” in the GSD Rules and MBSD Rules. FICC is

¹³ Securities Exchange Act Release No. 84278 (September 25, 2018), 83 FR 49445 (October 1, 2018) (SR-FICC-2018-007).

¹⁹ Securities Exchange Act Release No. 82917 (March 20, 2018), 83 FR 12982 (March 26, 2018) (SR-FICC-2018-002).

proposing to change the references to “Vice President” to “Executive Director” in the definition of “Officer of the Corporation” in GSD Rule 1 and MBSD Rule 1 and the reference in GSD Rule 44 and MBSD Rule 34.

(vii) Proposal To Add a Disclaimer Regarding Trademarks and Servicemarks in the Rules and Conform the Usage of the Registered Trademark Symbol in the GSD Rules

FICC is proposing to add a disclaimer at the bottom of the first page of each of the Rules regarding trademarks and servicemarks that appear or may appear in the future in the Rules. FICC has adapted the disclaimer that appears in the Terms of Use page on The Depository Trust & Clearing Corporation’s (“DTCC”) website for this purpose. The disclaimer would state that (i) all products and services provided by FICC referenced in the Rules are either registered trademarks or servicemarks of, or trademarks or servicemarks of, DTCC or its affiliates, and (ii) other names of companies, products or services appearing in the Rules are the trademarks or servicemarks of their respective owners.

While certain terms that are registered trademarks are denoted with a TM or a ® in the GSD Rules, FICC believes that the addition of this disclaimer provides additional protection to the marks of DTCC and/or its affiliates as well as the marks of third parties.

In connection with the addition of this disclaimer, FICC is proposing to standardize its usage of “TM” and “®” throughout the GSD Rules. Currently, terms that are registered trademarks are written inconsistently with the “®” and without the “®” after the term is used. FICC is proposing, for all marks of DTCC and/or its affiliates, that are currently denoted with a “TM” or a “®,” to include the “TM” or “®” in the first instance that the term is used the GSD Rules. FICC further proposes to remove the “®” on all third party marks as these marks are not registered by DTCC and/or its affiliates and would be covered by the proposed disclaimer. Specifically, FICC proposes to remove the registered trademark symbol as described below.

- In the definition of “CCLF” in GSD Rule 1, the ® after “CCLF” would be deleted.
- In Section 1 of GSD Rule 20, the ® after “GCF Repo” would be deleted.
- In the second paragraph of Section I.G of the Fee Structure, the ® after “GCF Repo” would be deleted.
- In subsection (b) of Section IV.B.4 of the Fee Structure, the ® after “Fedwire” would be deleted.

(viii) Technical Changes

FICC has identified the following technical changes that it proposes to make to the Rules to enhance the clarity and readability of the Rules.

A. GSD Rules

(1) Correct the Spelling of Certain Words

First, FICC is proposing to make a technical change regarding references to “intra-day” in the GSD Rules. Currently, references to the word intraday are written as both “intraday” and “intra-day” in the GSD Rules. FICC is proposing to revise “intra-day” to “intraday” to reflect the correct spelling of the word.

Specifically, FICC proposes the following changes:

- a. In Section 2a of GSD Rule 4, the current reference to “Intra-day” in the heading would be revised to “Intraday.”
- b. In Sections 2 and 6(b) of GSD Rule 13, the current references to “intra-day” would be revised to “intraday.”
- c. In the 3:15 p.m. deadline in the Schedule of Timeframes, the current reference to “Intra-day” would be revised to “Intraday.”

Second, FICC is proposing to make a technical change regarding references to “over drafts” in the GSD Rules. FICC is proposing to revise “over drafts” to “overdrafts” to reflect the correct spelling of the word. The current reference to “over drafts” in the revised subsection (d) of IV.B.4 of the Fee Structure would be replaced with “overdrafts.”

(2) Lowercase References to Words That Are Not Defined Terms

FICC would amend references to the word “trade” throughout the GSD Rules by making the “t” in the word “Trade” lowercase in instances where the “T” in “trade” is capitalized. Currently, the word trade is written as “Trade” and “trade” in the GSD rules. The word trade is not a defined term and should therefore not be capitalized. Specifically, FICC proposes to make the following changes:

- a. In the definition of “Non-Conversion-Participating Member” in GSD Rule 1, the proposed change would lowercase the “t” in “Trades.”
- b. In the first paragraph of Section 4 of GSD Rule 6B, the proposed change would lowercase the “t” in “Trades.”
- c. In the second paragraph of Section 2 of GSD Rule 6C, the proposed change would lowercase the “t” in “Trades.”
- d. In the first and third paragraphs of Section 2 of GSD Rule 9, the proposed change would lowercase the “t” in “Trades.”
- e. In the 4:00 p.m. deadline in the Schedule of Timeframes, the proposed change would lowercase the “t” in “Trades.”

(3) Remove Abbreviations of Defined Terms That Are Not Used

First, FICC is proposing to make a technical change to the defined term “Derivatives Clearing Organization or “DCO”” in GSD Rule 1. FICC proposes to delete “or “DCO”” from the defined term. FICC believes that “or “DCO”” was included in the defined term to provide FICC with flexibility when it referenced this term. However, “DCO” is not used in the GSD Rules to reference Derivatives Clearing Organization. Therefore, FICC is proposing to delete “or “DCO”” for clarity purposes.

Second, FICC is proposing to make a technical change in the first paragraph of GSD Rule 22C by deleting (“FDICIA”). “FDICIA” has not been used in GSD Rule 22C nor has it been used in the GSD Rules and FICC is proposing to delete (“FDICIA”).

(4) Add Quotation Marks Around Defined Terms in GSD Rule 1

FICC is proposing to add quotation marks to certain defined terms that are currently missing these quotation marks. Each reference to a defined term in its definition, as set forth in GSD Rule 1, contains open and closed quotation marks around the term. FICC believes that due to an oversight certain terms are missing an open quotation mark or are missing both quotation marks.

Specifically, FICC is proposing to add open and closed quotation marks around “Fannie Mae” in the definition of “Fannie Mae” and an open quotation mark to “Forward-Starting Repo Transaction” in the definition of “Forward-Starting Repo Transaction.”

(5) Grammar Related Technical Changes

FICC is proposing to make the following grammar related technical changes in the GSD Rules.

In Section 4(b)(ii)(A)(5) and (6) of GSD Rule 2A and in Section 8(d) and (e) of GSD Rule 3 certain references to Inter-Dealer Broker Netting Member are preceded by the word “a.” FICC believes that in these instances “a” was inadvertently used instead of “an.” FICC is proposing to amend “a” to “an” in these cases.

(6) Other Technical Changes

FICC proposes to make the additional technical changes described below.

- a. The defined term “CPU” in GSD Rule 1 would be moved from after “Cleared Institutional Triparty Service or CCIT Service” to after “Covered Affiliate.” FICC is proposing this change to keep the defined terms listed in GSD Rule 1 in alphabetical order.

b. FICC is proposing to make the following technical change in the definition of “Federal Funds Rate” in GSD Rule 1. The definition refers to the rate set forth opposite the caption “Federal Funds (Effective).” In confirming the citation, FICC has determined that the caption as set forth on the Federal Reserve Board’s website²⁰ is written as “Federal funds (effective).” FICC is proposing to lowercase the words “Funds” and “Effective” to match the caption on the Federal Reserve Board’s website.

c. The defined term “Funds-Only Settling Bank Member” in GSD Rule 1 would be moved from after “FRB” to after “Funds-Only Settlement Payments Procedures Agreement.” FICC is proposing this change to keep the defined terms listed in GSD Rule 1 in alphabetical order.

d. In the defined term “Overnight Investment Rate” in GSD Rule 1 the letter “s” in “its Clearing Fund” is italicized and has a double underline. FICC is proposed to remove the double underlining and the italics font from the letter “s.”

e. In the subheading for Section 2a of GSD Rule 4, the stray dash after the word “Amounts” would be removed.

f. Current subsections (vi) and (vii) of Section 2 of GSD Rule 11 would be renumbered to reflect that subsection (v) had been skipped. Current subsection (vi) would become (v) and current subsection (vii) would become (vi).

g. In Section 5 of GSD Rule 19, the references to Section 2(k) of GSD Rule 11 would be changed to refer to Section 2(v) of GSD Rule 11. FICC is proposed to change the reference to Section 2(v) because there is no Section 2(k) of GSD Rule 11, which FICC believes is an error.

h. FICC is proposing to rename Section 5 of GSD Rule 20, from “Netting” to “Novation.” Currently, both Sections 2 and Section 5 of GSD Rule 20 are named “Netting.”

i. In GSD Rule 22B, a period would be added to the last sentence of the rule.

j. In the first sentence of GSD Rule 35, “As soon as practicable” would be replaced with “As soon as practicable” to correct a typographical error.

k. In the definition of “Shareholders Agreement” in Section 1 of GSD Rule 49, “heretofor” would be replaced with “heretofore” to correct a typographical error.

l. In the Schedule of Required and Accepted Data Submission Items for a Substitution, the colon at the end of subsection 1 would be replaced with a semicolon for consistency purposes.

m. In the Schedule of Required and Accepted Data Submission Items for a Substitution, the first words in subsections 5 and 6 will be made lowercase. These are not defined terms and should therefore not be capitalized.

n. In the Schedule of Required and Accepted Data Submission Items for New Securities Collateral, the first words in subsections 5 and 6 will be made lowercase.

These are not defined terms and should therefore not be capitalized.

o. In the Schedule of Required and Other Data Submission Items for GCF Repo Transactions, the reference to “GSCC TID” will be revised to “GSD TID.” GSCC refers to the Government Securities Clearing Corporation, GSD’s predecessor, before GSCC and the MBS Clearing Corporation merged to form FICC on January 1, 2003.

p. In subsection 2 of Section IV.C of the Fee Structure, the “(a)” in subsection 2 would be deleted. There is no subsection 2(b) and therefore 2(a) is superfluous.

q. FICC is proposing to replace “Settlemnt” with “Settlement” to correct a typographical error in the heading entitled “Interpretive Guidance With Respect to Settlemnt Finality.”

r. FICC is proposing to delete the hyphen between “in” and “Trades” in the reference to “Locked-in-Trades” in Section 6 of GSD Rule 17 to correct a typographical error.

B. MBSD Rules

(1) Add Quotation Marks Around Defined Terms in MBSD Rule 1

FICC is proposing to add quotation marks around the term Ginnie Mae in the definition of the term in MBSD Rule 1. Each reference to a defined term in its definition, as set forth in MBSD Rule 1, contains open and closed quotation marks around the term.

(2) Remove Abbreviations of Defined Terms That Are Not Used

FICC is proposing to make a technical change in the second paragraph of subsection (c) of MBSD Rule 17A (Corporation Default) by deleting “(FDICIA).” “FDICIA” has not been used in MBSD Rule 17A nor has it been used in the MBSD Rules to reference Federal Deposit Insurance Corporation Act of 1991.

(3) Lowercase References to Words That Are Not Defined Terms

FICC would amend references to the word “trade” throughout the MBSD Rules by making the “t” in the word “Trade” lowercase in instances where the “T” in “trade” is capitalized. Currently, the word trade is written as “Trade” and “trade” in the MBSD Rules. The word “trade” is not a defined term and should therefore not be capitalized. Specifically, FICC proposes to amend Section 13(a) of MBSD Rule 5 to reflect that “trade” is not a defined term.

(4) Other Technical Changes

In addition to the changes proposed above, FICC proposes to make the additional technical changes described below.

a. In subsection (a) of MBSD Rule 3A, there is a reference to Section 4 of MBSD Rule 11

regarding the Cash Settlement process. FICC has determined that the correct reference is to Section 9 of MBSD Rule 11 and proposes to correct this.

b. At the end of Section 5(b)(ii) of MBSD Rule 5 there are parentheses around the “s” in “acting.” FICC believes that “(s)” was added in error since the verb acting is a present participle and would not need to change based on the noun.

c. FICC is proposing to replace the period with a dash after “Section 2a” in the subheading of Section 2a of MBSD Rule 17 to conform with the format of the rest of the MBSD Rules.

d. FICC is proposing to delete the stray “_” marks after the words “these” and “Corporation,” in MBSD Rule 34.

e. In the definition of “Shareholders Agreement” in Section 1 of MBSD Rule 39, “heretofor” would be replaced with “heretofore” to correct a typographical error.

f. FICC is proposing to replace “Settlemnt” with “Settlement” to correct a typographical error in the heading entitled “Interpretive Guidance With Respect to Settlemnt Finality.”

C. EPN Rules

FICC is proposing to delete the stray comma that appears in the first sentence of Section 6 of Rule 1 of Article III of the EPN Rules. FICC believes that this stray comma was inadvertently included in the EPN Rules. FICC is also proposing to delete the comma after “These EPN Rules.” Based on the sentence, FICC does not believe a comma is necessary after this phrase.

FICC is proposing to add the word “EPN” in Section 2 of Rule 9 of Article V of the EPN Rules in order to use the defined term “EPN Rules.”

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.²¹

The proposed changes to (i) delete terms that are no longer used in the GSD Rules; (ii) Delete references to services and service-related provisions that are no longer provided and/or active in the GSD Rules and the MBSD Rules; (iii) delete certain dates in the GSD Rules and the MBSD Rules; (iv) make certain clarifications in the Rules; (v) make certain corrections to the Rules; (vi) replace an officer title in the GSD Rules and the MBSD Rules; (vii) add a disclaimer regarding trademarks and servicemarks in the Rules, and conform the usage of the registered trademark symbol in the GSD Rules; and (viii) make certain technical changes to the Rules would help to ensure that the Rules are accurate and clear to

²⁰ *Selected Interest Rates (Daily)—H.15*, Board of Governors of the Federal Reserve System, <https://www.federalreserve.gov/releases/h15/> (last visited October 8, 2019).

²¹ 15 U.S.C. 78q-1(b)(3)(F).

participants. When participants better understand their rights and obligations regarding the Rules, such participants are more likely to act in accordance with the Rules, which FICC believes would promote the prompt and accurate clearance and settlement of securities transactions. As such, FICC believes that the proposed changes would be consistent with Section 17A(b)(3)(F) of the Act.²²

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

FICC does not believe the proposed rule changes to (i) delete terms that are no longer used in the GSD Rules; (ii) delete references to services and service-related provisions that are no longer provided and/or active in the GSD Rules and the MBSD Rules; (iii) delete certain dates in the GSD Rules and the MBSD Rules; (iv) make certain clarifications in the Rules; (v) make certain corrections to the Rules; (vi) replace an officer title in the GSD Rules and the MBSD Rules; (vii) add a disclaimer regarding trademarks and servicemarks in the Rules and conform the usage of the registered trademark symbol in the GSD Rules; and (viii) make certain technical changes to the Rules would impact competition. The proposed rule changes would help to ensure that the Rules remain clear and accurate. In addition, the changes would facilitate participants' understanding of the Rules and their obligations thereunder. These changes would not affect FICC's operations or the rights and obligations of the membership. As such, FICC believes the proposed rule changes would not have any impact on competition.

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

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) ²³ of the Act and paragraph (f) ²⁴ of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend

such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

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

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-FICC-2020-005 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-FICC-2020-005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-FICC-

2020-005 and should be submitted on or before May 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-09518 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88769; File No. SR-CBOE-2020-004]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Chapter 7, Section B of the Rules, Which Contains the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

April 29, 2020.

I. Introduction

On January 17, 2020, Cboe Exchange, Inc. ("Cboe Options" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail ("CAT NMS Plan").³ The proposed rule change was published for comment in the **Federal Register** on February 5, 2020.⁴ On March 20, 2020, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to May 5, 2020.⁵

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁴ See Securities Exchange Act Release No. 88105 (January 30, 2020), 85 FR 6600 ("Notice").

⁵ See Securities Exchange Act Release No. 88437, 85 FR 17129 (March 26, 2020).

²² *Id.*

²³ 15 U.S.C. 78s(b)(3)(A).

²⁴ 17 CFR 240.19b-4(f).

The Commission received no comments on the proposal. This order institutes proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove File No. SR-CBOE-2020-004.⁶

II. Description of the Proposed Rule Change

The Exchange proposes to amend Chapter 7, Section B of the Exchange's rulebook ("Compliance Rule"), which sets forth rules regarding Industry Member⁷ compliance with the CAT NMS Plan. Specifically, the proposed rule change would make the following changes to the Compliance Rule to be consistent with certain proposed amendments to and exemption requests submitted by the Participants⁸ of the CAT NMS Plan: (1) Revise data reporting requirements for the Firm Designated ID⁹ based on a proposed amendment to the CAT NMS Plan filed with the Commission;¹⁰ (2) amend the dates for required testing and reporting in the Compliance Rule for Industry Member reporting;¹¹ (3) amend the

⁶ 15 U.S.C. 78(s)(b)(2)(B).

⁷ Industry Member means a member of a national securities exchange or a member of a national securities association. See CAT NMS Plan, *supra* note 3, at Section 1.1.

⁸ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

⁹ As proposed, "Firm Designated ID" would mean a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account. See proposed CBOE Rule 7.20(r).

¹⁰ See Notice, *supra* note 4, at 6601-02. See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (April 14, 2020). The Commission has not approved or disapproved the changes proposed in this amendment.

¹¹ See Notice, *supra* note 4, at 6605-09. On February 19, 2020, the Participants submitted a request for exemptive relief from the reporting dates required by the CAT NMS Plan. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020). On April 20, 2020, the Commission granted limited exemptive relief to allow for the implementation of phased reporting for Industry Members. See

rules to require Industry Members to submit trade reports for executions and cancellations for cancelled trades to the FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility;¹² (4) revise the timestamp granularity requirement to require Industry Members with order handling or execution systems that utilize time stamps in increments finer than milliseconds to report timestamps up to nanoseconds when reporting Industry Member data¹³ to the Central Repository;¹⁴ (5) revise the reporting requirements for circumstances in which an Industry Member uses an established trading relationship for an individual Customer, instead of an account, on the order reported to CAT;¹⁵ and (6) revise the CAT reporting

Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020).

¹² See Notice, *supra* note 4, at 6609-10. On February 12, 2020, the Participants submitted a request for exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require Industry Members to record and report, if an order is executed, the SRO-Assigned Market Participant Identifier of the clearing broker, and if a trade is cancelled, the cancelled trade indicator. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (Feb. 12, 2020). If granted, the exemptive relief would revise CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information would be available from FINRA's trade reports submitted to CAT.

¹³ See Notice, *supra* note 4, at 6610. On February 3, 2020, the Participants filed a request for exemptive relief from the current CAT NMS Plan requirement to record and report Industry Member Data with time stamps consistent with their system, a requirement from which the Exchange requests an exemption. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020). On April 8, 2020, the Commission granted the exemptive relief for timestamp granularity. See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

¹⁴ The Central Repository, as defined in the CAT NMS Plan, means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement." See CAT NMS Plan, *supra* note 3, at Section 1.1.

¹⁵ See Notice, *supra* note 4, at 6610-11. On February 3, 2020, the Participants filed a request for exemptive relief from the CAT NMS Plan requirement that Participants, through their Compliance Rules, require Industry Members to record and report to the Central Repository the account number, the date account opened, and the account type for individual customers in circumstances in which an Industry Member uses an established trading relationship for the individual customer. Instead, the Participant would require Industry Members to record and report to

requirements so Industry Members would not be required to report to the Central Repository dates of birth, social security numbers, or account numbers for individuals.¹⁶

The Exchange also proposes to amend the Exchange's Compliance Rule to facilitate the retirement of certain existing regulatory systems, specifically the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System, by adding additional data elements to the CAT reporting requirements for Industry Members,¹⁷ additional reporting requirements for alternative trading systems,¹⁸ and additional data elements related to OTC Equity Securities¹⁹ that FINRA currently receives from alternative trading systems that trade OTC Equity Securities.²⁰

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change

the Central Repository for the original receipt or origination of an order: (i) The relationship identifier instead of the account number, (ii) the "account type" as a "relationship", and (3) the account effective date instead of the "date account opened." See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

¹⁶ See Notice, *supra* note 4, at 6611. The Participants requested and have received exemptive relief from the requirement of Section 6.4(d)(ii)(C) of the CAT NMS Plan for the Participants, in their Compliance Rules, to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

¹⁷ See Notice, *supra* note 4, at 6602-03.

¹⁸ See Notice, *supra* note 4, at 6603-04.

¹⁹ OTC Equity Security, as defined in the CAT NMS Plan, means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities. See CAT NMS Plan, *supra* note 3, at Section 1.1.

²⁰ *Id.* at 6604-05.

²¹ 15 U.S.C. 78s(b)(2)(B).

to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for possible disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,²³ 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," 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."²⁴ The Commission believes that several of the proposed rule changes are not consistent with the CAT NMS Plan or exemptive relief that has been granted as of the date of this Order.

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)²⁵ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or

disapproved by May 26, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 9, 2020. 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 Numbers SR-CBOE-2020-004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2020-004. 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-CBOE-2020-004 and should be submitted on or before May 26, 2020. Rebuttal comments should be submitted by June 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-09521 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33859; 812-14774-02]

USCF Advisers LLC, et al.

April 30, 2020.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements in rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6-07(2)(a), (b), and (c) of Regulation S-X ("Disclosure Requirements"). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: USCF ETF Trust (the "Trust"), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series; USCF Cayman Commodity 2 (the "Commodity Strategy Subsidiary"), a Cayman Islands corporation wholly owned by the USCF SummerHaven Dynamic Commodity Strategy No K-1 Fund (the "Commodity Strategy Fund"), a series of the Trust; and USCF Advisers LLC, a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 ("USCF Advisers" or the "Advisor," and, collectively with the Trust and the Commodity Strategy Subsidiary, the "Applicants").

FILING DATES: The application was filed May 15, 2017, and amended on December 26, 2019, April 2, 2020, and April 30, 2020.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission

²² 15 U.S.C. 78s(b)(2)(B).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ 17 CFR 240.19b-4.

²⁷ Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

²⁸ 17 CFR 200.30-3(a)(12).

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 26, 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: Attn: General Counsel, *exemptivenotices@uscfinvestments.com*.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or Andrea Ottomanelli Magovern, Branch Chief, at (202) 551–6821 (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 an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551–8090.

Summary of the Application

1. The Advisor serves as the investment adviser to the Funds (as defined below) pursuant to investment advisory agreements with the Funds (the "Advisory Agreements").¹ The Advisor will provide the Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Fund's board of trustees ("Board"). The Advisory Agreements permit the Advisor, subject to the approval of the Board, to delegate

¹ Applicants request relief with respect to any existing or future series of the Trust and any other registered open-end management investment company or series thereof that: (a) Is advised by USCF Advisers or any entity controlling, controlled by or under common control with USCF Advisers or its successors (each, also an "Advisor"); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (any such series, including the Commodity Strategy Fund, a "Fund"). For purposes of the requested order, "successor" is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

to one or more sub-advisors (each, a "Subadvisor" and collectively, the "Subadvisors") the responsibility to provide the day-to-day portfolio investment management of each Fund (either directly or through such Fund's direct wholly-owned subsidiary), subject to the supervision and direction of the Advisor. The primary responsibility for managing the Funds will remain vested in the Advisor. The Advisor will hire, evaluate, allocate assets to and oversee the Subadvisors, including determining whether a Subadvisor should be terminated, at all times subject to the authority of the Board.

2. Each Fund may pursue its investment strategies by investing through a direct wholly-owned subsidiary (each such subsidiary, including the Commodity Strategy Subsidiary, a "Subsidiary"). The Advisor has entered into an investment advisory agreement with the Commodity Strategy Subsidiary (the "Commodity Strategy Subsidiary Advisory Agreement"), and any future Subsidiary will enter into an investment advisory agreement with the respective Advisor (together with the Commodity Strategy Subsidiary Advisory Agreement, the "Subsidiary Advisory Agreements").² In all cases, an Advisor will be the entity providing general management services to each Fund, including overall supervisory responsibility for the general management and investment of the Fund's assets (either directly or through such Fund's Subsidiary, if any), and, subject to review and approval of the Board, will: (a) Set such Fund's (including, if any, its Subsidiary's) overall investment strategies; (b) evaluate, select and recommend Subadvisors to manage all or a portion of the Fund's assets (directly or through the Fund's Subsidiary, if any); (c) allocate and, when appropriate, reallocate the Fund's assets among one or more Subadvisors (including by allocating and reallocating assets between and among the Fund and, if any, its Subsidiary); (d) monitor and evaluate the performance of Subadvisors; and (e) implement procedures reasonably designed to ensure that the Subadvisors comply with the investment objective, policies

² The Commodity Strategy Subsidiary Advisory Agreement has been, and any future Subsidiary Advisory Agreement will be, approved by the Board, including a majority of the trustees who are not "interested persons" (as defined in section 2(a)(19) of the Act) of the Fund or the Advisor, and the Fund's shareholders.

and restrictions of the Fund and the Subsidiary, if any.

3. Applicants request an order exempting Applicants from section 15(a) of the Act and rule 18f–2 thereunder to permit the Trust, on behalf of a Fund, and/or its Advisor, subject to the approval of the Board, to enter into and materially amend investment subadvisory agreements with Subadvisors ("Subadvisory Agreements") without obtaining shareholder approval.³ Applicants also seek an exemption from the Disclosure Requirements to permit a Fund to disclose (as both a dollar amount and a percentage of the Fund's net assets): (a) The aggregate fees paid to the Advisor and any Excluded Subadvisor; and (b) the aggregate fees paid to Subadvisors other than Excluded Subadvisors (collectively, "Aggregate Fee Disclosure"). For any Fund that employs an Excluded Subadvisor, the Fund will provide separate disclosure of any fees paid to the Excluded Subadvisor.

4. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Fund shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Funds' shareholders.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Advisory Agreements will remain subject to shareholder approval, while the role of the Subadvisors is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Subadvisory Agreements would impose unnecessary delays and expenses on the Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Advisor's

³ The requested relief will not extend to any sub-adviser who is an affiliated person, as defined in section 2(a)(3) of the Act, of a Fund or an Advisor other than by reason of serving as a sub-adviser to one or more Funds (or any Subsidiary) ("Excluded Subadvisors").

ability to negotiate fees paid to the Subadvisors that are more advantageous for the Funds.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020-09612 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88772; File No. SR-CboeEDGA-2020-003]

Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent With Certain Proposed Amendments To and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

April 29, 2020.

I. Introduction

On January 22, 2020, Cboe EDGA Exchange, Inc. ("Cboe EDGA" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail ("CAT NMS Plan").³ The proposed rule change was published for comment in the **Federal Register** on February 5, 2020.⁴ On March 20, 2020, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to

May 5, 2020.⁵ The Commission received no comments on the proposal. This order institutes proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove File No. SR-CboeEDGA-2020-003.⁶

II. Description of the Proposed Rule Change

The Exchange proposes to amend certain rules within Rules 4.5 through 4.16 of the Exchange's rulebook ("Compliance Rule"), which sets forth rules regarding Industry Member⁷ compliance with the CAT NMS Plan. Specifically, the proposed rule change would make the following changes to the Compliance Rule to be consistent with certain proposed amendments to and exemption requests submitted by the Participants⁸ of the CAT NMS Plan: (1) Revise data reporting requirements for the Firm Designated ID⁹ based on a proposed amendment to the CAT NMS Plan filed with the Commission;¹⁰ (2) amend the dates for required testing and reporting in the Compliance Rule for Industry Member reporting;¹¹ (3) amend

⁵ See Securities Exchange Act Release No. 88446, 85 FR 17151 (March 26, 2020).

⁶ 15 U.S.C. 78(s)(2)(B).

⁷ Industry Member means a member of a national securities exchange or a member of a national securities association. See CAT NMS Plan, *supra* note 3, at Section 1.1.

⁸ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIA X Emerald, LLC, MIA X PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

⁹ As proposed, "Firm Designated ID" would mean a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account. See proposed Exchange Rule 4.5.

¹⁰ See Notice, *supra* note 4, at 6660. See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (April 14, 2020). The Commission has not approved or disapproved the changes proposed in this amendment.

¹¹ See Notice, *supra* note 4, at 6664-68. On February 19, 2020, the Participants submitted a request for exemptive relief from the reporting dates required by the CAT NMS Plan. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry

the rules to require Industry Members to submit trade reports for executions and cancellations for cancelled trades to the FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility;¹² (4) revise the timestamp granularity requirement to require Industry Members with order handling or execution systems that utilize time stamps in increments finer than milliseconds to report timestamps up to nanoseconds when reporting Industry Member data¹³ to the Central Repository;¹⁴ (5) revise the reporting requirements for circumstances in which an Industry Member uses an established trading relationship for an individual Customer, instead of an account, on the order reported to CAT;¹⁵ and (6) revise the CAT reporting

Member Reporting Dates (Feb. 19, 2020). On April 20, 2020, the Commission granted limited exemptive relief to allow for the implementation of phased reporting for Industry Members. See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020).

¹² See Notice, *supra* note 4, at 6668-69. On February 12, 2020, the Participants submitted a request for exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require Industry Members to record and report, if an order is executed, the SRO-Assigned Market Participant Identifier of the clearing broker, and if a trade is cancelled, the cancelled trade indicator. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (Feb. 12, 2020). If granted, the exemptive relief would revise CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information would be available from FINRA's trade reports submitted to CAT.

¹³ See Notice, *supra* note 4, at 6669. On February 3, 2020, the Participants filed a request for exemptive relief from the current CAT NMS Plan requirement to record and report Industry Member Data with time stamps consistent with their system, a requirement from which the Exchange requests an exemption. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020). On April 8, 2020, the Commission granted the exemptive relief for timestamp granularity. See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

¹⁴ The Central Repository, as defined in the CAT NMS Plan, means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement." See CAT NMS Plan, *supra* note 3, at Section 1.1.

¹⁵ See Notice, *supra* note 4, at 6669-70. On February 3, 2020, the Participants filed a request for exemptive relief from the CAT NMS Plan requirement that Participants, through their Compliance Rules, require Industry Members to record and report to the Central Repository the account number, the date account opened, and the account type for individual customers in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁴ See Securities Exchange Act Release No. 88102 (January 30, 2020), 85 FR 6659 ("Notice").

requirements so Industry Members would not be required to report to the Central Repository dates of birth, social security numbers, or account numbers for individuals.¹⁶

The Exchange also proposes to amend the Exchange's Compliance Rule to facilitate the retirement of certain existing regulatory systems, specifically the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System, by adding additional data elements to the CAT reporting requirements for Industry Members,¹⁷ additional reporting requirements for alternative trading systems,¹⁸ and additional data elements related to OTC Equity Securities¹⁹ that FINRA currently receives from alternative trading systems that trade OTC Equity Securities.²⁰

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to

circumstances in which an Industry Member uses an established trading relationship for the individual customer. Instead, the Participant would require Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier instead of the account number, (ii) the "account type" as a "relationship", and (3) the account effective date instead of the "date account opened." See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

¹⁶ See Notice, *supra* note 4, at 6670. The Participants requested and have received exemptive relief from the requirement of Section 6.4(d)(ii)(C) of the CAT NMS Plan for the Participants, in their Compliance Rules, to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

¹⁷ See Notice, *supra* note 4, at 6660–61.

¹⁸ See Notice, *supra* note 4, at 6661–63.

¹⁹ OTC Equity Security, as defined in the CAT NMS Plan, means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities. See CAT NMS Plan, *supra* note 3, at Section 1.1.

²⁰ *Id.* at 6663–64.

²¹ 15 U.S.C. 78s(b)(2)(B).

any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for possible disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,²³ 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," 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."²⁴ The Commission believes that several of the proposed rule changes are not consistent with the CAT NMS Plan or exemptive relief that has been granted as of the date of this Order.

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)²⁵ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

²² 15 U.S.C. 78s(b)(2)(B).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ 17 CFR 240.19b–4.

²⁷ Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 26, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 9, 2020. 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 Numbers SR–CboeEDGA–2020–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGA–2020–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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–2020–003 and should be submitted on or before May

26, 2020. Rebuttal comments should be submitted by June 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88770; File No. SR-CboeBYX-2020-005]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent With Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

April 29, 2020.

I. Introduction

On January 22, 2020, Cboe BYX Exchange, Inc. ("Cboe BYX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail ("CAT NMS Plan").³ The proposed rule change was published for comment in the **Federal Register** on February 5, 2020.⁴ On March 20, 2020, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to

May 5, 2020.⁵ The Commission received no comments on the proposal. This order institutes proceedings pursuant to Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove File No. SR-CboeBYX-2020-005.⁶

II. Description of the Proposed Rule Change

The Exchange proposes to amend certain rules within Rules 4.5 through 4.16 of the Exchange's rulebook ("Compliance Rule"), which sets forth rules regarding Industry Member⁷ compliance with the CAT NMS Plan. Specifically, the proposed rule change would make the following changes to the Compliance Rule to be consistent with certain proposed amendments to and exemption requests submitted by the Participants⁸ of the CAT NMS Plan: (1) Revise data reporting requirements for the Firm Designated ID⁹ based on a proposed amendment to the CAT NMS Plan filed with the Commission;¹⁰ (2) amend the dates for required testing and reporting in the Compliance Rule for Industry Member reporting;¹¹ (3) amend

⁵ See Securities Exchange Act Release No. 88438, 85 FR 17138 (March 26, 2020).

⁶ 15 U.S.C. 78(s)(b)(2)(B).

⁷ Industry Member means a member of a national securities exchange or a member of a national securities association. See CAT NMS Plan, *supra* note 3, at Section 1.1.

⁸ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

⁹ As proposed, "Firm Designated ID" would mean a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account. See proposed Exchange Rule 4.5.

¹⁰ See Notice, *supra* note 4, at 6625. See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (April 14, 2020). The Commission has not approved or disapproved the changes proposed in this amendment.

¹¹ See Notice, *supra* note 4, at 6629-33. On February 19, 2020, the Participants submitted a request for exemptive relief from the reporting dates required by the CAT NMS Plan. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry

the rules to require Industry Members to submit trade reports for executions and cancellations for cancelled trades to the FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility;¹² (4) revise the timestamp granularity requirement to require Industry Members with order handling or execution systems that utilize time stamps in increments finer than milliseconds to report timestamps up to nanoseconds when reporting Industry Member data¹³ to the Central Repository;¹⁴ (5) revise the reporting requirements for circumstances in which an Industry Member uses an established trading relationship for an individual Customer, instead of an account, on the order reported to CAT;¹⁵ and (6) revise the CAT reporting

Member Reporting Dates (Feb. 19, 2020). On April 20, 2020, the Commission granted limited exemptive relief to allow for the implementation of phased reporting for Industry Members. See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020).

¹² See Notice, *supra* note 4, at 6633-34. On February 12, 2020, the Participants submitted a request for exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require Industry Members to record and report, if an order is executed, the SRO-Assigned Market Participant Identifier of the clearing broker, and if a trade is cancelled, the cancelled trade indicator. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (Feb. 12, 2020). If granted, the exemptive relief would revise CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information would be available from FINRA's trade reports submitted to CAT.

¹³ See Notice, *supra* note 4, at 6634. On February 3, 2020, the Participants filed a request for exemptive relief from the current CAT NMS Plan requirement to record and report Industry Member Data with time stamps consistent with their system, a requirement from which the Exchange requests an exemption. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020). On April 8, 2020, the Commission granted the exemptive relief for timestamp granularity. See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

¹⁴ The Central Repository, as defined in the CAT NMS Plan, means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement." See CAT NMS Plan, *supra* note 3, at Section 1.1.

¹⁵ See Notice, *supra* note 4, at 6634. On February 3, 2020, the Participants filed a request for exemptive relief from the CAT NMS Plan requirement that Participants, through their Compliance Rules, require Industry Members to record and report to the Central Repository the account number, the date account opened, and the account type for individual customers in

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁴ See Securities Exchange Act Release No. 88100 (January 30, 2020), 85 FR 6624 ("Notice").

requirements so Industry Members would not be required to report to the Central Repository dates of birth, social security numbers, or account numbers for individuals.¹⁶

The Exchange also proposes to amend the Exchange's Compliance Rule to facilitate the retirement of certain existing regulatory systems, specifically the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System, by adding additional data elements to the CAT reporting requirements for Industry Members,¹⁷ additional reporting requirements for alternative trading systems,¹⁸ and additional data elements related to OTC Equity Securities¹⁹ that FINRA currently receives from alternative trading systems that trade OTC Equity Securities.²⁰

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to

circumstances in which an Industry Member uses an established trading relationship for the individual customer. Instead, the Participant would require Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship identifier instead of the account number, (ii) the "account type" as a "relationship", and (3) the account effective date instead of the "date account opened." See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

¹⁶ See Notice, *supra* note 4, at 6635. The Participants requested and have received exemptive relief from the requirement of Section 6.4(d)(ii)(C) of the CAT NMS Plan for the Participants, in their Compliance Rules, to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

¹⁷ See Notice, *supra* note 4, at 6625–26.

¹⁸ See Notice, *supra* note 4, at 6626–28.

¹⁹ OTC Equity Security, as defined in the CAT NMS Plan, means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities. See CAT NMS Plan, *supra* note 3, at Section 1.1.

²⁰ *Id.* at 6628–29.

²¹ 15 U.S.C. 78s(b)(2)(B).

any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for possible disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,²³ 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," 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."²⁴ The Commission believes that several of the proposed rule changes are not consistent with the CAT NMS Plan or exemptive relief that has been granted as of the date of this Order.

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)²⁵ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

²² 15 U.S.C. 78s(b)(2)(B).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ 17 CFR 240.19b-4.

²⁷ Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94-29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 26, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 9, 2020. 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 Numbers SR-CboeBYX-2020-005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CboeBYX-2020-005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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-2020-005 and should be submitted on or before May 26, 2020. Rebuttal comments should be submitted by June 9, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88774; File No. SR-CboeEDGX-2020-005]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Certain Rules Within Rules 4.5 Through 4.16, Which Contains the Exchange's Compliance Rule ("Compliance Rule") Regarding the National Market System Plan Governing the Consolidated Audit Trail (the "CAT NMS Plan" or "Plan"), To Be Consistent with Certain Proposed Amendments to and Exemptions From the CAT NMS Plan as Well as To Facilitate the Retirement of Certain Existing Regulatory Systems

April 29, 2020.

I. Introduction

On January 22, 2020, Cboe EDGX Exchange, Inc. ("Cboe EDGX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the Exchange's compliance rules regarding the National Market System Plan Governing the Consolidated Audit Trail ("CAT NMS Plan").³ The proposed rule change was published for comment in the **Federal Register** on February 5, 2020.⁴ On March 20, 2020, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change, to May 5, 2020.⁵ The Commission received no comments on the proposal. This order institutes proceedings pursuant to

Exchange Act Section 19(b)(2)(B) to determine whether to approve or disapprove File No. SR-CboeEDGX-2020-005.⁶

II. Description of the Proposed Rule Change

The Exchange proposes to amend certain rules within Rules 4.5 through 4.16 of the Exchange's rulebook ("Compliance Rule"), which sets forth rules regarding Industry Member⁷ compliance with the CAT NMS Plan. Specifically, the proposed rule change would make the following changes to the Compliance Rule to be consistent with certain proposed amendments to and exemption requests submitted by the Participants⁸ of the CAT NMS Plan: (1) Revise data reporting requirements for the Firm Designated ID⁹ based on a proposed amendment to the CAT NMS Plan filed with the Commission;¹⁰ (2) amend the dates for required testing and reporting in the Compliance Rule for Industry Member reporting;¹¹ (3) amend

⁶ 15 U.S.C. 78(s)(b)(2)(B).

⁷ Industry Member means a member of a national securities exchange or a member of a national securities association. See CAT NMS Plan, *supra* note 3, at Section 1.1.

⁸ The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

⁹ As proposed, "Firm Designated ID" would mean a unique and persistent identifier for each trading account designated by Industry Members for purposes of providing data to the Central Repository, where each such identifier is unique among all identifiers from any given Industry Member; provided, however, such identifier may not be the account number for such trading account if the trading account is not a proprietary account. See proposed Exchange Rule 4.5.

¹⁰ See Notice, *supra* note 4, at 6640-41. See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair re: Notice of Filing of Amendment to the National Market System Plan Governing the Consolidated Audit Trail (April 14, 2020). The Commission has not approved or disapproved the changes proposed in this amendment.

¹¹ See Notice, *supra* note 4, at 6644-49. On February 19, 2020, the Participants submitted a request for exemptive relief from the reporting dates required by the CAT NMS Plan. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Industry Member Reporting Dates (Feb. 19, 2020). On April 20, 2020, the Commission granted limited exemptive relief to allow for the implementation of phased reporting for Industry Members. See Securities Exchange Act Release No. 88702 (April 20, 2020), 85 FR 23075 (April 24, 2020).

the rules to require Industry Members to submit trade reports for executions and cancellations for cancelled trades to the FINRA's Trade Reporting Facilities, FINRA's OTC Reporting Facility or FINRA's Alternative Display Facility;¹² (4) revise the timestamp granularity requirement to require Industry Members with order handling or execution systems that utilize time stamps in increments finer than milliseconds to report timestamps up to nanoseconds when reporting Industry Member data¹³ to the Central Repository;¹⁴ (5) revise the reporting requirements for circumstances in which an Industry Member uses an established trading relationship for an individual Customer, instead of an account, on the order reported to CAT;¹⁵ and (6) revise the CAT reporting

¹² See Notice, *supra* note 4, at 6649. On February 12, 2020, the Participants submitted a request for exemptive relief from the requirement in Sections 6.4(d)(ii)(A)(2) and (B) of the CAT NMS Plan to require Industry Members to record and report, if an order is executed, the SRO-Assigned Market Participant Identifier of the clearing broker, and if a trade is cancelled, the cancelled trade indicator. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to FINRA Facility Data Linkage (Feb. 12, 2020). If granted, the exemptive relief would revise CAT reporting requirements regarding cancelled trades and SRO-Assigned Market Participant Identifiers of clearing brokers, if applicable, in connection with order executions, as such information would be available from FINRA's trade reports submitted to CAT.

¹³ See Notice, *supra* note 4, at 6649. On February 3, 2020, the Participants filed a request for exemptive relief from the current CAT NMS Plan requirement to record and report Industry Member Data with time stamps consistent with their system, a requirement from which the Exchange requests an exemption. See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020). On April 8, 2020, the Commission granted the exemptive relief for timestamp granularity. See Securities Exchange Act Release No. 88608 (April 8, 2020), 85 FR 20743 (April 14, 2020).

¹⁴ The Central Repository, as defined in the CAT NMS Plan, means "the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement." See CAT NMS Plan, *supra* note 3, at Section 1.1.

¹⁵ See Notice, *supra* note 4, at 6649-50. On February 3, 2020, the Participants filed a request for exemptive relief from the CAT NMS Plan requirement that Participants, through their Compliance Rules, require Industry Members to record and report to the Central Repository the account number, the date account opened, and the account type for individual customers in circumstances in which an Industry Member uses an established trading relationship for the individual customer. Instead, the Participant would require Industry Members to record and report to the Central Repository for the original receipt or origination of an order: (i) The relationship

²⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The CAT NMS Plan was approved by the Commission, as modified, on November 15, 2016. See Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

⁴ See Securities Exchange Act Release No. 88103 (January 30, 2020), 85 FR 6640 ("Notice").

⁵ See Securities Exchange Act Release No. 88445, 85 FR 17140 (March 26, 2020).

requirements so Industry Members would not be required to report to the Central Repository dates of birth, social security numbers, or account numbers for individuals.¹⁶

The Exchange also proposes to amend the Exchange's Compliance Rule to facilitate the retirement of certain existing regulatory systems, specifically the Financial Industry Regulatory Authority, Inc.'s ("FINRA") Order Audit Trail System, by adding additional data elements to the CAT reporting requirements for Industry Members,¹⁷ additional reporting requirements for alternative trading systems,¹⁸ and additional data elements related to OTC Equity Securities¹⁹ that FINRA currently receives from alternative trading systems that trade OTC Equity Securities.²⁰

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act²¹ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of

identifier instead of the account number, (ii) the "account type" as a "relationship", and (3) the account effective date instead of the "date account opened." See Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemption from Certain Provisions of the National Market System Plan Governing the Consolidated Audit Trail related to Granularity of Timestamps and Relationship Identifiers (Feb. 3, 2020).

¹⁶ See Notice, *supra* note 4, at 6650. The Participants requested and have received exemptive relief from the requirement of Section 6.4(d)(ii)(C) of the CAT NMS Plan for the Participants, in their Compliance Rules, to require their members to provide dates of birth, account numbers and social security numbers for individuals to the CAT. See Securities Exchange Act Release No. 88393 (March 17, 2020), 85 FR 16152 (March 20, 2020). See also Letter to Vanessa Countryman, Secretary, SEC, from Michael Simon, CAT NMS Plan Operating Committee Chair, re: Request for Exemptive Relief from Certain Provisions of the CAT NMS Plan related to Social Security Numbers, Dates of Birth and Account Numbers (Jan. 29, 2020).

¹⁷ See Notice, *supra* note 4, at 6641–42.

¹⁸ See Notice, *supra* note 4, at 6642–44.

¹⁹ OTC Equity Security, as defined in the CAT NMS Plan, means any equity security, other than an NMS Security, subject to prompt last sale reporting rules of a registered national securities association and reported to one of such association's equity trade reporting facilities. See CAT NMS Plan, *supra* note 3, at Section 1.1.

²⁰ *Id.* at 6644.

²¹ 15 U.S.C. 78s(b)(2)(B).

whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,²² the Commission is providing notice of the grounds for possible disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act,²³ 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," 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."²⁴ The Commission believes that several of the proposed rule changes are not consistent with the CAT NMS Plan or exemptive relief that has been granted as of the date of this Order.

IV. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposal is consistent with Section 6(b)(5)²⁵ or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4 under the Act,²⁶ any request for an opportunity to make an oral presentation.²⁷

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by May 26, 2020. Any

²² 15 U.S.C. 78s(b)(2)(B).

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ 17 CFR 240.19b–4.

²⁷ Section 19(b)(2) of the Exchange Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 9, 2020. 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 Numbers SR–CboeEDGX–2020–005 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2020–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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–2020–005 and should be submitted on or before May 26, 2020. Rebuttal comments should be submitted by June 9, 2020.

²⁸ 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-09526 Filed 5-4-20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-88776; File No. SR-NYSE-2020-17]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change To Amend Its Rules To Add New Rule 7.19

April 29, 2020.

I. Introduction

On March 10, 2020, New York Stock Exchange LLC (the “Exchange”) 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 provide members certain optional risk settings under proposed Rule 7.19. The proposed rule change was published for comment in the *Federal Register* on March 18, 2020.³ The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

In order to assist member organizations’ efforts to manage their risk, the Exchange proposes to amend its rules to add new Rule 7.19 (Pre-Trade Risk Controls) to establish a set of pre-trade risk controls by which Entering Firms⁴ and their designated Clearing Firms⁵ may set credit limits and other pre-trade risk controls for an Entering Firm’s trading on the Exchange and authorize the Exchange to take action if those credit limits or other pre-trade risk controls are exceeded.⁶

Proposed Rule 7.19(a) would set forth the definitions that would be used for purposes of the Rule. In addition to the defined terms of “Entering Firm” and “Clearing Firm,” as described above, the Exchange proposes the following definitions:

- The term “Single Order Maximum Notional Value Risk Limit” would mean a pre-established maximum dollar amount for a single order before it can be traded.
- The term “Single Order Maximum Quantity Risk Limit” would mean a pre-established maximum number of shares that may be included in a single order before it can be traded.
- The term “Gross Credit Risk Limit” would mean a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both buy and sell orders are counted as positive values. For purposes of calculating the Gross Credit Risk Limit, unexecuted orders in the Exchange Book,⁷ orders routed on arrival pursuant to Rule 7.37(a)(1), and executed orders are included.

Proposed Rule 7.19(b) would set forth the Pre-Trade Risk Controls that would be available to Entering Firms and Clearing Firms. Under proposed Rule 7.19(b)(1), an Entering Firm may select one or more of the following optional pre-trade risk controls with respect to its trading activity on the Exchange: (i) Gross Credit Risk Limits; (ii) Single Order Maximum Notional Value Risk Limits; and (iii) Single Order Maximum Quantity Risk Limits, which would collectively be referred to as the “Pre-Trade Risk Controls.”

In addition, under proposed Rule 7.19(b)(2)(A), an Entering Firm that does not self-clear may designate its Clearing Firm to (i) view any Pre-Trade Risk Controls set by the Entering Firm, or (ii) set one or more Pre-Trade Risk Controls on the Entering Firm’s behalf, or both. Proposed Rule 7.19(b)(2)(B) provides

add new Rule 7.19 relating to pre-trade risk controls on November 27, 2019. See Securities Exchange Act Release No. 87715 (December 11, 2019), 84 FR 68995 (December 17, 2020) (Notice of Filing) (SR-NYSE-2019-68) (“Original Filing”). The Exchange withdrew the Original Filing and filed this proposed rule change as its replacement. Comments received on the Original Filing are available on the Commission’s website at <https://www.sec.gov/comments/sr-nyse-2019-68/srnyse201968.htm>. This filing is substantially the same as the Original Filing and proposes the same functionality. It differs because it includes proposed Commentary .02 through .04, which provides additional detail specific to Floor Brokers and Designated Market Makers, and makes minor, clarifying changes to the proposed rule text as compared to the Original Filing.

⁷ The term “Exchange Book” is defined in Rule 1.1(k) to refer to the Exchange’s electronic file of orders, which contains all orders entered on the Exchange.

that an Entering Firm would be able to view any Pre-Trade Risk Controls that its Clearing Firm sets with respect to the Entering Firm’s trading activity on the Exchange. According to the Exchange, because both an Entering Firm and Clearing Firm (if so designated by the Entering Firm) would be able to access information about Pre-Trade Risk Controls, this mechanism would foster transparency between an Entering Firm and its Clearing Firm regarding which Pre-Trade Risk Control limits may have been set.⁸ For example, if an Entering Firm designates its Clearing Firm to view the Pre-Trade Risk Controls set by that Entering Firm, its Clearing Firm may determine that it does not need to separately set Pre-Trade Risk Controls on behalf of such Entering Firm.

Because the Entering Firm is the member organization that is entering orders on the Exchange, the Exchange will not take action based on a Clearing Firm’s instructions about the Entering Firm’s trading activities on the Exchange without first receiving consent from the Entering Firm. Accordingly, proposed Rule 7.19(b)(2)(C) would provide that if an Entering Firm designates a Clearing Firm to set Pre-Trade Risk Controls for the Entering Firm, the Entering Firm would be consenting to the Exchange taking certain prescribed actions (discussed further below) with respect to the Entering Firm’s trading activity as provided for in proposed Rules 7.19(c) and (d), described below. The Exchange would consider an Entering Firm to provide such consent by authorizing a Clearing Firm to enter Pre-Trade Risk Controls via the risk management tool that will be provided to Entering Firms in connection with this proposed rule change. Once such authorization is provided by the Entering Firm, the Clearing Firm would have access to the Pre-Trade Risk Controls that the Entering Firm designates. The proposed Rule makes clear that by designating a Clearing Firm to set limits on its trading activities, the Entering Firm will have authorized the Exchange to act pursuant to the Clearing Firm’s instructions if the limits set by the Clearing Firm are breached.

Proposed Rule 7.19(b)(3) would set forth how the Pre-Trade Risk Controls could be set or adjusted. Proposed Rule 7.19(b)(3)(A) would provide that Pre-Trade Risk Controls may be set before the beginning of a trading day and may be adjusted during the trading day. Proposed Rule 7.19(b)(3)(B) would provide that Entering Firms or Clearing Firms may set Pre-Trade Risk Controls

⁸ See Notice, *supra* note 3, at 15527.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 88376 (March 12, 2020), 85 FR 15526 (“Notice”).

⁴ The Exchange proposes to define the term “Entering Firm” to mean a member organization that either has a correspondent relationship with a Clearing Firm whereby it executes trades and the clearing function is the responsibility of the Clearing Firm or clears for its own account. See proposed Rule 7.19(a)(1).

⁵ The Exchange proposes to define the term “Clearing Firm” to mean a member organization that acts as principal for clearing and settling a trade, whether for its own account or for an Entering Firm. See proposed Rule 7.19(a)(2).

⁶ See Notice, *supra* note 3, at 15526. The Exchange initially filed a proposed rule change to

at the MPID level or at one or more sub-IDs associated with that MPID.⁹

Proposed Rule 7.19(b)(4) would provide that with respect to Gross Credit Risk Limits, an Entering Firm and, if so designated, its Clearing Firm, will receive notifications when the Entering Firm is approaching or has breached a limit set by itself or by the Clearing Firm. The Exchange believes that by providing such notifications, the Entering Firm, and if designated, its Clearing Firm, would have advance notice that the Entering Firm is approaching a designated limit and could take steps to mitigate the potential that an automated breach action would be triggered.

Proposed Rule 7.19(c) would set forth the actions the Exchange would be authorized to take when a Pre-Trade Risk Control set by an Entering Firm or a Clearing Firm is breached, which would be referred to as “Automated Breach Actions.” These proposed actions would be automated; if a Pre-Trade Risk Control is breached, the Exchange would automatically take the designated action and would not need further direction from either the Entering Firm or Clearing Firm to take such action.

Proposed Rule 7.19(c)(1) would provide that if both an Entering Firm and its Clearing Firm set the same type of Pre-Trade Risk Control for the Entering Firm but have set different limits, the Exchange would enforce the more restrictive limit. For example, if an Entering Firm sets a Single Order Maximum Notional Value Risk Limit of \$20 million and its Clearing Firm sets the same risk limit at \$15 million, the Exchange will take action when the more restrictive limit is breached—*i.e.*, \$15 million.

Proposed Rule 7.19(c)(2) would set forth the Automated Breach Action the Exchange would take if an order would breach the designated limit of either a Single Order Maximum Notional Value Risk Limit or Single Order Maximum Quantity Risk Limit. As proposed, the Exchange would reject the incoming order that would have breached the applicable limit.

Proposed Rule 7.19(c)(3)(A) would set forth the Automated Breach Actions the Exchange would take if a designated Gross Credit Risk Limit is breached. The Exchange proposes to provide options of which Automated Breach Action the Exchange would be authorized to take if

a Gross Credit Risk Limit is breached. Such Automated Breach Actions would be taken at the MPID or sub-ID level that is associated with the designated Gross Credit Risk Limit. As proposed, when setting Gross Credit Risk Limits, the Entering Firm or Clearing Firm setting the limit would be required to indicate one of the following actions that the Exchange would take if such limit is breached:

- “Notification Only.” As set forth in proposed Rule 7.19(c)(3)(A)(i), if this option is selected, the Exchange would continue to accept new orders and order instructions and would not cancel any unexecuted orders in the Exchange Book. Proposed Rule 7.19(b)(4), described above, sets forth the notifications that would be provided to an Entering Firm, and if designated, a Clearing Firm regarding the Pre-Trade Risk Controls that have been set. With the “Notification Only” action, the Exchange would provide such notifications, but would not take any other automated actions with respect to new or unexecuted orders.

- “Block Only.” As set forth in proposed Rule 7.19(c)(3)(A)(ii), if this option is selected, the Exchange would reject new orders and order instructions but would not cancel any unexecuted orders in the Exchange Book. The Exchange would continue to accept instructions from the Entering Firm to cancel one or more orders in full (including Auction-Only Orders) or any instructions specified in proposed Rule 7.19(e) (described below), but would not take any automated action to cancel orders.

- “Cancel and Block.” As set forth in proposed Rule 7.19(c)(3)(A)(iii), if this option is selected, in addition to the Block actions described above, the Exchange would also cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders.

If an Entering Firm and its Clearing Firm each set different limits for a Gross Credit Risk Limit for the Entering Firm’s activities on the Exchange, proposed Rule 7.19(c)(3)(B) would provide that the Exchange would enforce the action that was chosen by the party that set the limit that was breached. For example, if a Clearing Firm sets a lower limit and designates the “Cancel and Block” Automated Breach Action, if that limit is breached, the Exchange will implement that “Cancel and Block” action even if the Entering Firm designated a different Automated Breach Action.

Proposed Rule 7.19(c)(3)(C) would provide that if both the Entering Firm and Clearing Firm set the same Gross Credit Risk Limit and that limit is

breached, the Exchange would enforce the most restrictive Automated Breach Action. As further proposed, for purposes of this Rule, the “Cancel and Block” action would be more restrictive than “Block Only,” which would be more restrictive than “Notification Only.” For example, if the Entering Firm selects the “Block Only” action for a Gross Credit Risk Limit and its Clearing Firm selects the “Cancel and Block” action for the same Gross Credit Risk Limit, if the limit is breached, the Exchange would take the “Cancel and Block” action for the Entering Firm’s orders.

Proposed Rule 7.19(c)(4) would provide that if a Pre-Trade Risk Control set at the MPID level is breached, the Automated Breach Action specified at the MPID level would be applied to all sub-IDs associated with that MPID. For instance, if a Clearing Firm sets a Gross Credit Risk Limit for an MPID at \$500 million and the Entering Firm sets Gross Credit Risk Limits for each of three sub-IDs associated with that MPID at \$500 million each, if two of the sub-IDs reach a \$250 million limit, which combined is the Gross Credit Risk Limit at the MPID level, the Automated Breach Action associated with the limit at the MPID level would be triggered and would apply also to the associated sub-IDs, even though none of the sub-IDs have breached their separate \$500 million limits. This functionality ensures that an Entering Firm cannot effectively override a Pre-Trade Risk Control set at the MPID level by setting risk limits for each of the MPID’s associated sub-IDs that cumulatively equal more than the MPID’s total Gross Credit Risk Limit.

Proposed Rule 7.19(d) concerns how an Entering Firm’s ability to enter orders and order instructions would be reinstated after a “Block Only” or “Cancel and Block” Automated Breach Action has been triggered. In such case, proposed Rule 7.19(d) provides that the Exchange would not reinstate the Entering Firm’s ability to enter orders and order instructions on the Exchange (other than instructions to cancel one or more orders (including Auction-Only Orders) in full) without the consent of (1) the Entering Firm, and (2) the Clearing Firm, if the Entering Firm has designated that the Clearing Firm’s consent is required. The Exchange proposes to include this functionality because the Clearing Firm bears the risk of any exposure of its correspondent Entering Firms.¹⁰

Finally, proposed Rule 7.19(e) would set forth “kill switch” functionality, which would allow an Entering Firm or

⁹ Entering Firms may request that the Exchange create sub-IDs associated with their MPIDs. If an Entering Firm uses a Floor broker to enter orders on the Exchange, it can assign a sub-ID that would be used for the entry of orders by that Floor broker on the Entering Firm’s behalf.

¹⁰ See Notice, *supra* note 3, at 15528.

its designated Clearing Firm to direct the Exchange to take certain bulk Kill Switch Actions with respect to orders. In contrast to the Automated Breach Actions described above, which the Exchange would take automatically after the breach of a credit limit, the Exchange would not take any of the Kill Switch Actions without express direction from the Entering Firm or its designated Clearing Firm.

Specifically, Proposed Rule 7.19(e) would specify that an Entering Firm, or if authorized pursuant to proposed Rule 7.19(b)(2)(A), its Clearing Firm, could direct the Exchange to take one or more of the following actions with respect to orders at either an MPID, or if designated, sub-ID Level: (1) Cancel all Auction-Only Orders; (2) Cancel all unexecuted orders in the Exchange Book other than Auction-Only Orders; or (3) Block the entry of any new orders and order instructions, provided that the Exchange would continue to accept instructions from Entering Firms to cancel one or more orders (including Auction-Only Orders) in full, and later, reverse that block.

The Exchange proposes that the Kill Switch functionality proposed in Rule 7.19(e) would supersede and replace the Exchange's previously filed proposed rule change,¹¹ which provided certain post-trade risk management tools to member organizations, but not to their Clearing Firms.

The Exchange proposes to provide these post-trade Kill Switch Actions in addition to the pre-trade Automated Breach Actions described above in order to give Entering Firms and their Clearing Firms more flexibility in setting risk controls.¹² An Entering Firm that wants more control over when and which actions are taken with respect to its orders may choose to use these Kill Switch Actions instead of the "Block" or "Cancel and Block" Automated Breach Actions described above. For example, for an Entering Firm that selects the "Notification Only" Automated Breach Action, if it receives notification of a credit breach, it could choose to direct the Exchange to take a Kill Switch Action described in proposed Rule 7.19(e).

The Exchange proposes Commentary .01 to Rule 7.19 to specify that the Pre-Trade Risk Controls described in this Rule are meant to supplement, and not replace, the member organization's own internal systems, monitoring and procedures related to risk management

and are not designed for compliance with Rule 15c3-5 under the Act ("Rule 15c3-5").¹³ This proposed Commentary specifies that use of the Exchange's pre-trade risk controls would not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all Exchange and SEC rules remains with the member organization. The Exchange does not guarantee that these controls will be sufficiently comprehensive to meet all of a member organization's needs, the controls are not designed to be the sole means of risk management, and using these controls will not necessarily meet a member organization's obligations required by Exchange or federal rules (including, without limitation, the Rule 15c3-5).

Proposed Commentary .02 would provide that when a customer of a Floor broker firm is a member organization ("Customer"), both the Customer and the Floor broker firm would be considered an "Entering Firm" for purposes of setting Pre-Trade Risk Controls or Kill Switch Actions for that Floor broker's trading activity on the Exchange on behalf of that Customer. There would be no differences in the Pre-Trade Risk Controls available to the Customer and Floor broker.

Proposed Commentary .03 would provide that manual transactions by a Floor broker and crossing transactions pursuant to Rule 76 will be excluded from Pre-Trade Risk Controls. The Exchange proposes this exception because the proposed Pre-Trade Risk Controls would be incorporated into the Exchange's matching engine systems, and neither manual transactions nor crossing transactions pursuant to Rule 76 are processed in such systems.¹⁴ Floor brokers representing such orders would continue to have their independent obligation to comply with Rule 15c3-5 with respect to these orders.

Proposed Commentary .04 would specify how the proposed Pre-Trade Risk Controls would apply to Designated Market Makers ("DMMs") on the Exchange. The proposed commentary would provide that if either a "Block Only" or a "Cancel and Block" Automated Breach Action has been triggered by an Entering Firm acting as a DMM in an assigned security, such DMM would be prevented from facilitating an auction that would include any DMM Interest, as defined in Rule 7.35(a)(8).¹⁵ If the

DMM has not yet been reinstated, the DMM can facilitate an auction if it does not include DMM Interest. This restriction would apply whether the DMM attempted to facilitate the auction electronically or manually; if the DMM attempted to electronically facilitate the auction and include DMM Interest, the Exchange would reject the attempt. However, the DMM would still have an opportunity to facilitate such auction manually without DMM Interest. The Exchange anticipates that a DMM will set Gross Credit Risk Limits at levels that would not result in Automated Breach Actions, and if they do trigger a "Block Only" or a "Cancel and Block" Automated Breach Action, they would promptly reinstate themselves to avoid such a situation.

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.¹⁶ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁷ 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 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 Commission believes that the proposed rule change is reasonably designed to provide members with optional tools to manage their credit risk. The Commission notes that other exchanges have established risk protection controls that are similar in many respects to the Exchange's proposal.¹⁸ The Commission believes that the proposed rule change would provide additional options for members to manage their risk while transacting

trading for each of the securities in which the DMM is registered as required by Exchange rules. See Rule 104(a)(2) and (3).

¹⁶ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ See, e.g., Cboe BZX Exchange, Inc. Rule 11.13, Commentary .03 and Investors Exchange LLC Rule 11.380.

¹¹ See Securities Exchange Act Release No. 71164 (December 20, 2013), 78 FR 79044 (December 27, 2013) (SR-NYSE-2013-80).

¹² See Notice, *supra* note 3, at 15528.

¹³ See 17 CFR 240.15c3-5.

¹⁴ See Notice, *supra* note 3, at 15529.

¹⁵ DMMs have an affirmative obligation to facilitate openings, reopenings, and the close of

on the Exchange. The Commission also believes that the proposed rule change is reasonably designed to assist clearing members in monitoring and managing the potential risks that they assume when clearing for members of the Exchange, as well as to provide clearing members with greater control over their risk tolerance and exposure on behalf of their correspondent members, while also providing notification options designed to help ensure that both members and clearing members are made aware of developing issues.

The Commission notes that the proposed Pre-Trade Risk Controls and kill switch functionality are optional functionalities. The Commission reminds members electing to use these proposed functionalities to be mindful of their obligations to, among other things, seek best execution of orders they handle on an agency basis. A broker-dealer has a legal duty to seek to obtain best execution of customer orders, and the decision to utilize the proposed functionalities, including the parameters set forth by the member for the risk setting, must be consistent with this duty.¹⁹ For instance, under the proposal, members, and their respective clearing members on their behalf, have discretion to set the Single Order Maximum Notional Value Risk Limit, Single Order Maximum Quantity Risk Limit, or Gross Credit Risk Limit. While the Exchange did not affirmatively establish minimum and maximum permissible settings for these limits in its proposed rule change, the Commission expects the Exchange to periodically assess whether the risk limits are operating in a manner that is consistent with the promotion of fair and orderly markets. In addition, the Commission expects that members will consider their best execution obligations when establishing the parameters for the risk limits.²⁰ For example, to the extent that a member's risk settings are set to overly-sensitive parameters, particularly if a member's order flow to the Exchange contains agency orders, a member should consider the effect of its chosen settings on its ability to receive a timely execution on marketable agency orders that it sends to the Exchange in various market

¹⁹ See Securities Exchange Act Release Nos. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) ("Order Handling Rules Release"); 51808 (June 9, 2005), 70 FR 37496, 37537–38 (June 29, 2005).

²⁰ The Commission reminds broker-dealers that they must examine their procedures for seeking to obtain best execution in light of market and technology changes and modify those practices if necessary to enable their customers to obtain the best reasonably available prices. See Order Handling Rules Release, *supra* note 19, at 48323.

conditions.²¹ The Commission cautions that brokers considering their best execution obligations should be aware that agency orders they represent may be blocked or canceled on account of the Single Order Maximum Notional Value Risk Limit, Single Order Maximum Quantity Risk Limit, or Gross Credit Risk Limit.

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,²² that the proposed rule change (SR–NYSE–2020–17) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020–09528 Filed 5–4–20; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88765; File No. SR–NYSE–2020–03]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Add New Exchange Rule 46B To Permit the Appointment of Regulatory Trading Officials and Amend Exchange Rule 47 To Permit Regulatory Trading Officials To Review Whether a Bid or Offer Is Eligible for Inclusion in the Closing Auction

April 29, 2020.

I. Introduction

On January 14, 2020, New York Stock Exchange LLC ("Exchange" or "NYSE") 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 add new Exchange Rule 46B to permit the appointment of Regulatory

²¹ For example, a marketable agency order that would have otherwise executed on the Exchange might be prevented from reaching the Exchange on account of other interest from the member that causes it to exceed the pre-established risk limit and thereby results in the Exchange blocking new orders from the member.

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Trading Officials and corresponding amendments to Rules 47 and 75 to permit Regulatory Trading Officials to review whether a bid or offer was verbalized at the point of sale in time to be eligible for inclusion in the Closing Auction. The proposed rule change was published for comment in the **Federal Register** on January 30, 2020.³ On March 11, 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 has received no comment letters on the proposal. On April 7, 2020, the Exchange filed Amendment No. 1 to the proposed rule change,⁶ which replaced and superseded the proposed rule change as originally filed, and is described in Items II and III below, which Items have been prepared by the self-regulatory organization.⁷ The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

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

The Exchange proposes a new Rule 46B to permit the appointment of Regulatory Trading Officials and corresponding amendments to Rule 47 to permit Regulatory Trading Officials to review whether a bid or offer is eligible for inclusion in the Closing Auction. This Amendment No. 1 to SR–NYSE–2020–03 replaces SR–NYSE–2020–03 as originally filed and supersedes such filing in its entirety. This proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at

³ See Securities Exchange Act Release No. 88033 (Jan. 24, 2020), 85 FR 5511 (Jan. 30, 2020) ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 88357 (Mar. 11, 2020), 85 FR 15241 (Mar. 17, 2020). The Commission designated April 29, 2020, as the date by which the Commission should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ See Sections II and III for a description of Amendment No. 1. In Amendment No. 1, the Exchange no longer proposes changes to Exchange rule 75.

⁷ The proposed rule change, as modified by Amendment No. 1, is available at: <https://www.nyse.com/publicdocs/nyse/markets/nyse/rule-filings/filings/2020/SR-NYSE-2020-03,%20Am.%201.pdf>.

the Commission's Public Reference Room.

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

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

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

1. Purpose

The Exchange proposes a new Rule 46B to permit the appointment of Regulatory Trading Officials and corresponding amendments to Rule 47 to permit Regulatory Trading Officials to review whether a bid or offer is eligible for inclusion in the Closing Auction.

Background

Rule 46 permits the Exchange to appoint active NYSE members⁸ as Floor Officials. Rule 46 also permits the Exchange to appoint "qualified"⁹ ICE employees to act as Floor Governors, one of the more senior types of Floor Officials ("Staff Governors").¹⁰ Floor Officials are delegated certain authority from the Board of Directors of the Exchange to supervise and regulate active openings and unusual situations that arise in connection with the making of bids, offers or transactions on the Trading Floor,¹¹ and to review and approve certain trading actions.

⁸Rule 2(a) states that the term "member," when referring to a natural person, means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the Exchange Trading Floor or any facility thereof. See also note 11, *infra*.

⁹Supplementary Material .10 defines "qualified" employees as "employees of ICE or any of its subsidiaries, excluding employees of NYSE Regulation, Inc., who shall have satisfied any applicable testing or qualification required by the NYSE for all Floor Governors."

¹⁰Pursuant to Rules 46 and 46A, Floor Governors are one of several ranks of the broader category of Floor Officials, including, in order of increasing seniority, Floor Officials, Senior Floor Officials, Executive Floor Officials, Floor Governors and Executive Floor Governors. See Securities Exchange Act Release No. 57627 (April 4, 2008), 73 FR 19919 (April 11, 2008) (SR-NYSE-2008-19).

¹¹The term "Trading Floor" is defined in Rule 6A to mean the restricted-access physical areas

Currently, only Floor Officials are authorized to act under the Exchange's rules in connection with certain situations involving bids, offers or transactions on the Trading Floor. Specifically, under Rule 47 (Floor Officials—Unusual Situations), Floor Officials have the authority to "supervise and regulate active openings and unusual situations that may arise in connection with the making of bids, offers or transactions on the Floor."

Unusual situations may arise that could impede or prevent Floor brokers from representing customer interest before the end of Core Trading Hours.¹² Unusual situations may arise, for example, if the Floor broker hand-held device malfunctions or ceases to work or if a Floor broker is physically impeded, as a result of a crowd condition beyond that of normal traffic flow on the Exchange's trading Floor or some other circumstance beyond the Floor broker's control, in his or her ability to be present at a post before the DMM closes the security.¹³ In the event of such a potentially unusual situation, a Floor broker may consult with a Floor Official and the Designated Market Maker ("DMM") in the relevant security regarding whether and how that customer interest can be represented so that it is eligible to participate in the Closing Auction.¹⁴ The Floor Official's role in this consultation is to provide an impartial professional assessment of the situation consistent with NYSE Rule 47. Currently, the DMM makes the final determination whether to include or exclude Floor broker verbal interest in the Closing Auction.

Proposed Rule Change

The Exchange proposes a new "Regulatory Trading Official" who would perform the functions currently

designated by the Exchange for the trading of securities, commonly known as the "Main Room" and the "Buttonwood Room."

¹²See NYSE Rule 52. Core Trading Hours are defined in Rule 1.1(d) to mean the hours of 9:30 a.m. ET through 4:00 p.m. ET, or such other hours as may be determined by the Exchange, for example, an early scheduled closing time.

¹³See NYSE Member Education Bulletin 19-01 (June 21, 2019).

¹⁴Floor broker buy and sell interest is eligible to participate in the Closing Auction if, by the end of Core Trading Hours, such interest is (1) entered into an Exchange system and recorded in accordance with Rule 123(e), and (2) either entered electronically or verbally represented at the point of sale. When verbally representing customer interest, Floor brokers must bid or offer by articulating the following elements: Symbol, side (buy or sell), size, and, if the order is a limit order, the price. See Member Education Bulletin 19-01 (June 21, 2019); see generally Rule 123(b) (record of orders must contain the required terms of the order, including the name and amount of the security, the terms of the order and the time when such order was received).

performed by Floor Officials regarding whether a bid or offer is eligible for inclusion in the Closing Auction by the DMM. Floor Officials would continue to supervise and regulate all other unusual situations not enumerated for the Regulatory Trading Official to perform.

To effectuate this change, the Exchange proposes a new Rule 46B that would provide that a Regulatory Trading Official would be an Exchange employee or officer designated by the Chief Regulatory Officer or its designee to perform the functions specified in Exchange rules. The Exchange further proposes to amend Rule 47 to specify the functions that would be performed by the Regulatory Trading Official.

First, the existing rule text of Rule 47 would be designated subsection (a) and would be amended to specify that whether a verbal bid or verbal offer is eligible for inclusion in the Closing Auction by a DMM would be governed by new subsection (b) to Rule 47. This amendment therefore carves out the Floor Official's specific function with respect to unusual situations that would no longer be performed by Floor Officials.

Second, proposed new Rule 47(b) would set forth the authority of Regulatory Trading Officials. As proposed, subsection (b) would provide that situations regarding whether a verbal bid or verbal offer is eligible for inclusion in the Closing Auction by the DMM shall be supervised and regulated as follows in the proposed rule. Under the proposed rule, a Floor broker with the interest to be included in the Closing Auction or the DMM responsible for the Closing Auction in the relevant security may consult a Regulatory Trading Official regarding whether a bid or offer is eligible for inclusion in the Closing Auction by the DMM. Proposed Rule 47(b) would also provide that if such a request has been made, the DMM will not facilitate the Closing Auction until a Regulatory Trading Official has completed his or her review. The proposed rule would also provide, consistent with current rules, that the final determination to include or exclude interest from the Closing Auction will be made by the DMM pursuant to Rule 104. Finally, proposed Rule 47(b) would specify that the Regulatory Trading Official's review will be documented in Exchange systems no later than one business day following the review.

The Exchange believes that it is more appropriate for a regulatory employee to review the eligibility of Floor broker interest in the Closing Auction. Whether a bid or offer is eligible for inclusion in the Closing Auction, including whether

such a bid or offer was verbalized at the point of sale in time to be eligible for the Closing Auction, will often require assessing whether a Floor broker complied with the rules for entry of its interest prior to the Closing Auction.¹⁵ The Exchange believes that having a regulatory employee involved in such discussions will emphasize the importance of including all eligible Floor broker interest in the Closing Auction.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁷ in particular, because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

In particular, the Exchange believes that creating a new category of trading official to perform the functions currently performed by Floor Officials in reviewing whether a bid or offer is eligible for inclusion in the Closing Auction would promote just and equitable principles of trade and remove impediments to a free and open market by continuing to provide certainty to the Closing Auction when a dispute arises at the point of sale regarding whether a bid or offer can participate in the Closing Auction, thereby facilitating fair competition among brokers and dealers and among exchange markets. The Exchange's Closing Auction is a recognized industry reference point,¹⁸ and the Exchange believes that maintaining the current process with a regulatory employee would continue to promote the efficient execution of the Closing Auction, thereby contributing to fair and orderly markets and strengthening investor confidence in the market.

The Exchange believes that assigning responsibility for reviewing whether Floor broker interest was eligible for inclusion in the Closing Auction to a regulatory employee designated by the Chief Regulatory Officer will contribute to the protection of investors and the public interest. As noted above, the Exchange believes that regulatory employees are appropriately suited to

the role of consultation regarding the eligibility of Floor broker interest, including verbal interest, to participate in the Closing Auction. The Exchange also believes the proposed amendments further the goal of transparency and add clarity to the Exchange's rules, which would not be inconsistent with the public interest and the protection of investors because investors would not be harmed and in fact would benefit from such increased transparency and clarity in the Exchange's rules, thereby reducing potential confusion.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address and competitive issues, but rather assign responsibility for reviewing eligibility of verbal interest for inclusion in the Closing Auction to a regulatory employee. Since the proposal does not substantively modify the Closing Auction or system functionality, the proposed changes will not impose any burden on 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.

IV. Solicitation of Comments on the Proposed Rule Change, as Modified by Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, 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–2020–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2020–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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–2020–03 and should be submitted on or before May 26, 2020.

V. Commission's Findings and Discussion

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁹ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act²⁰ 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 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

¹⁵ See note 14, *supra*.

¹⁶ 15 U.S.C. 78f(b).

¹⁷ 15 U.S.C. 78f(b)(5).

¹⁸ For example, the pricing and valuation of certain indices, funds, and derivative products require primary market prints.

¹⁹ In approving this proposed rule change, as modified by Amendment No. 1, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁰ 15 U.S.C. 78f(b)(5).

and a national market system, and, in general, to protect investors and the public interest, and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange proposes to permit the appointment of a new “Regulatory Trading Official”²¹ whose primary responsibility would be to conduct reviews of unusual situations involving the eligibility of verbal interest for inclusion in the Closing Auction by the DMM. The proposal would also provide that if a request for such a review by a Regulatory Trading Official has been made, the DMM will not facilitate the Closing Auction until a Regulatory Trading Official has completed his or her review. As proposed, the final determination to include or exclude interest from the Closing Auction would continue to be made by the DMM pursuant to Exchange Rule 104. Finally, the proposal would specify that the Regulatory Trading Official’s review will be documented in Exchange systems no later than one business day following the review.

The Commission notes that the proposal would shift one regulatory function—the review, in cases involving unusual situations, of whether a verbal bid or verbal offer is eligible for inclusion in the Closing Auction by the DMM—from Floor Officials to the newly proposed Regulatory Trading Officials without substantive change.²² The new proposed Regulatory Trading Officials would be Exchange employees or officers who would perform this discrete consultative function at the close. The Commission further notes that, as proposed, and consistent with current rules, the final determination as to whether to include or exclude interest in the Closing Auction would continue to be made by the DMM pursuant to Rule 104.

The Exchange represented that Floor Officials currently review cases involving unusual situations that may arise with regard to whether a verbal bid or verbal offer is eligible for inclusion in the Closing Auction by the DMM. The Commission believes that a Regulatory Trading Official whose sole responsibility would be to perform this specific function currently performed by Floor Officials and who is a regulatory employee is appropriately suited to the role of consultation regarding the eligibility of Floor broker interest. The

²¹ As proposed, a Regulatory Trading Employee would be an Exchange employee or officer designated by the Chief Regulatory Officer or its designee to perform those functions specified in Exchange rules. *See supra*, Section III.A.1.

²² *See id.*

Commission believes that the proposal should promote just and equitable principles of trade by continuing to provide Floor brokers with the ability to consult with and obtain a review from a third party in cases involving unusual situations relating to the eligibility of the Floor broker’s verbal interest to participate in the close.

For the reasons discussed above, the Commission finds the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. In Amendment No. 1, the Exchange moved the substance of the proposal from Rule 75 commentary into the text of Rule 47 without substantive change. Accordingly, the Commission believes the proposal, as modified by Amendment No. 1 raises no novel or significant issues, and therefore finds good cause, pursuant to Section 19(b)(2) of the Act, to approve the proposal, as modified by Amendment No. 1, on an accelerated basis.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2020–03), as modified by Amendment No. 1 be, and it hereby is, approved on an accelerated basis.

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

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2020–09517 Filed 5–4–20; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–88775; File No. SR–ICC–2020–002]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy

April 29, 2020.

I. Introduction

On January 14, 2020, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² a proposed rule change to amend ICC’s Risk Management Model Description, Stress Testing Framework, Liquidity Risk Management Framework, Back-Testing Framework, and Risk Parameter Setting and Review Policy in connection with the clearing of credit default index swaptions. The proposed rule change was published for comment in the **Federal Register** on January 31, 2020.³ On March 13, 2020, the Commission designated a longer period of time for Commission action on the proposed rule change until April 30, 2020.⁴ The Commission has not received comments regarding the proposed rule change. The Commission is publishing this order to solicit comments from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act⁵ to determine whether to approve or disapprove the proposed rule change.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy; Exchange Act Release No. 88047 (Jan. 27, 2020); 85 FR 5756 (Jan. 31, 2020) (SR–ICC–2020–002) (“Notice”).

⁴ Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the ICC Risk Management Model Description, ICC Stress Testing Framework, ICC Liquidity Risk Management Framework, ICC Back-Testing Framework, and ICC Risk Parameter Setting and Review Policy; Exchange Act Release No. 88379 (Mar. 13, 2020); 85 FR 15829 (Mar. 19, 2020).

⁵ 15 U.S.C. 78s(b)(2)(B).

²⁴ 17 CFR 200.30–3(a)(12).

II. Description of the Proposed Rule Change

As described more fully in the Notice, the proposed rule change would amend ICC's Risk Management Model Description, Stress Testing Framework, Liquidity Risk Management Framework, Back-Testing Framework, and Risk Parameter Setting and Review Policy in connection with the clearing of credit default index swaptions.

III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the proposed rule change should be approved or disapproved.⁶ Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved.

Pursuant to Section 19(b)(2)(B) of the Act,⁷ the Commission is providing notice of the potential grounds for approval or disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis and input concerning the proposed rule change's consistency with the Act and the rules thereunder, including the following:

- Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of ICC be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible, and, in general, to protect investors and the public interest;⁸

- Rule 17Ad-22(b)(2), which requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements and review such margin requirements and the related risk-based models and parameters at least monthly;⁹

- Rule 17Ad-22(b)(3), which requires that ICC establish, implement, maintain

and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposures in extreme but plausible market conditions;¹⁰ and

- Rule 17Ad-22(d)(8), which requires that ICC establish, implement, maintain and enforce written policies and procedures reasonably designed to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act applicable to clearing agencies, to support the objectives of owners and participants, and to promote the effectiveness of ICC's risk management procedures.¹¹

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments regarding the proposed rule change with respect to the issues identified above, as well as any other concerns they may have with the proposed rule change. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹² and Rules 17Ad-22(b)(2), 17Ad-22(b)(3), and 17Ad-22(d)(8) under the Act,¹³ or any other provision of the Act or rules and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.¹⁴

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved on or before May 20, 2020. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before May 26, 2020.

Comments may be submitted by any of the following methods:

¹⁰ 15 U.S.C. 17Ad-22(b)(3).

¹¹ 15 U.S.C. 17Ad-22(d)(8).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(b)(2), (b)(3), and (d)(8).

¹⁴ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94-29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

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 ICC-2020-002 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-ICC-2020-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at <https://www.theice.com/clear-credit/regulation>. 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-ICC-2020-002 and should be submitted on or before May 20, 2020. If comments are received, any rebuttal comments should be submitted on or before May 26, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2020-09527 Filed 5-4-20; 8:45 am]

BILLING CODE 8011-01-P

¹⁵ 17 CFR 200.30-3(a)(12).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ 15 U.S.C. 78q-1(b)(3)(F).

⁹ 15 U.S.C. 17Ad-22(b)(2).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission Small Business Capital Formation Advisory Committee on Small and Emerging Companies will hold a public meeting on Friday, May 8, 2020, via videoconference.

PLACE: The meeting will begin at 1:00 p.m. (ET) and will be open to the public. The meeting will be conducted by remote means (videoconference) and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549. Members of the public may watch the webcast of the meeting on the Commission's website at www.sec.gov.

STATUS: This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

MATTERS TO BE CONSIDERED: The agenda for the meeting includes matters relating to the effects of COVID-19 on small and emerging companies and the rules and regulations affecting small and emerging companies.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: April 30, 2020.
Vanessa A. Countryman,
Secretary.
 [FR Doc. 2020-09631 Filed 5-1-20; 11:15 am]
BILLING CODE 8011-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2020-0022]

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers. (OMB) Office of Management and Budget, Attn: Desk Officer for SSA,

Fax: 202-395-6974, Email address: OIRA_Submission@omb.eop.gov
 (SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address: OR.Reports.Clearance@ssa.gov

Or you may submit your comments online through www.regulations.gov, referencing Docket ID Number [SSA-2020-0022].

The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 6, 2020. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Application for Survivor's Benefits—20 CFR 404.611(a) and (c)—0960-0062.* Surviving family members of armed services personnel can file for Social Security and veterans' benefits with SSA, or at the Veterans Administration (VA). Applicants filing for Title II survivor benefits at the VA complete Form SSA-24, which the VA forwards to SSA for processing. SSA uses the information to determine eligibility for benefits. The respondents are survivors of deceased armed services personnel who are applying for benefits at the VA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-8060-U3	3,200	1	15	800	*\$22.50	** 24	***\$75,533

* We based this figures on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data. https://www.bls.gov/oes/current/oes_stru.htm.
 ** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.
 *** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Railroad Employment Questionnaire—20CFR 404.1401, and 404.1406-404.1408—0960-0078.* Railroad workers, their dependents, or survivors can concurrently apply for railroad retirement and Social Security benefits at SSA if the number holder, or

claimant on the number holder's Social Security Number, worked in the railroad industry. SSA uses Form SSA-671 to coordinate Social Security claims processing with the Railroad Retirement Board, and to determine benefit entitlement and amount. The

respondents are Social Security benefit applicants previously employed by a railroad, or dependents of railroad workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-671	125,000	1	5	10,417	*\$22.50	** 24	***\$234,923

* We based these figures on average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data. <https://www.bls.gov/oes/current/oes434199.htm>.
 ** We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.
 *** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. *State Mental Institution Policy Review Booklet—20 CFR 404.2035, 404.2065, 416.635, & 416.665—0960-0110.* SSA uses Form SSA-9584-BK: (1) To determine if the policies and practices of a state mental institution acting as a representative payee for SSA beneficiaries conform to SSA's

regulations in the use of benefits; (2) to confirm institutions are performing other duties and responsibilities required of representative payees; and (3) as the basis for conducting onsite reviews of the institutions and preparing subsequent reports of findings. The respondents are state

mental institutions serving as representative payees for Social Security beneficiaries and Supplemental Security Income (SSI) recipients.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-9584	68	1	60	68	* \$15.00	** 24	*** \$1,380

*We based this figure on average Personal Care and Service Workers hourly salary, as reported by Bureau of Labor Statistics data. <https://www.bls.gov/oes/current/oes390000.htm>.

**We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Modified Benefit Formula Questionnaire-Employer—20 CFR 401 & 402—0960-0477.* Sections 215(a)(7) and 215(d)(3) of the Social Security Act requires SSA to use a modified benefit formula to compute Social Security retirement or disability benefits for persons first eligible (after 1985) for both a Social Security benefit and a pension or annuity, based on employment not covered by Social

Security. This method is the Windfall Elimination Provision (WEP). SSA makes a determination regarding whether the WEP is applicable, and when to apply it to a person's benefit. SSA uses Form SSA-58 to verify the claimant's allegations on Form SSA-150 (OMB #0906-0395, Modified Benefits Formula Questionnaire). SSA also uses Form SSA-58 to determine if the modified benefit formula is applicable

and when to apply it to a person's benefits. SSA sends Form SSA-58 to an employer for pension related information, if the claimant is unable to provide it. The respondents are employers of people who are eligible after 1985 for both Social Security benefits and a pension based on work not covered by SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-58	26,925	1	3	1,346	* \$20.39	** 24	*** \$27,934

*We based this figure on average Information and Records clerk's hourly salary, as reported by Bureau of Labor Statistics data. <https://www.bls.gov/oes/current/oes434199.htm>.

**We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. *Disability Update Report—20 CFR 404.1589-404.1595 and 416.988-416.996—0960-0511.* As part of our statutory requirements, SSA periodically uses Form SSA-455, the Disability Update Report, to evaluate current Title II disability beneficiaries' and Title XVI disability payment recipients' continued eligibility for Social Security disability payments. Specifically, SSA uses the form to determine if: (1) There is enough evidence to warrant referring the

respondent for a full medical Continuing Disability Review (CDR); (2) the respondent's impairments are still present and indicative of no medical improvement, precluding the need for a CDR; or (3) the respondent has unresolved work-related issues. SSA mails Form SSA-455 to specific disability recipients, whom we select as possibly qualifying for the CDR process. SSA pre-fills the form with data specific to the disability recipient, except for the sections we ask the recipients to

complete. When SSA receives the completed form, we scan it into SSA's system. This allows us to gather the information electronically, and enables SSA to process the returned forms through automated decision logic to decide the proper course of action to take. The respondents are recipients of Title II and Title XVI Social Security disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA-455	1,300,000	1	15	325,000	* \$10.22	** 24	*** \$3,321,745

*We based this figure on average DI payments, as reported in SSA's disability insurance payment data.

**We based this figure on the average FY 2020 wait times for field offices, based on SSA's current management information data.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. *Authorization for the Social Security Administration to Obtain Wage and Employment Information from Payroll Data Providers—0960-0807.* Section 824 of the Bipartisan Budget Act (BBA) of 2015, Public Law 114-74, authorizes SSA to enter into information exchanges with payroll data providers for the purposes of improving program administration and preventing improper payments in the Social Security Disability Insurance (SSDI) and SSI programs. SSA uses Form SSA-8240, “Authorization for the Social Security Administration to Obtain Wage and Employment Information from Payroll Data Providers,” to secure the authorization needed from the relevant members of the public to obtain their wage and employment information from payroll data providers. Ultimately, SSA uses this wage and employment

information to help determine program eligibility and payment amounts.

The public completes Form SSA-8240 using the following modalities: A paper form; the internet; and an in-office or telephone interview, during which an SSA employee documents the wage and employment information authorization information on one of SSA’s internal systems (the Modernized Claims System (MCS); the SSI Claims System; eWork; or iMain). The individual’s authorization remains effective until one of the following four events occurs:

- SSA makes a final adverse decision on the application for benefits, and the applicant has filed no other claims or appeals under the Title for which SSA obtained the authorization;
- the individual’s eligibility for payments ends, and the individual has

not filed other claims or appeals under the Title for which SSA obtained the authorization;

- the individual revokes the authorization verbally or in writing; or
- the deeming relationship ends (for SSI purposes only).

SSA requests authorization on an as-needed basis as part of the following processes: (a) SSDI and SSI initial claims; (b) SSI redeterminations; and (c) SSDI Work Continuing Disability Reviews. The respondents are individuals who file for, or are currently receiving, SSDI or SSI payments, and any person whose income and resources SSA counts when determining an individual’s SSI eligibility or payment amount.

Type of Request: Revision of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total annual opportunity cost (dollars)***
SSA-8240 (paper)	150,000	1	6	15,000	*\$10.22	**24	***\$153,545
Web Title II & Title XVI Electronic (MCS, MSSICS, and eWork)	3,492,903	1	2	116,430	10.22	0	***1,189,915
Internet	467,883	1	2	15,596	*10.22	0	***159,391
Totals	4,110,786			147,026			***1,502,851

* We based this figure on average DI payments, as reported in SSA’s disability insurance payment data.

** We based this figure on the average FY 2020 wait times for field offices, based on SSA’s current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. *myWageReport—20 CFR 404.1520(b), 404.1571-1576, & 404.1584-1593—0960-0808.* The myWageReport application enables SSDI beneficiaries and representative payees to report earnings electronically. It generates a receipt for the beneficiary and/or representative payee, thus

providing confirmation that SSA received the earnings report. SSA screens the information submitted through the myWageReport application and determines if we need additional employment information. If so, agency personnel reach out to beneficiaries or their representative payees and use

Form SSA-821, Work Activity Report (0960-0059), to collect the additional required information. The respondents for this collection are SSDI recipients or their representative payees.

Type of Request: Revision of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Total annual opportunity cost (dollars)**
myWageReport	88,000	1	7	10,267	*\$10.22	**\$104,929

* We based this figure on average DI payments, as reported in SSA’s disability insurance payment data.

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: April 30, 2020.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2020-09580 Filed 5-4-20; 8:45 am]

BILLING CODE 4191-02-P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 10 a.m. on May 7, 2020.

PLACE: Please use the following link for the live stream of the meeting: <http://tva.me/KVwB50znCn1>.

STATUS: Open, via live streaming only.

MATTERS TO BE CONSIDERED:

Meeting No. 20-02

The TVA Board of Directors will hold a public meeting on May 7, 2020. Due to the COVID-19 outbreak, the meeting will be conducted via teleconference. The meeting will be called to order at 10 a.m. ET to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

Public health concerns also require a change to the Board's public listening session. Although in-person comments from the public are not feasible, the Board is encouraging those wishing to express their opinions to submit written comments that will be provided to the Board members before the May 7 meeting. Written comments can be submitted through the same online system used to register to speak at previous listening sessions.

Agenda

1. Approval of Minutes of the February 13, 2020, Board Meeting
2. Report from President and CEO
3. Report of the External Relations Committee
 - A. TVA Environmental Policy
 - B. Natural Resources Plan
4. Report of the Finance, Rates, and Portfolio Committee
 - A. Commercial Energy Agreements, Programs, and Related Contracts
5. Report of the Nuclear Oversight Committee
6. Report of the Audit, Risk, and Regulation Committee
7. Report of the People and Performance Committee
8. Governance Items
 - A. Amendments to TVA Board Practices
9. Information Items
 - A. Delegation to approve temporary payment and regulatory flexibility relief for local power companies
 - B. Delegation to provide some relief to certain large commercial and industrial customers affected by the COVID-19 pandemic to support return to operations

CONTACT PERSON FOR MORE INFORMATION:

For more information: Please call Jim Hopson, TVA Media Relations at (865) 632-6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: April 30, 2020.

Sherry A. Quirk,
General Counsel.

[FR Doc. 2020-09658 Filed 5-1-20; 4:15 pm]

BILLING CODE 8120-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[DOT-OST-20 19-XXXX]

Commercial Space Transportation Advisory Committee: Notice of Public Meeting

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Commercial Space Transportation Advisory Committee for May 19, 2020.

DATES: The May 19, 2020 meeting will be held from 8:45 a.m. to 3:00 p.m. Eastern Time. Requests for accommodations to a disability must be received by May 12, 2020. Requests to speak during the meeting must be submitted by May 12, 2020, to DOT and include a written copy of their remarks. Requests to submit written materials to be reviewed during the meeting must be received by DOT no later than May 12, 2020. Notices for the September 2020 and March 2021 meetings will be published in the **Federal Register** at least 15 calendar days before the day of the meeting.

ADDRESSES: The May 19, 2020 meeting will be an internet-only meeting. No physical meeting is planned. Instructions on how to attend the meeting, copies of meeting minutes, and a detailed agenda will be posted on the COMSTAC internet website at: https://www.faa.gov/space/additional_information/comstac/.

FOR FURTHER INFORMATION CONTACT:

James Hatt, Designated Federal Officer, U.S. Department of Transportation, at james.a.hatt@faa.gov. Any committee related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The Commercial Space Transportation Advisory Committee was created under the Federal Advisory Committee Act (FACA), in accordance with Public Law 92-463. Since its inception, COMSTAC has provided information, advice, and recommendations to the U.S. Department of Transportation through FAA regarding technology, business, and policy issues relevant to oversight of the U.S. commercial space transportation sector.

II. Agenda

At the May 19, 2020 meeting, the agenda will cover the following topics:

- 8:45 Call to Order
- 9:15 Secretary of Transportation Welcome Remarks
- 9:30 FAA Administrator Steve Dickson Welcome Remarks; FAA Associate Administrator for Commercial Space Transportation, Gen. Wayne Monteith Welcome Remarks
- 10:15 Committee Member Introductions
- 10:30 FAA/AST Updates
- 12:00 Lunch
- 1:00 AST's Work Plan Priorities for 2020-2021
- 2:00 Public Comments/Other Business
- 3:00 Adjourn

III. Public Participation

The May 19, 2020 is open to the public. The meeting can be viewed by the public using the internet website link posted above. The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by May 12, 2020.

There will be at least thirty minutes allotted for oral comments from members of the public joining a COMSTAC meeting. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the FAA Office of Commercial Space Transportation may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks for inclusion in the meeting records and for circulation to COMSTAC members. All prepared remarks submitted on time will be accepted and considered as part of the record. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, this 29 day of April 2020.

James A. Hatt,

Designated Federal Officer, Commercial Space Transportation Advisory Committee, Federal Aviation Administration, Department of Transportation.

[FR Doc. 2020-09531 Filed 5-4-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2012–0123; FMCSA–2013–0124; FMCSA–2013–0125; FMCSA–2016–0003; FMCSA–2017–0059]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for seven individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on May 19, 2020. The exemptions expire on May 19, 2022. Comments must be received on or before June 4, 2020.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Bring comments to Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, fmcsamedical@dot.gov, FMCSA,

Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation***A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059, in the keyword box, and click “Search.” Next, click the “Open

Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

C. 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, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.transportation.gov/privacy.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The seven individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly,

FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the seven applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The seven drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of May 19, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Forrest Carroll (OH)
 Bryan MacFarlane (OH)
 Michael Murrah (GA)
 Michael Paasch (NE)
 Kelly Pulvermacher (WI)
 Brian Walthall (KS)
 Joshua Chad Weaver (GA)

The drivers were included in docket number FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, and FMCSA–2017–0059. Their exemptions are applicable as of May 19, 2020, and will expire on May 19, 2022.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the seven exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–09551 Filed 5–4–20; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0034]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 20, 2020, Ohio River Scenic Railway (ORSR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part

240, Qualifications and Certification of Locomotive Engineers. FRA assigned the petition Docket Number FRA–2020–0034.

Specifically, ORSR requests a waiver from the requirements of 49 CFR 240.201(d), *Implementation*, which states that a railroad can only permit qualified locomotive engineers to operate locomotives. ORSR seeks to operate an “Engineer-for-an-Hour” charter program and offer non-certified individuals the opportunity to operate a diesel-electric locomotive under the direct supervision of a certified and qualified locomotive engineer. ORSR states the waiver would affect only persons who participate in the program and restrictions would be placed on this operation.

The waiver would cover operations on a 2.6-mile segment of main track between milepost (MP) 3.4 and MP 6.0. There are no public grade crossings or otherwise hazardous or unusual conditions on this segment of track.

Through a series of license agreements, ORSR will utilize the majority of a 22-mile railroad line in Southern Indiana, owned and operated by the Perry County Port Authority (PCPA) d/b/a Hoosier Southern Railroad (HOS), to provide passenger excursion railroad service across Perry and Spencer Counties in Indiana. ORSR's normal excursion operations would occur between MP 2.3 and MP 22.2 on weekends, operating under yard limits not exceeding 10 miles per hour. HOS freight shipments only occur on the line on weekdays, except for special circumstances on the weekends. ORSR schedules must always be coordinated with and approved by the PCPA and HOS to ensure that there are no conflicting train movements.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the

comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 19, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2020-09559 Filed 5-4-20; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and

suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, May 28, 2020.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1-888-912-1227 or (737) 800-4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, May 28, 2020, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1-888-912-1227 or (737-800-4060), or write TAP Office 3651 S. IH-35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: <http://www.improveirs.org>.

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: April 30, 2020.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2020-09581 Filed 5-4-20; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0853]

Agency Information Collection Activity: Application for Approval of a Program in a Foreign Country

AGENCY: Veterans Benefits

Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular

information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Refer to “OMB Control No. 2900-0853.”

SUPPLEMENTARY INFORMATION:

Authority: Title 38 CFR 21.4260.

Title: Application for Approval of a Program in a Foreign Country, VA Form 22-0976.

OMB Control Number: 2900-0853.

Type of Review: Revision of a currently approved collection.

Abstract: VA will use the information collected on VA Form 22-0976 to determine if a program in a foreign country is approvable under CFR 21.4260. For a review and decision to be made, the VA needs supporting information from the foreign educational institution.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 241 on December 16, 2019, pages 68547 and 68548.

Affected Public: Educational Institutions.

Estimated Annual Burden: 338 hours.

Estimated Average Burden per

Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,014.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020-09547 Filed 5-4-20; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, 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 Disability Compensation (Committee) will be held on May 26-28, 2020, from 9:00 a.m. to 12:00 p.m. (Eastern Standard Time). The virtual meeting is open to the public.

The purpose of the Committee is to advise the Secretary of VA on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant

information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The agenda will include overview briefings on the VA Schedule for Rating Disabilities, the transition process for retiring and separating Reserve and National Guard members, and Individual Unemployability.

No time will be allocated at this virtual meeting for receiving oral presentations from the public. The public may submit written statements for the Committee's review to Janice Stewart, Department of Veterans Affairs, Veterans Benefits Administration, Compensation Service, Program Implementation Staff (211B), 810 Vermont Avenue NW, Washington, DC 20420 or email at Janice.Stewart@va.gov.

Members of the public who wish to receive an electronic copy of the itinerary for the meeting should contact Janice Stewart at Janice.Stewart@va.gov of the Veterans Benefits Administration, Compensation Service, Program Implementation Staff (211B) no later than May 19, 2020. For any members of the public that wish to attend virtually, they may use the call-in number at 1-800-767-1750; access code: 75937#.

Dated: April 30, 2020.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2020-09611 Filed 5-4-20; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0379]

Agency Information Collection Activity: Time Record (Work-Study Program)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), 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 July 6, 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. 2900-0379" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Danny S. Green at (202) 421-1354.

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: Title 38 United States Code § 3485, and Title 38 Code of Federal Regulations § 21.272 and § 21.4145.

Title: Time Record (Work-Study Program).

OMB Control Number: 2900-0379.

Type of Review: Revision of a currently approved collection.

Abstract: VA uses the information collected on these forms to ensure that the amount of benefits payable to the student who is pursuing work study is correct. Without this information, VA would not have a basis upon which to make payment.

Affected Public: State, Local or Tribal Governments.

Estimated Annual Burden: 11,856 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 142,272.

By direction of the Secretary.

Danny S. Green,

VA Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020-09534 Filed 5-4-20; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0571]

Agency Information Collection Activity: Customer Satisfaction Surveys

AGENCY: National Cemetery Administration (NCA), Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery Administration (NCA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Refer to "OMB Control No. 2900-0571."

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104-13; 44 U.S.C. 3501-3521.

Title: Customer Satisfaction Surveys.

OMB Control Number: 2900-0571.

Type of Review: Extension without change of a currently approved collection.

Abstract: Improving Customer Service through Effective Performance Management, NCA will conduct surveys to determine the level of satisfaction with existing services among their customers. The surveys will solicit voluntary opinions and are not intended to collect information required to obtain

or maintain eligibility for a VA program or benefit. Baseline data obtained through these information collections are used to validate customer service standards.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information published Friday, February 28, 2020, Volume 85, No. 40, pages 12064 and 12065.

Affected Public: Individuals and households interring Veterans or eligible dependents, and funeral directors facilitating such interments.

I. National Cemetery Mail Surveys

a. National Cemeteries Next of Kin/ Family Member and Funeral Director Satisfaction Surveys

Estimated Annual Burden: 14,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 29,000.

b. State or Tribal Veterans Cemeteries Next of Kin/Family Member and Funeral Director Satisfaction Surveys

Estimated Annual Burden: 9,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 19,000.

II. Program/Specialized Service Survey

a. VA Memorial Products Next of Kin/ Family Member and Funeral Director Satisfaction Surveys

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 6,000.

III. National Cemetery Focus Groups

a. Focus Groups With Next of Kin

Estimated Annual Burden: 150 hours.
Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50.

b. Focus Groups With Funeral Directors

Estimated Annual Burden: 150 hours.
Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50.

c. Focus Groups With Veteran Service Organizations

Estimated Annual Burden: 150 hours.
Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents: 50.

IV. National Cemetery Visitor Comment Cards (Local Use)

Estimated Annual Burden: 208 hours.
Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,500.

By direction of the Secretary.

Danny S. Green,

Department Clearance Officer, Office of Quality, Performance and Risk, Department of Veterans Affairs.

[FR Doc. 2020-09535 Filed 5-4-20; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status for the Island Marble Butterfly and Designation of Critical Habitat; Final Rule

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R1-ES-2016-0145;
FF09E21000 FXES1111090000 201]

RIN 1018-BB96

Endangered and Threatened Wildlife and Plants; Endangered Status for the Island Marble Butterfly and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the island marble butterfly (*Euchloe ausonides insulanus*) and designate critical habitat. In total, approximately 812 acres (329 hectares) on the south end of San Juan Island, San Juan County, Washington, fall within the boundaries of the critical habitat designation.

DATES: This rule is effective June 4, 2020.

ADDRESSES: This final rule is available on the internet at <http://www.regulations.gov>. Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at <http://www.regulations.gov> at Docket No. FWS-R1-ES-2016-0145. Comments, materials, and documentation that we considered in this rulemaking will be available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive, Suite 102, Lacey, WA 98503; telephone 360-753-9440.

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at <http://www.regulations.gov> at Docket No. FWS-R1-ES-2016-0145, on the Service's website at <https://www.fws.gov/wafwo/>, and at the Washington Fish and Wildlife Office (address provided above). Any additional tools or supporting information that we developed for this critical habitat designation will also be available at the Fish and Wildlife Service website and Field Office set out above, and may also be included in the preamble and at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Brad Thompson, Acting State Supervisor, Washington Fish and Wildlife Office, 510 Desmond Drive, Suite 102, Lacey, WA 98503; telephone 360-753-9440. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:**Executive Summary**

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule. Further, under the Endangered Species Act, any species that is determined to be an endangered or threatened species requires critical habitat to be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

What this document does. This rule lists the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species and designates critical habitat for this species under the Endangered Species Act. We are designating critical habitat for the species in one unit, on public and private property totaling 812 acres (329 hectares) on San Juan Island, San Juan County, Washington.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the island marble butterfly faces the following threats:

- Habitat loss and degradation from plant succession and invasion by plants that displace larval host plants; browsing by black-tailed deer, European rabbits, and brown garden snails; and storm surges;
- Predation by native spiders and nonnative wasps, and incidental predation by black-tailed deer; and
- Vulnerabilities associated with small population size and environmental and demographic stochasticity, and other chance events that increase mortality or reduce reproductive success.

Existing regulatory mechanisms and conservation efforts do not address these threats to the island marble butterfly to the extent that listing is not warranted.

This rule also designates critical habitat for the island marble butterfly in accordance with the Endangered Species Act. The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for the island marble butterfly.

Economic analysis. We prepared an economic analysis of the impacts of designating critical habitat. We made the draft economic analysis available for public comments on April 12, 2018 (83 FR 15900). The analysis found no significant economic impact of the designation of critical habitat.

Peer review and public comment. We sought comments from five independent specialists to ensure that our species determination and critical habitat designation are based on scientifically sound data, assumptions, and analyses. We obtained opinions from two knowledgeable individuals with scientific expertise to review our technical assumptions and analysis, and whether or not we had used the best scientific data available. These peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarification, and suggestions to improve this final rule. Information we received from peer review is incorporated into this final rule. We also considered all comments and information we received from the public during the comment period for the proposed listing and the proposed designation of critical habitat.

Previous Federal Actions

On April 12, 2018, we published in the **Federal Register** a proposed rule (83 FR 15900) to list the island marble butterfly as an endangered species and to designate critical habitat for the species under the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). Please refer to that proposed rule for a detailed description of Federal actions concerning the island marble butterfly that occurred prior to the proposal's publication.

Summary of Changes From the Proposed Rule

Based on information we received from peer reviewers and public commenters, in this rule, we make the following changes from our April 12, 2018, proposed rule (83 FR 15900):

(1) We describe habitat use by the island marble butterfly to better reflect

that the organism exhibits “patchy” population dynamics at the local scale rather than following a classic metapopulation dynamic model;

(2) We indicate that the island marble butterfly has been observed flying on lands immediately adjacent to the American Camp unit of San Juan Island National Historical Park (SJINHP);

(3) We update portions of the rule to reflect the most current information regarding captive rearing and monitoring;

(4) We indicate that while female island marble butterflies tend to use a single host plant species in each of three specific habitat types, there are instances (for example, when host plants are scarce) when they will use another of the three known host plant species in a specific habitat type;

(5) We revise the description of the time that island marble butterflies spend as winged adults from an estimated average of 6 to 9 days to include the potential to persist as winged adults for up to 16 days, based on documentation provided by two separate commenters;

(6) We include information regarding the aversion male island marble butterflies have demonstrated for flying over tall vegetation, including avoiding flying over fields of tall grasses; and

(7) We revise the critical habitat discussion and designation to address the limitations in the precision of mapped critical habitat, to clarify that the critical habitat designation includes road shoulders and road margins, and to clarify our intent to designate as critical habitat only the steep coastal bluffs on private lands near Eagle Cove.

Summary of Comments and Recommendations

In our April 12, 2018, proposed rule (83 FR 15900), we requested that all interested parties submit written comments on the proposal by June 11, 2018. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposed determination, proposed designation of critical habitat, and draft economic analysis. Newspaper notices inviting general public comment were published in the *Islands' Sounder*, *Journal of the San Juans*, and the *Seattle Times*. We did not receive any requests for a public hearing. All substantive information provided during the comment period has either been incorporated directly into this final rule or is addressed below.

During the comment period, we received 23 comment letters addressing the proposed determination and/or the

proposed critical habitat designation. We address all substantive comments either below or by making the requested changes to the rule, as described above, when we determined that they were correct. We did not receive comments from any Federal agencies or Tribes. We received a letter of support from the Washington Department of Fish and Wildlife; however, their letter did not contain any comments or requests for revision of the language.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise that included familiarity with the island marble butterfly and its habitat, biological needs, and threats; the geographic region in which the species occurs; and conservation biology principles. We received responses from two of the peer reviewers.

We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the island marble butterfly and its critical habitat. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

(1) *Comment:* One peer reviewer highlighted the lack of clarity surrounding what constitutes a “site,” both within American Camp and outside of the park.

Our Response: Due to the way data were collected and submitted to the Service, we were limited in the way we could reference and analyze detection or nondetection of the island marble butterfly in any given year. We assign the term “site” to each location that has a name and survey information associated with it.

(2) *Comment:* One peer reviewer indicated that describing the island marble butterfly as having a “low dispersal capacity” was inaccurate and suggested revising the narrative to reflect that the island marble butterfly exhibits “patchy population dynamics.”

Our Response: We revised the narrative in this rule to reflect that the island marble butterfly generally exhibits weak site fidelity and low to intermediate dispersal capacity, which are key behavioral components of patchy population dynamics.

(3) *Comment:* One peer reviewer and one commenter identified potential

suitable habitat for the island marble butterfly in areas known to be previously occupied and stated that these areas should be included in critical habitat.

Our Response: We considered all previously occupied areas in the analysis of proposed critical habitat. For the reasons stated below under *Areas Occupied at the Time of Listing*, we are designating critical habitat only on and around American Camp. We are unable, at this time, to delineate any specific unoccupied areas that are essential to the conservation of the island marble butterfly due to the ephemeral and patchy nature of the species' habitat and our limited understanding regarding the ideal configuration of habitat, the ideal size and number of habitat patches, and how these habitat patches may naturally evolve on the landscape. This does not mean that other areas are not important or valuable to the recovery of the island marble butterfly, or that we only need one occupied unit to recover the species.

Public Comments

(4) *Comment:* One commenter posited that the decline and disappearance of the island marble butterfly was caused, in part, by the decline in traditional harvest of food resources by pre-European peoples who inhabited the Gulf Islands and the San Juan archipelago followed by the introduction and establishment of nonnative weedy plant species.

Our Response: While these factors may have contributed to the decline of the island marble butterfly and other disturbance-dependent native butterfly species, we were unable to locate any substantiating evidence that would support this claim.

Background

Species Information

Taxonomy and Species Description

The island marble butterfly (*Euchloe ausonides insulanus*) is a subspecies of the large marble butterfly (*E. ausonides*) in the Pieridae family, subfamily Pierinae, which primarily consists of yellow and white butterflies. The island marble butterfly was formally described in 2001, by Guppy and Shepard (p. 160) based on 14 specimens collected between 1859 and 1908 on or near Vancouver Island, British Columbia, Canada, and is geographically isolated from all other *E. ausonides* subspecies. The taxonomic status of the island marble butterfly is not in dispute. *Euchloe ausonides insulanus* is recognized as a valid subspecies by the Integrated Taxonomic Information

System (ITIS 2015a, entire) based on the phenotypic differences documented in Guppy and Shepard (2001). In this rule, we use shorthand for simplicity in referring to the island marble butterfly as a species because subspecies are treated as species for the purposes of evaluating taxa for listing under the Act.

Island marble butterflies have a wingspan of approximately 1.75 inches (in) (4.5 centimeters (cm)) (Pyle 2002, p. 142) and are differentiated from other subspecies of the large marble butterfly by their larger size and the expanded marbling pattern of yellow and green on the underside of the hindwings and forewings (Guppy and Shepard 2001, p. 159). Immature stages of the island marble butterfly have distinctly different coloration and markings from *Euchloe ausonides*; specifically, the third and fourth larval instars (instars are the larval stages between molting events) have a white spiracular stripe (a stripe that runs along the side of a caterpillar) subtended (bordered below) by a yellow-green subspiracular stripe and a green-yellow ventral area, which is different from the stripe colors and patterns described for *E. ausonides* (James and Nunnallee 2011, pp. 102–103; Lambert 2011, p. 15). The island marble butterfly is also behaviorally distinct; large marble butterflies pupate (enter the final stage of larval development before transforming into a butterfly) directly on their larval host plants, whereas the island marble butterflies leave their host plants to find a suitable pupation site up to 13 feet (ft) (4 meters (m)) away from their larval host plants (Lambert 2011, p. 19).

Distribution

The island marble butterfly was historically known from just two areas along the southeastern coast of Vancouver Island, British Columbia, Canada, based on 14 museum records: The Greater Victoria area at the southern end of Vancouver Island; and near Nanaimo and on adjacent Gabriola Island, approximately 56 miles (mi) (90 kilometers (km)) north of Victoria. The last known specimen of the island marble butterfly from Canada was collected in 1908 on Gabriola Island, and the species is now considered extirpated from the province (COSEWIC 2010, p. 6). Reasons for its disappearance from Canada are unknown. Hypotheses include increased parasitoid loads (the number of individual deadly parasites within an individual caterpillar) associated with the introduction of the cabbage white butterfly (Guppy and Shepard 2001, p. 38) or heavy grazing of natural meadows by cattle and sheep, which severely

depressed its presumed larval food plant (SARA 2015).

After 90 years without a documented occurrence, the island marble butterfly was rediscovered in 1998 on San Juan Island, San Juan County, Washington, at least 9 mi (15 km) east of Victoria across the Haro Strait. Subsequent surveys in suitable habitat across southeastern Vancouver Island and the Gulf Islands in Canada (see COSEWIC 2010, p. 5), as well as the San Juan Islands and six adjacent counties in the United States (Whatcom, Skagit, Snohomish, Jefferson, Clallam, and Island Counties), revealed only two other occupied areas. One of these occupied areas was centered on San Juan Island and the other on Lopez Island, which is separated from San Juan Island by just over 0.5 mi (1 km) at its closest point. These occupied areas were eventually determined to comprise five populations, as described in detail in our 2006 12-month finding (71 FR 66292; November 14, 2006). Since 2006, the number and distribution of populations has declined. Four of the five populations that once spanned San Juan and Lopez Islands have not been detected in recent years, and the species is now observed only in a single area centered on American Camp, a part of San Juan Island National Historical Park that is managed by the National Park Service (NPS). The island marble butterfly has also been sighted using the lands adjoining or near American Camp; there were observations of island marble butterflies flying beyond the boundaries of these adjoining lands in 2015 and 2017 (Potter 2015a, *in litt.*; Lambert 2018, *in litt.*).

No current records exist of any life-history stage of the island marble butterfly except at or near American Camp at San Juan Island National Historical Park. Therefore, we consider only American Camp and the immediately adjacent areas to be occupied at the time of this final listing.

Survey Effort

Extensive surveys have been conducted in British Columbia, Canada, since 2001, with an estimated 500 survey hours conducted by professional surveyors and 2,000 survey hours by volunteer butterfly enthusiasts (COSEWIC 2010, p. v). During these surveys, neither the island marble butterfly nor suitable habitat was detected (COSEWIC 2010, p. vi). The species has been considered extirpated in British Columbia since 1910, and was formally designated extirpated in 1999 by the Canadian government (COSEWIC 2000, p. iii).

In the United States, surveys for the island marble butterfly have also been extensive. In 2005 and 2006, we partnered with NPS, Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (WDNR), the University of Washington, and the Xerces Society to survey for the presence of the island marble butterfly during the adult flight period (when eggs are laid and larvae are active; early April–late June). Qualified surveyors conducted approximately 335 individual surveys at more than 160 sites in potentially suitable habitat across 6 counties (Clallam, Jefferson, Island, San Juan, Skagit, and Whatcom Counties) and on 16 islands (Miskelly and Potter 2005, pp. 5, 7–16; Miskelly and Fleckenstein 2007, pp. 4, 10–19). Outside of American Camp, sites were defined primarily by ownership, although some exceptionally large sites were subdivided and received unique site names. All surveys followed a set of standardized protocols to ensure they were conducted when butterflies had the highest likelihood of being detected (see Miskelly and Potter 2005, p. 4). Island marble butterflies were considered present at sites where eggs, larvae, or adults of the species were detected. These surveys documented five populations distributed across San Juan and Lopez Islands, including the single population persisting today centered on American Camp (Miskelly and Fleckenstein 2007, pp. 4–5).

Annual surveys conducted outside of American Camp from 2007–2012 focused on areas with suitable habitat on San Juan and Lopez Islands. These surveys generally included previously occupied sites, when accessible, in order to document whether or not island marble butterflies persisted at the sites where they were detected in 2005 and 2006. After years of observing a rangewide decline in available island marble butterfly habitat and dwindling island marble butterfly detections, WDFW determined that there was not enough suitable habitat remaining outside of American Camp to warrant continued widespread survey efforts on San Juan and Lopez Islands. Therefore, surveys in 2013 and 2014 focused solely on assisting with monitoring at American Camp and surveying lands directly adjacent to the park (Potter 2015a *in litt.*). Surveys to monitor the status of the population centered on American Camp have been conducted annually from 2004 to 2015, although the effort has varied through time (see “Abundance,” below, for additional information).

In 2015, in addition to annual population monitoring at American Camp, the Service funded an extensive survey of sites on San Juan Island outside of American Camp. Areas surveyed included those sites where island marble butterflies had previously been detected, as well as areas with suitable habitat with no prior detections. Researchers conducted 134 individual surveys at a total of 48 sites, including 24 sites where the island marble butterfly had been documented previously. The survey yielded no detections of the island marble butterfly outside of American Camp.

Multiple years of extensive surveys conducted across formerly occupied sites have failed to detect the species. However, it is possible that the island marble butterfly continues to exist at a handful of small isolated sites where surveyors were not granted access or were unable to survey during suitable conditions (Miskelly and Potter 2005, *entire*; Miskelly and Fleckenstein 2007, *entire*; Miskelly and Potter 2009, *entire*; Hanson *et al.* 2009, *entire*; Hanson *et al.* 2010, *entire*; Potter *et al.* 2011, *entire*; Vernon and Weaver 2012, *entire*; Weaver and Vernon 2014, *entire*; Potter 2015a *in litt.*; Vernon 2015a, *entire*).

Abundance

In our 2006 12-month finding, we estimated the abundance of island marble butterflies to be “probably less than 500 butterflies, and possibly as low as 300 individuals” (71 FR 66292, November 14, 2006, p. 66295). These numbers were based on limited data, and their accuracy is uncertain. Since 2006, there have been several efforts to either directly estimate population size or evaluate changes in relative abundance through time (described below). In addition, captive-rearing and release of butterflies was initiated in 2013, and as of the spring of 2018, over 500 captive-raised butterflies have been released at American Camp to supplement the population (SJINHP 2018, *in litt.*) (see the discussions of conservation efforts under Factors A and C, below, for more details).

Site Occupancy—The number of sites where the island marble butterfly is detected each year is a useful indicator of coarse-scale changes in abundance. The island marble butterfly has been recorded at a total of 63 individual sites since rangewide surveys began in 2005: The species was found at 37 sites in and around American Camp and 26 sites outside of American Camp (Miskelly and Potter 2005, pp. 7–14; Miskelly and Fleckenstein 2007, pp. 14–19; Miskelly and Potter 2009, pp. 7–8, 10–11; Hanson *et al.* 2009, pp. 10–11, 24–28; Hanson *et*

al. 2010, pp. 12–13, 26–30; Potter *et al.* 2011, pp. 10–23, 15–23; Potter 2012, unpublished; Potter 2013, unpublished; Vernon and Weaver 2012, pp. 4–7; Weaver and Vernon 2014, pp. 5–8). The number of occupied sites recorded at American Camp is somewhat confounded by changes in survey methods and effort through time (see “Survey Effort,” above). We recognize this as a potential source of uncertainty, but note that both transect data and anecdotal observations suggest a population decline at American Camp since monitoring began in 2004 (see *Transect Counts*, below).

The largest number of concurrently occupied sites reported was 25 in 2007, 10 of which were outside of American Camp (Miskelly and Potter 2009, pp. 7–8, 10–11; Potter *et al.* 2011, pp. 15–16). The number of occupied sites declined every year from 2007 to 2011, with the species detected at only seven sites in 2011, only one of which was outside of American Camp. In 2015, adult island marble butterflies were detected at only four of the regularly monitored sites at American Camp, the fewest occupied sites ever recorded, and no adults, eggs, or larvae were detected outside of the greater American Camp area (Potter 2015a *in litt.*; NPS 2015, *entire*; Vernon 2015b, *entire*), although there were two observations of single adult butterflies flying just beyond the boundary of the park that were not recorded in formal surveys by NPS (Potter 2015a, *in litt.*). Island marble butterflies were detected as eggs in six additional research plots at American Camp (Lambert 2015d, p. 4), but none of the eggs tracked in the research plots survived to the fifth larval instar (Lambert 2015d, p. 13). In 2016 and 2017, larval habitat for the island marble butterfly at American Camp increased substantially, and survivorship of individuals tracked from eggs through fifth instar larvae increased from zero in 2015 to 3 percent in 2016 (Lambert 2016a, pp. 10, 21), but decreased to 1 percent in 2017, the last year for which survivorship data were collected (Lambert 2017, pp. 3, 12).

The reasons for the precipitous decline in the number of occupied sites since 2005 are not known with certainty, but the near-complete loss of habitat outside of American Camp in some years is likely a principal cause. Habitat loss has been caused by road maintenance, mowing, cultivation of land, intentional removal of host plants, improperly timed restoration activities, development, landscaping, deer browse, and livestock grazing (Miskelly and Potter 2005, p. 6; Miskelly and Fleckenstein 2007, p. 6; Miskelly and Potter 2009, p. 9; Hanson *et al.* 2009, p.

18; Hanson *et al.* 2010, p. 21; Potter *et al.* 2011, p. 13).

Transect Counts—Counts along transects can provide a measure of relative abundance, which can be useful in assessing changes in the population among sites and through time (Peterson 2010, pp. 12–13). From 2004 to 2008, Lambert (2009) counted adult island marble butterflies along transects at American Camp (14 established in 2004, and an additional 2 (for a total of 16) established in 2005), finding a consistent and significant decline in the number of adults observed: They counted 270 in 2004, 194 in 2005, 125 in 2006, 71 in 2007, and 63 in 2008 (Lambert 2009, p. 5). These raw counts were also translated to relative encounter rates that account for differences in survey effort across years, and these encounter rates also showed a marked decline until 2016 (USFWS 2016). Four of these transects were monitored by NPS almost continuously from 2004 to 2016 (one transect was not monitored from 2009 to 2011), and relative encounter rates were calculated that accounted for transect length and the number of times the transect was surveyed each year. The relative encounter rate on these transects declined substantially between 2004 and 2015, from almost 2 butterflies per 100 meters surveyed in 2004, to approximately 0.3 butterflies per 100 meters in 2015 (USFWS 2016). Survey results for 2016 improved across the three transects consistently monitored at American Camp, with approximately 0.6 butterflies per 100 meters. While an observation of 0.6 butterflies per 100 meters reflects an improvement from recent years, this improvement does not reverse the overall decline observed since monitoring began in 2004. The Service has not received updated transect data for the flight seasons of 2017 or 2018.

Mark-Release-Recapture—Mark-release-recapture (MRR) studies were conducted at American Camp in 2008 and 2009 (and at one additional site on San Juan Island—the Pear Point Gravel Quarry, which is no longer occupied) (Peterson 2009, 2010, *entire*). These studies sought to address several demographic questions and to assess whether transect counts were a reliable method to estimate changes in the population through time (Peterson 2009, p. 3). MRR population estimates were generated for three focal areas at American Camp in 2009: The western end of American Camp (an estimated 50 individuals), American Camp below the Redoubt (an estimated 39 individuals), and the dunes at American Camp (an estimated 24 individuals). However,

because American Camp was not surveyed in its entirety, these areas represent an unquantified fraction of the occupied habitat at American Camp; therefore, we cannot extrapolate from this information to estimate the rangewide population.

In summary, monitoring efforts have varied since 2008, but reports from NPS indicate an ongoing decrease in the relative abundance of the island marble butterfly at American Camp, suggesting that total numbers continue to decline (Vernon and Weaver 2012, pp. 5–6; Weaver and Vernon 2014, p. 6). While reliable and precise rangewide population estimates have not been produced for this species, the available evidence suggests that the species has a very small population that has declined substantially since monitoring began in 2004.

Habitat

The island marble butterfly has three known host plants, all in the mustard family (Brassicaceae). One is native, *Lepidium virginicum* var. *menziesii* (Menzies' pepperweed), and two are nonnative: *Brassica rapa* (no agreed-upon common name, but sometimes called field mustard; hereafter referred to as field mustard for the purposes of this document) (ITIS 2015b, entire), and *Sisymbrium altissimum* L. (tumble mustard) (Miskelly 2004, pp. 33, 38; Lambert 2011, p. 2).

All three larval host plants occur in open grass- and forb-dominated vegetation systems, but each species is most robust in one of three specific habitat types: Menzies' pepperweed at the edge of low-lying coastal lagoon habitat; field mustard in upland prairie habitat, disturbed fields, and disturbed soils, including soil piles from construction; and tumble mustard in sand dune habitat (Miskelly 2004, p. 33; Lambert 2011, pp. 24, 121–123). While each larval host plant can occur in the other habitat types, female island marble butterflies tend to select specific host plants in each of the three habitat types referenced above, likely because certain host plants are more robust in each habitat type during the flight season (Miskelly 2004, p. 33; Lambert 2011, pp. 24, 41, 50, 54–57, 121–123; Shrum 2018, *in litt.*). Host plants that establish and grow outside of their primary habitat type typically are less robust, and female butterflies do not appear to choose them preferentially but may use them when other larval habitat is limited (Lambert 2011, pp. 24, 41, 50, 54–57, 121–123; Shrum 2018, *in litt.*).

Adults primarily nectar (forage) on their larval host plants (Potter 2015e,

pers. comm.), but use a variety of other nectar plants including:

- *Abronia latifolia* (yellow sand verbena),
- *Achillea millefolium* (yarrow),
- *Amsinckia menziesii* (small-flowered fiddleneck),
- *Cakile edentula* (American sea rocket),
- *Cerastium arvense* (field chickweed),
- *Erodium cicutarium* (common stork's bill),
- *Geranium molle* (dovefoot geranium),
- *Hypochaeris radicata* (hairy cat's ear),
- *Lomatium utriculatum* (common lomatium),
- *Lupinus littoralis* (seashore lupine),
- *Myosotis discolor* (common forget-me-not),
- *Ranunculus californicus* (California buttercup),
- *Rubus ursinus* (trailing blackberry),
- *Taraxacum officinale* (dandelion),
- *Toxicoscordion venenosum* (death camas, formerly known as *Zigadenus venenosus*), and
- *Triteleia grandiflora* (Howell's brodiaea, formerly *Brodiaea howellii*) (Miskelly 2004, p. 33; Pyle 2004, pp. 23–26, 33; Miskelly and Potter 2005, p. 6; Lambert 2011, p. 120; Vernon and Weaver 2012, appendix 12; Lambert 2015a, p. 2, Lambert 2015b, *in litt.*). Of these additional nectar resources, island marble butterflies are most frequently observed feeding on yellow sand verbena, small-flowered fiddleneck, and field chickweed (Potter 2015e, pers. comm.). Adults primarily use low-statured, white-flowering plants such as field chickweed as mating sites (Lambert 2014b, p. 17).

Biology

The island marble butterfly life cycle comprises four distinct developmental phases: Egg, larva, chrysalis, and butterfly. Development from egg to chrysalis takes approximately 38 days and includes five instars (phases of larval development between molts) (Lambert 2011, p. 7). Female island marble butterflies produce a single brood per year, and prefer to lay their eggs individually on the unopened terminal flower buds of their larval host plants (Lambert 2011, pp. 9, 48, 51). Gravid female butterflies appear to select plants with many tightly grouped flower buds over host plants with fewer buds, and they tend to avoid laying eggs on inflorescences (flower heads) where other island marble butterflies already have deposited eggs (Lambert 2011, p. 51). However, the number of eggs laid on a single host plant has been observed

to vary with the density and distribution of host plants and may also be affected by host plant robustness as well as the age of the individual female butterfly (Parker and Courtney 1984, entire; Lambert 2011, pp. 9, 53, 54).

First instar larvae are able to feed only on tender portions of the host plant, such as developing flower buds and new growth, and initially move no more than a few centimeters from where they hatch before they must feed; thus, larvae that hatch from eggs located more than a few centimeters from a host plant's flower heads often starve before reaching a suitable food source (Lambert 2011, pp. 12–13). The limited locomotion of newly hatched larvae and their reliance on tender flower buds as a food resource leads to a concentration of early-instar larvae near the tips of their larval host plants (Lambert 2011, p. 13). Larvae become more mobile in later instars, and their better developed mouthparts allow them to consume older, tougher plant material. Eventually, they may move to stems of other nearby host plants to forage (Lambert 2011, pp. 15–17).

The fifth (last) instar larvae “wander” through standing vegetation, never touching the ground, as they search for a suitable site on which to pupate (form a chrysalis) (Lambert 2011, p. 20). The greatest distance a fifth instar larva has been observed to move from its final larval host plant was 4 meters, but few observations exist (Lambert 2011, p. 19). Fifth instar larvae select slender dry stems in the lower canopy of moderately dense vegetation as sites for pupation and entering diapause, a state of suspended development (Lambert 2011, p. 21).

Island marble butterflies spend the largest portion of their annual life cycle in diapause as chrysalids. They enter diapause in midsummer and emerge as butterflies in the spring of the following year. One island marble chrysalis remained in diapause for 334 days (11 months) (Lambert 2011, p. 22). Extremely low survivorship at early life-history stages has been found in recent years (*e.g.*, of 136 and 226 individual eggs tracked in 2014 and 2015, respectively, zero survived to pupation; Lambert 2015d, p. 13).

Adult island marble butterflies emerge from early April to mid-June and live as winged adults for up to 16 days (Peterson 2009, p. 7; Peterson 2018, *in litt.*; Vernon 2018, *in litt.*), with most persisting for a much shorter period; estimates range from 2 to 9 days (Lambert 2011, pp. 50, 180; Peterson 2009, p. 7).

Males emerge 4 to 7 days before females and patrol hillsides in search of

mates (Lambert 2011, p. 47). Male island marble butterflies have been observed to prefer low-statured vegetation, generally avoiding flight over expanses of tall grasses (Miskelly 2018, *in litt.*). Male island marble butterflies are attracted to white (ultraviolet-reflecting) objects that may resemble females and have been observed to investigate white flowers (e.g., field chickweed and yarrow), white picket fences, and white lines painted on the surface of roads (Lambert 2011, p. 47). When a male locates a receptive female, mating may occur hundreds of meters from the nearest larval host plant, increasing the potential extent of adult habitat to include a varied array of plants and vegetative structure (Lambert 2011, p. 48). Individual adult island marble butterflies seldom disperse distances greater than 0.4 mi (0.6 km), with the greatest documented dispersal distance being 1.2 mi (1.9 km) (Peterson 2010, pp. 3, 12).

Island marble butterflies generally exhibit weak site fidelity and low to intermediate dispersal capacity. When considered rangewide, the island marble butterfly exists as a group of spatially separated populations that interact when individual members move from one occupied location to another (Miskelly and Potter 2009, p. 14; Lambert 2011, p. 147). For the island marble butterfly, a population is defined as a group of occupied sites close enough for routine genetic exchange between individuals. Thus, occupied areas separated by distances greater than 3 mi (4.8 km) with no intervening suitable habitat and a low likelihood of genetic exchange are considered to be separate populations (Miskelly and Potter 2009, p. 12). Five potential populations of island marble butterflies were identified and described in detail in the 2006 12-month finding (71 FR 66292, November 14, 2006, p. 66294): American Camp and vicinity, San Juan Valley, Northwest San Juan Island, Central Lopez Island, and West Central Lopez Island. As described previously, only the population at American Camp has been detected since 2012.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for determining whether a species is an endangered species or threatened species. The Act defines an endangered species as “in danger of extinction throughout all or a significant portion of its range,” and a threatened species as “likely to become an

endangered species within the foreseeable future throughout all or a significant portion of its range.” Section 4(a)(1) requires the Secretary to determine whether a species is an endangered species or threatened species because of any of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

To inform the determination, we complete a status assessment in relation to the five factors using the best available scientific and commercial data. The status assessment provides a thorough description and analysis of the stressors, regulatory mechanisms, and conservation efforts affecting individuals, populations, and the species. We use the terms “stressor” and “threat” interchangeably, along with other similar terms, to describe anything that may have a negative effect on the island marble butterfly. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. The mere identification of threats that could affect the island marble butterfly is not sufficient to compel a finding that listing is appropriate. Rather, we evaluate the effects of the threats in light of the exposure, timing, and scale of the threats, both individually and cumulatively, and any existing regulatory mechanisms or conservation efforts that may ameliorate or exacerbate the threats in order to determine if the species meets the definition of an endangered species or threatened species.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Since we first analyzed stressors to the island marble butterfly's habitat on San Juan and Lopez Islands in 2006, the species' distribution has contracted, and it is now known only from American Camp and the immediate vicinity on San Juan (see “Distribution,” above). Island marble butterfly larval habitat in natural landscapes, such as that found at American Camp, is patchy at best, making it difficult to estimate the

acreage of larval host plants. Additionally, larval host plants are early successional species that thrive in disturbed habitats. This can result in larval habitat patches that may be present one year and gone the next, depending on the level of disturbance present on the landscape.

Development

Residential development occurs on both San Juan and Lopez Islands, primarily on private lands. Habitat loss from development affects the island marble butterfly by reducing the availability of secure habitat that will persist long enough for the island marble butterfly to complete its life cycle. Development may also affect the known occupied range of the island marble butterfly by constraining the amount of stepping-stone habitat (patches of habitat too small to maintain an established population, but large enough to allow for connectivity between larger suitable patches) for dispersal. In addition, mowing or removal of host plants (e.g., for landscaping around developments) may also remove island marble butterfly habitat or prevent its establishment. Because female island marble butterflies selectively lay their eggs on the inflorescences (flowering head) of tall, robust plants (Lambert 2011, p. 55), mowing host plants reduces the availability of suitable oviposition (egg laying) sites for the island marble butterfly.

Within American Camp, which is protected by NPS regulations (see Factor D discussion, below), development is not a threat to the island marble butterfly. However, residential development was a threat to island marble butterfly habitat in the Cattle Point Estate and Eagle Cove developments adjacent to American Camp. These areas accounted for 199 ac (81 ha) of island marble butterfly habitat, or 18 percent of occupied habitat in 2006, which are now unoccupied due to habitat loss (Potter 2015a, *in litt.*) associated with development (e.g., mowing, landscaping, or removal of host plants) (Miskelly and Potter 2005, p. 6; Miskelly and Fleckenstein 2007, p. 6; Hanson *et al.* 2009, p. 9).

In 2006, we noted that development was occurring less rapidly in the areas to the north and west of American Camp and on Lopez Island where lands comprised small, rural farms with pastures and low-density residential properties. We concluded that these areas, containing about 361 ac (146 ha), or 32 percent of the occupied habitat as of 2006, would be managed in a way

that was compatible with island marble butterfly habitat. Since that time, the amount of farmland in San Juan County has decreased, with the greatest loss of farmland in San Juan County attributed to the subdivision of larger farms into smaller parcels, which have then been developed (San Juan County Agricultural Resources Committee 2011, p. 23). While there are no estimates of the amount of potential habitat for the island marble butterfly lost specifically to development, habitat loss outside of American Camp from a variety of sources has been substantial (Miskelly and Potter 2005, p. 6; Miskelly and Fleckenstein 2007, p. 6; Miskelly and Potter 2009, p. 9; Hanson *et al.* 2009, pp. 18–19; Potter *et al.* 2011, pp. 13–14; Potter 2015a, *in litt.*). In addition to development of former agricultural lands, perhaps more significant are the management practices on these lands that effectively preclude recolonization by island marble butterflies or create population sinks (habitat patches that attract dispersing individuals, but do not allow them to complete their life cycle and reproduce) (see “Agricultural Practices,” below). We conclude that development has substantively contributed to the extirpation of the island marble butterfly outside of American Camp and remains one of several factors impeding successful recolonization of previously occupied habitats; however, because American Camp is protected from development by NPS regulations and is where the species solely occurs, development is not a threat currently acting on the remaining extant population of the species.

Road Construction

In our 2006 12-month finding (71 FR 66292; November 14, 2006), we evaluated the impact of a planned road relocation project (Cattle Point Road relocation project) through American Camp. Cattle Point Road is the only point of access for residents at the southeastern tip of San Juan Island and traverses the slope of Mount Finlayson, effectively bisecting occupied island marble butterfly habitat at the park. We estimated that the relocation would cause temporary loss of as much as 13 ac (5 ha) of island marble butterfly habitat due to clearing and removal of larval host plants, although there was no known breeding habitat along the highway at that time. We concluded that the road realignment was likely to proceed with little mortality to the island marble butterfly.

Since 2006, we have worked closely with NPS and the Federal Highway Administration (FHA) to ensure that

project impacts were avoided or minimized. Once the project began, in 2015, the Service, NPS, and WDFW actively surveyed the road alignment to remove host plants before they could attract oviposition by female island marble butterflies and to rescue island marble butterfly eggs and larva from any larval host plants that might have been overlooked. Island marble butterfly larval habitat in natural landscapes, such as that found at American Camp, is patchy at best, making it difficult to estimate the acreage of larval host plants. While the area affected by road construction was estimated to be 13 ac (5 ha), larval host plants did not occur in dense patches across the construction site. As a result of these efforts, far less suitable habitat for island marble butterflies was temporarily lost than we anticipated in 2006, and impacts to the island marble butterfly population were significantly reduced and potentially completely avoided.

Habitat restoration will continue for several years; once it is completed, we anticipate that the project will be a net benefit to the quantity and quality of island marble butterfly habitat in the project area due to early coordination with the FHA and the proactive conservation measures they implemented throughout the process. These conservation measures included the proactive removal of all larval host plants from the footprint of the project described above (so that butterflies do not lay eggs on plants bound to be destroyed) and the reseeded of larval and nectar host plant species in the disturbed areas. These measures will both increase the quantity and improve the quality of the habitat surrounding the finished project. In conclusion, road construction is not currently a threat to the island marble butterfly.

Road Maintenance

Road maintenance that destroys or negatively affects island marble butterfly larval host plants has been a concern since 2005, when it was documented as destroying occupied larval habitat on both San Juan and Lopez Islands (Miskelly and Potter 2005, p. 6). For example, in 2005, at Fisherman’s Bay tombolo (a narrow beach landform that connects the mainland to an island) on Lopez Island, road maintenance crews deposited a quantity of sand on occupied larval host plants in an effort to reduce the fire hazard of the vegetation in preparation for a Fourth of July fireworks display. In addition to the deposition of sand on occupied habitat, the remainder of the site was mowed by road maintenance crews, removing all remaining larval

host plants. There were no detections of the island marble butterfly in 2006, a single detection at the tombolo in 2007, and none through 2015 (Miskelly and Potter 2009, p. 21; Potter *et al.* 2011, p. 16; Potter 2015a, *in litt.*).

Roadside maintenance has resulted in the destruction of suitable habitat on Lopez Island and outside of American Camp on San Juan Island (Miskelly and Potter 2005, p. 6). Despite changes in roadside maintenance practices to address habitat loss, these protections were not implemented uniformly throughout San Juan County, nor were they implemented with the immediacy necessary to allow for widespread persistence of island marble habitat along roadsides (Potter 2016, pers. comm.). However, because roadside maintenance at American Camp will be conducted in close coordination with the Service, we conclude that whereas habitat loss associated with road maintenance activities could be one of several factors impeding successful recolonization of previously occupied habitats, it likely will have only minor impacts on the island marble butterfly, given its current distribution. We do not expect these impacts to change within American Camp in the future.

Vegetation Management

The island marble butterfly is present year round and largely stationary while in its early developmental phases, becoming most visible when it becomes a winged adult. The cryptic egg, larval, and chrysalis forms make island marble butterflies vulnerable to land management and restoration practices when those practices overlap occupied areas. For example, in 2005, NPS conducted a prescribed fire intended to restore native prairie, and this fire burned through the occupied habitat during the butterfly’s developmental stage and likely killed all eggs and larvae within the affected area. Similarly, the use of herbicides for the purpose of vegetation restoration in occupied island marble butterfly habitat has been documented (Potter *et al.* 2011, p. 14). Although the direct effects of herbicides on island marble butterflies have not been studied, indiscriminate application of herbicides in areas occupied by eggs or larvae is likely to result in mortality through elimination of larval host plants and primary food resources.

Since 2010, the Service, NPS, WDFW, and other partners have cooperated closely to achieve vegetation management and restoration goals while also conserving the island marble butterfly and its habitat, including nonnative larval host plants. As a result,

vegetation management has not resulted in significant harm to island marble butterflies since 2010. The island marble butterfly is vulnerable to vegetation management or restoration practices that are improperly timed or poorly sited. However, this vulnerability does not, by itself, result in impacts to the species. Currently, vegetation management does not have a significant impact on the species because the ongoing collaboration between cooperating partners has adequately minimized the impacts of vegetation management actions at American Camp.

Agricultural Practices

Agricultural activities that include tilling of the soil have been identified as a stressor for the island marble butterfly (Potter *et al.* 2011, p. 14). Removal or destruction of habitat by conversion from an agricultural condition that provides suitable habitat (*e.g.*, old field pasture) for island marble butterfly to an agricultural condition that does not allow the island marble butterfly to complete its life cycle (*e.g.*, active cropping) has likely led to the decline of occupied island marble butterfly habitat outside of American Camp and continues to contribute to the curtailment of the former range of the species. The species has not been detected since 2012 at any previously occupied agricultural sites that have been surveyed (Potter *et al.* 2011, pp. 15–16; Potter 2012, unpublished data; Potter 2013, unpublished data; Vernon 2015b *in litt.*, entire). In addition, no new occupied sites in agricultural areas have been detected during surveys conducted in 2015 (Vernon 2015a, entire).

Practices on San Juan and Lopez Islands that require tilling the soil, such as grain farming, can promote growth of field mustard (a host plant) during the island marble butterfly's flight period if tilling takes place during fall and winter months (*e.g.*, December through February), allowing field mustard seeds in the seed bank to germinate and mature in synchrony with the needs of the island marble butterfly. Because cereal crops compete with field mustard, the array of established plants can result in a diffuse number of larval host plants at a density attractive to female island marble butterflies searching for an oviposition site. When actively cropped agricultural areas with larval host plants occur near occupied habitat, they can create an "ecological trap" if dispersing females lay eggs where the larvae do not have adequate time to complete their life cycle before the crop is harvested and the site is tilled for replanting the following spring

(Hanson *et al.* 2009, pp. 18–19; Miskelly and Potter 2009, p. 14).

Similarly, grazing can produce an ecological trap if females lay eggs in suitable habitat that is then consumed by livestock (see *Herbivory by livestock*, below). However, since the 1980s, farming on San Juan Island has trended toward small market gardens, and large, livestock-based farms have been reduced in number (San Juan County Agricultural Resources Committee 2011, p. 16). Livestock grazing does not currently overlap any areas known to be occupied by the island marble butterfly; thus, livestock grazing is not currently a threat to the island marble butterfly, although it could become a threat in the future if the island marble butterfly were to become reestablished in areas where grazing takes place. The best available scientific and commercial information does not indicate that agricultural practices currently affect the island marble butterfly because the known population occurs on NPS lands that are not managed for agricultural use.

Plant Succession and Competition With Invasive Species

All of the known larval host plants for the island marble butterfly are annual mustard species that are dependent on open, early-successional conditions for germination (Lambert 2011, p. 149). Disturbance or active management maintains these conditions; otherwise, plant succession and invasion by weedy native and nonnative plants greatly inhibit germination and growth of larval host plants. These processes of vegetation change thus degrade and reduce the availability of habitat required by the island marble butterfly to complete its life cycle.

Succession of open, low-statured vegetation to woody plants is a natural process in the absence of anthropogenic burning or other forms of disturbance. The cessation of Native American burning in the mid-1800s resulted in the loss of prairie habitat in western Washington, including the San Juan archipelago, due to tree and shrub encroachment (Hamman *et al.* 2011, p. 317). Prairies were repeatedly burned during historical times by Native Americans for a variety of reasons, and areas used for cultivation of food plants, such as *Camassia leichtlinii* or *C. quamash* (great camas and common camas, respectively), may have been burned on an annual basis (Beckwith 2004, pp. 54–55; Boyd 1999, entire; Chappell and Kagan 2001, p. 42).

Early estimates of the size of the prairie at American Camp suggest it may have been as large as 1,500 acres (ac)

(607 hectares (ha)) when the first Europeans arrived (Douglas 1853, entire). Today, the prairie is estimated to be 695 ac (281 ha) due, in part, to succession and encroachment of Douglas-fir trees (*Pseudotsuga menziesii*) and other woody vegetation (Rocheffort *et al.* 2012, p. 9). Reclaiming and maintaining open prairie habitat at American Camp requires active management to control Douglas fir trees and other woody species (Rocheffort *et al.* 2012, p. 4).

Two of the three known larval hosts for the island marble butterfly are introduced species that self-propagate into open, disturbed areas: Field mustard and tumble mustard. In the absence of active restoration or disturbance, other weedy plant species, as well as woody plants and trees, are likely to colonize the site, eventually outcompeting the early-successional host plants. At American Camp, where remnant prairie persists, weedy species such as *Elymus repens* (quack grass), *Holcus lanatus* (velvet grass), *Cirsium arvense* (Canada thistle), and *Vicia sativa* (common vetch), among others, outcompete the larval host plants in the absence of disturbance.

Competition with nonnative species also affects host plants in sand dune habitat. The sand dunes represent a unique habitat type for the island marble butterfly that includes open, shifting sands easily colonized by the larval host plant, tumble mustard (Lambert 2011, p. 42). While Menzies' pepperweed and field mustard also occasionally occur in dune habitat, tumble mustard is the host plant that occurs there most commonly, is most robust in this habitat type, and can create continuous stands of larval host plants under optimal conditions (Lambert 2011, pp. 42, 65). When nonnative species such as Canada thistle, hairy cat's ear, and *Rumex acetosella* (sheep sorrel) colonize the sandy dune habitat, the dunes become increasingly stable and the effect is a reduction in the available germination sites for tumble mustard (Weaver and Vernon 2014, pp. 5, 9). Canada thistle has the greatest potential to negatively affect dune habitat where it is stabilizing the sand and facilitating establishment of grasses, which, in turn, displace tumble mustard (Rocheffort 2010, p. 28; Weaver and Vernon 2014, p. 9).

Conditions for larval host plants continue to be degraded through plant succession and invasion throughout the range of the island marble butterfly. Loss of habitat conditions favorable for larval host plants, and thus habitat loss for the island marble butterfly, occurs in

at least two of three habitat types at American Camp, the only area where the island marble butterfly is currently known to persist (Weaver and Vernon 2014, pp. 5, 9). Loss of potentially suitable but not currently occupied habitat resulting from succession also occurs in any areas outside of American Camp where these processes take place. Due to the extremely limited numbers and range of the island marble butterfly, any further loss of habitat may lead to further decline of the species and preclude its establishment in new areas.

Herbivory

Herbivory by deer: Black-tailed deer (*Odocoileus hemionus columbianus*) are common in the San Juan Island archipelago. At the single occupied site where island marble butterfly is currently known to exist, black-tailed deer numbers appear to be increasing (Lambert 2014a, p. 3). Browsing deer prefer flowering plants when available, and tend to select stems on the tops or sides of plants over the stems that emerge lower on the stalk (Anderson 1994; p. 107; Lambert 2015c, *in litt.*, Thomas 2015, pers. obs.). Specifically, at study sites where island marble butterflies exist, deer browse selectively on robust larval host plants with several inflorescences of compact flower buds—the same plant characteristics preferred by female island marble butterflies as egg-laying sites (Lambert 2011, p. 103). The effect of deer browsing on larval host plants is three-fold. First, it destroys suitable egg-laying habitat; second, it stimulates rapid growth of lateral (side) stems on the plant, rendering the plant less likely to support an individual butterfly from egg to late-instar larva; and third, continual browsing of the flowering portion of the plant reduces seed production, resulting in fewer larval host plants over time (Lambert 2011, p. 10; Lambert 2014a, p. 10; Lambert 2015d, p. 17). Deer browsing, which stimulates rapid lateral stem growth, results in increased mortality when eggs are laid on the flowers of lateral stems on the larval host plants (Lambert 2011, p. 10). Immobile, early-instar larvae of island marble butterfly present on these stems are left behind as the stems grow away from them. When the larvae can no longer access the tender tissues at the developing tips of the plant that they require for survival, they die from starvation (Lambert 2011, p. 10, Lambert 2015e, *in litt.*).

The destructive effects of deer browsing on larval habitat are common where surveys have taken place throughout the known range of the island marble butterfly (Miskelly and

Fleckenstein 2007, p. 6; Miskelly and Potter 2009, pp. 11, 15; Hanson *et al.* 2009, pp. 4, 13, 19–20; Hanson *et al.* 2010, pp. 21–22; Potter *et al.* 2011, pp. 5, 13; Lambert 2011, p. 104; Lambert 2014a, entire; Weaver and Vernon 2014, p. 10; Vernon and Weaver 2012, p. 9; Lambert 2015d, pp. 17–18). At American Camp, herbivory by deer has affected 95 percent of field mustard plants in some years (Lambert 2011, p. 127). Deer exclusion fencing has been erected to protect suitable habitat at American Camp to counteract the impacts of deer browsing, but the fencing has not been fully effective at excluding deer, and deer have continued to consume occupied larval host plants (see “Habitat Conservation and Restoration,” below).

Habitat loss attributable to herbivory by deer is ongoing and extensive throughout the current and former range of the island marble butterfly, and may be increasing, with substantial impacts to the species (Lambert 2011, pp. 85–104; Lambert 2014a, p. 3; Lambert 2015d, pp. 14–18). The effect of habitat loss due to deer herbivory is compounded by the effect of inadvertent predation when the larval host plants are occupied by eggs or larvae (see “Incidental Predation” under the Factor C discussion, below).

Herbivory by livestock: Livestock readily consume field mustard, which is often cultivated in pastures as a way to improve forage for cows and sheep (Smart *et al.* 2004, p. 1; McCartney *et al.* 2009, p. 436). There is no livestock grazing at American Camp, but livestock pastures are present on San Juan and Lopez Islands in areas that may contain suitable habitat for dispersing island marble butterflies. When cattle or sheep are present on lands where field mustard is grown, they readily consume the flower heads, stems, and stalk of the plant, destroying suitable island marble butterfly habitat (Miskelly and Potter 2009, p. 15; Hanson *et al.* 2009, p. 20; Hanson *et al.* 2010, p. 21). Like conversion of old field pastures to active cropping, cultivation of field mustard as a forage species for livestock potentially creates an ecological trap for the island marble butterfly when cultivation takes place within dispersal distance of an occupied site, and female island marble butterflies lay eggs in a patch of field mustard that is later consumed or trampled by livestock before any larvae can complete their life cycle (see “Incidental Predation” under Factor C, below, for further discussion). In conclusion, loss of potential habitat to livestock grazing can prevent reestablishment and persistence of suitable habitat for the species outside

of American Camp. However, because livestock grazing is not allowed on American Camp where the species occurs, herbivory by livestock is not a threat currently acting on the remaining population of the species.

Herbivory by rabbits: The European rabbit, *Oryctolagus cuniculus*, is a common invasive species in the San Juan Islands (Hall 1977, entire; Burke Museum 2015). At American Camp, European rabbits have been established for more than a century, following their introduction to San Juan Island during the late 1800s (Couch 1929, p. 336). Grazing by European rabbits, when they proliferate, affects both vegetative structure and composition, reducing both the number and kind of plant species near their warrens (network of burrows) (Eldridge and Myers 2001, pp. 329, 335). Herbivory by European rabbits negatively affects the recruitment and establishment of larval host plants; where rabbits occur at American Camp, few larval host plants for the island marble butterfly persist due to the intense grazing pressure (Radmer 2015, *in litt.*). When larval host plants do germinate near European rabbit warrens, they are consumed before the plants are large enough for female island marble butterflies to recognize and use them.

Population monitoring of European rabbits has been conducted at American Camp from 1985 to 2015, documenting an estimated population high of approximately 1,750 rabbits in 2006, and a low of fewer than 100 in 2012. From 2009 through 2012, the population was estimated to be 100 animals or fewer, and the condition of vegetation in the affected area had “changed dramatically” with the reduction in rabbit grazing pressure (West 2013, pp. 2, 4). The most recent population estimate, in 2015, was approximately 500 animals, indicating that the rabbit population at American Camp is currently on the rise (West 2015, *in litt.*). If European rabbits remain uncontrolled at American Camp, their population is likely to fluctuate but continue expanding overall in the next decade, similar to the patterns documented in the past 30 years of monitoring data. The majority of the European rabbit population has been, and may continue to be, centered on a single large field near the middle of American Camp, surrounded by areas that include island marble butterfly habitat. As their population grows, we expect the impacts of European rabbits to expand, encroaching upon and destroying additional island marble butterfly habitat.

Herbivory by brown garden snails: The nonnative brown garden snail (*Cornu aspersum*, formerly *Helix aspersa*) is a generalist herbivore that has been reported to occur in great numbers in some areas where island marble butterfly previously occurred (e.g., Pear Point Gravel Pit or 'La Farge' and San Juan Valley), where it feeds on field mustard and tumble mustard, the two most common larval host plants for the island marble butterfly (Hanson *et al.* 2010, p. 18; Potter *et al.* 2011, p. 13). State biologists removed hundreds of snails that were feeding on larval host plants at Pear Point in 2010, when the island marble butterfly still occupied this site (Potter *et al.* 2011, p. 13). The brown garden snail has extremely high reproductive potential; it matures within 2 years and can produce more than 100 eggs five or six times each year (Vernon 2015c, p. 1). The number of brown garden snails observed on San Juan Island has increased substantially between the years of 2009 and 2015 (Potter *et al.* 2011, p. 13; Vernon 2015c *in litt.*, entire).

In 2015, the brown garden snail was observed in San Juan Valley, a site formerly occupied by the island marble butterfly, and in 2016, the brown garden snail was documented in the South Beach area at American Camp by a Service biologist (Vernon 2015c *in litt.*, entire; Vernon 2015a p. 4; Reagan 2016, pers. obs.). High numbers of brown garden snails have been documented in highly disturbed sites previously occupied by island marble butterfly, and since our 2016 12-month finding (81 FR 19527; April 5, 2016) was published, they have been found invading the natural areas in American Camp currently occupied by the island marble butterfly and its host plants (Shrum 2017, *in litt.*). This most recent development indicates that brown garden snail is now well established within American Camp and the habitat currently used by the island marble butterfly, raising the likelihood that herbivory by the brown garden snail will result in habitat loss or degradation to an extent that can affect the butterfly's survival and reproductive success. While there are no documented accounts of snails directly consuming island marble butterfly eggs or larvae, the brown garden snail poses a threat to the island marble butterfly by consuming larval host plants, whether those plants are occupied or not. Therefore, herbivory by brown garden snails is detrimental to the butterfly's overall survival and reproductive success because it can both reduce the quantity of suitable host plants available

and cause incidental mortality of individuals.

Storm Surges

The nearshore lagoon habitat for island marble butterfly is close to sea level. Three intermittently occupied sites are in lagoons along the northeastern edge of American Camp, where they are partially protected from tidal surges that arrive from the west. One of these lagoons had the highest relative encounter rate of all monitored transects at American Camp in 2015, and raw counts at this site represented roughly 50 percent of the adult island marble butterflies recorded during annual monitoring for that year. Storm surges, attributable to the combined forces of high tides and high-wind storm events, inundate these low-lying lagoon areas intermittently, as evidenced by the deposition of driftwood logs along the shoreline. These events have occurred with some regularity through time, but the most recent episodes of inundation have been particularly destructive of nearshore island marble butterfly habitat. A storm surge event in the winter of 2006 resulted in the deposition of gravel substrate and driftwood over an island marble butterfly research plot where the one native larval host plant, Menzies' pepperweed, had been established, reducing the number of plants by more than 50 percent (Lambert 2011, pp. 145–146). This same storm surge likely destroyed any butterflies that were overwintering in nearshore habitat as chrysalids and had a local population-level impact; low numbers of individual island marble butterflies, eggs, and larvae were detected at the site for several years following the event (Lambert 2011, p. 99; Lambert 2015f, *in litt.*).

The frequency of storm surges large enough to inundate the lagoons and destroy island marble butterfly habitat has previously been relatively low, but since 2006, at least one storm surge event (in 2009) was strong enough to inundate the low-lying habitat (Whitman and MacLennan 2015, *in litt.*). The frequency of these events is expected to increase with sea-level rise associated with climate change (see Factor E discussion, below). In turn, we anticipate a concomitant increase in the potential for destruction of low-lying habitat for the island marble butterfly—approximately 15 to 20 percent of the species' habitat in American Camp (Lambert 2011, p. 145; Adeslman *et al.* 2012, pp. 79–86; Whitman and MacLennan 2015, *in litt.*; NOAA 2015a, entire; NOAA 2015b, entire).

The Menzies' pepperweed (the native host plant) occurs almost exclusively in the low-lying nearshore habitat, and female island marble butterflies have been observed to deposit eggs on only a single species of larval host plant at any one site. (Despite close observations of ovipositing females, researchers have not observed females depositing eggs on more than one type of larval host plant at any one site.) Therefore, if this habitat type is lost, an unknown proportion of diversity—in habitat use or adaptive potential—in the island marble butterfly could be lost as well. Furthermore, low-lying habitat comprises an estimated 15 to 20 percent of habitat for the species at American Camp, a considerable proportion of the restricted range of the species. Due to the small size of the remaining known population of the island marble butterfly and the importance of this low-lying habitat demonstrated by high encounter rates during surveys, loss or degradation of this habitat will likely lead to a further decline of the species.

Habitat Conservation and Restoration

San Juan Island National Historical Park has been implementing conservation measures for the island marble butterfly since shortly after its rediscovery in 1998. From 2003 through 2006, NPS created experimental prairie disturbances and vegetation plots to better understand how to manage the prairie and create island marble butterfly habitat. This work resulted in recommendations for the best method of reducing the cover of invasive grasses by using prescribed fire followed by herbicide treatment (Lambert 2006, p. 110). However, the work was not reproduced at larger scales, nor was it continued in ways sufficient to maintain adequate habitat on the landscape over time.

In 2018, we renewed a conservation agreement with NPS for the island marble butterfly that contained several conservation actions that will be applied to manage habitat for the species into the future. The renewed agreement, which was signed in December 2018, committed NPS to: (1) Restore, where needed, habitat for island marble butterfly, as jointly agreed; and (2) avoid impacts to island marble butterflies, eggs, larvae, and host plants during the implementation of all NPS management actions by working in habitat that was not occupied by island marble butterflies. All vegetation treatment will be conducted in the fall after the island marble butterfly has entered diapause. We expect the history of collaborative conservation of the island marble butterfly by NPS and the

Service to continue for the foreseeable future.

From 2007 through 2011, NPS managed encroaching plant species using multiple methods to open up areas where larval host plants could naturally germinate from the seed bank (NPS 2013, pp. 7–11). NPS also planted more than 100,000 native grass plugs in mechanically treated areas (NPS 2013, p. 7), which improved the native composition of the prairie grassland features but did not result in increased cover of the larval host plants needed to support the island marble butterfly. The Service continued to work collaboratively with NPS to develop annual work plans each year from 2013 through 2016; these work plans are addenda to the 2006 conservation agreement for the island marble butterfly. The goals and actions identified in the work plans have changed, sometimes annually, in response to new information, adaptive management needs, available funding, and other concerns. The 2013–2016 work plans identified and enacted several conservation actions to address threats related to the destruction, modification, and curtailment of island marble butterfly habitat at American Camp. Prescribed fire, deer fencing of essential habitat, management of invasive species, and experimental habitat restoration were all implemented per annual work plans during this period.

These work plans initially included the use of prescribed fire in small blocks (up to one acre) to disturb grassland habitat in an effort to encourage larval host plant patches to establish from the seed bank. These prescribed fire events resulted in very low germination of the larval host plants, leading NPS to conclude that few larval host plant seeds persist in the seed bank. In response, later annual work plans recommended seeding the larval host plant species after a prescribed burn. The 2016 annual work plan also included recommendations for the development of novel methods for creating island marble butterfly habitat.

In 2013, the Service funded the installation of deer exclusion fencing at American Camp in an effort to reduce deer herbivory on larval host plants (and the incidental consumption of eggs and larvae; see discussion under Factor E, below) and to increase suitable oviposition sites. Deer fencing was included in each year's annual work plan since 2013, and continues to be employed as an exclusion technique. Approximately 23 acres have been fenced since deer exclusion efforts began in 2013 (Shrum 2015a, *in litt.*).

The various forms of deer exclusion fencing that have been used have resulted in mixed success in preventing deer from consuming larval host plants. For example, in 2015, electrified fencing alone proved ineffective at excluding deer at three of five research sites at American Camp (Lambert 2015d, p. 17). However, electric and wire-mesh fencing combined have reduced deer herbivory on larval host plants when compared to years when exclusion fencing was not employed (Lambert 2015d, p. 17). In one large expanse of habitat at American Camp, the distribution of field mustard was essentially limited to the fenced areas in 2015, although environmental conditions shifted substantively in 2016, allowing for a large flush of persistent field mustard beyond the fenced areas (Lambert 2014a, p. 23; Lambert 2015a, p. 5; Lambert 2015d, p. 17; Lambert 2016a, p. 35). Despite these challenges, deer exclusion fencing remains an important tool for protecting island marble butterfly habitat, especially early in the flight season when we expect survivorship to be the highest (Lambert 2015d, p. 19). For example, in 2016 (after the publication of our 12-month finding on April 5, 2016 (81 FR 19527)), deer were completely excluded from research sites at American Camp for the first time, resulting in one-quarter acre of restored habitat for host plants, and increased survival in island marble butterflies on field mustard than in previous years (Lambert 2016a, p. 11).

The annual work plans have also included efforts to control weedy native and nonnative species and encroaching woody plants. Specifically, NPS has removed hundreds of Douglas fir trees and dozens of acres of *Rubus armeniacus* (Himalayan blackberry), *R. laciniatus* (blackberry), *Symphoricarpos albus* (snowberry), and *Crataegus monogyna* (one-seeded hawthorn) from the American Camp prairie. These actions have slowed the invasion of native and nonnative species and encroachment by woody plants and have created early-successional conditions that likely provided some nectaring habitat for the island marble butterfly. However, few larval host plants germinated from the seed bank in the areas cleared of encroaching plants. Another area of focus under the work plan for controlling invasive species is herbicide treatment of Canada thistle in the dunes.

NPS, in collaboration with the Service and other partners, has supported experimental research into the active establishment of island marble butterfly habitat since 2003. In 2014, an

experimental approach for establishing oviposition and larval habitat was proposed. The Service, in coordination with NPS, WDFW, and two local island conservation organizations (San Juan Preservation Trust (SJPT) and San Juan County Land Bank (SJCLB)), developed a plan to determine whether habitat patches for the island marble butterfly could be developed in a way that could be scaled up efficiently in a landscape context (Lambert 2014b, entire). Thirty habitat patches were created on park property at American Camp between 2014 and 2016, and 10 more will be created in 2017 (Lambert 2016a, p. 59). Early results from this work indicate that habitat can be created quickly and that island marble butterflies readily use these patches for egg laying and larval development if larval host plants germinate in time to provide oviposition sites for early-flying butterflies (Lambert 2015d, pp. 9–12).

Each year since 2013, NPS has collected and reared a small number of eggs and larvae in a captive-rearing program (see discussion under Factor C, below, for more information). In 2015, the captive individuals emerged from diapause much later than the wild population. Despite the use of the experimental plots for oviposition by these late-flying, captive-reared females, none of the eggs and larvae tracked in the experimental plots survived. The high mortality was attributed to increased predation pressure by late-season spiders and wasps (Lambert 2015d, p. 14) (see “Direct Predation” under Factor C, below). Results of captive-rearing were better in 2016, when captive-reared island marble butterflies emerged in synchrony with the wild population. Survivorship from egg to fifth instar larvae was also higher in the experimental plots in 2016; three percent of the tracked larvae survived to the fifth instar, which is a relatively high survival rate for the island marble butterfly.

The Service, in coordination with NPS, supports habitat conservation efforts by funding local conservation groups to establish habitat patches on three conserved sites across the former range of the island marble butterfly. Two of these experimental habitat patches were established outside of American Camp in 2015 and one in 2016. Each experimental patch has been fully fenced to exclude herbivores (primarily deer) and allow the larval host plants to grow without herbivory pressure (also see Factor C, “Incidental Predation,” below).

Education and Outreach

In 2009, the Service provided funding to WDFW for the creation of a species fact sheet and informational handout for the public about the biology and conservation needs of the island marble butterfly. This pamphlet provided outreach to interested parties and increased the awareness of the public about the decline of the island marble butterfly. The pamphlet provided basic information about how to protect and support habitat essential to the island marble butterfly. In 2011, the Service collaborated with NPS, WDFW, researchers from the University of Washington, and the Center for Natural Lands Management to reach out to the community in a local Island Prairie Educational Symposium to present information on current approaches to prairie management. Information gained through years of prairie conservation efforts in other northern and southern Puget Sound prairie landscapes was shared with the local island community. Information about the island marble butterfly and the educational materials developed were well distributed within the community; however, this effort did not lead to the protection or restoration of habitat adequate to ameliorate the threat of habitat loss for the island marble butterfly. Despite considerable advances in habitat restoration, new habitat establishment, captive rearing, herbivore exclusion, and outreach and education, the number of individual island marble butterflies remains small in the single remaining population.

Summary of Factor A

Habitat supporting the remaining population at American Camp is protected from development and agriculture, but is exposed to the threats of plant succession and invasive plant species; herbivory by deer, rabbits, and brown garden snails; and storm surges. Habitat loss is likely a major factor impeding the recolonization of areas outside of American Camp. Outside of American Camp, removal of larval host plants by mowing; roadside maintenance; road, residential, or urban development; certain agricultural practices (such as tilling, cropping, and grazing); and landscaping activities has substantially reduced the amount of habitat available for recolonization by the island marble butterfly either temporarily (e.g., mowing, tilling, cropping, or grazing) or permanently (e.g., road, residential, and urban development) since the island marble butterfly was rediscovered (Miskelly and Fleckenstein 2007, p. 6; Miskelly and Potter 2009, p. 9; Hanson *et al.*

2009, p. 18; Vernon 2015b *in litt.*, p. 5). This habitat removal is a primary factor in the loss of all the remaining populations of this species outside of American Camp since 2006.

Since 2011, NPS has made substantial and sustained efforts to expand island marble butterfly habitat and to improve the composition and structure of the plant community to become more suitable for the island marble butterfly. Due to challenges in establishing suitable habitat and protecting it from the threats described above, only a few acres of high-quality habitat for island marble butterfly have been restored on the American Camp landscape. Many more acres within American Camp have been improved by restoration actions or protected from deer herbivory, but are not yet considered high quality or fully secure from herbivory by deer. To date, these efforts may have resulted in a small positive response in the island marble butterfly population, as evidenced by the 3 percent increase in survivorship from the fourth to fifth instar in 2016. However, the number of those individuals that will successfully pupate and emerge as winged adults in the spring remains to be seen. Conservation efforts by NPS have also resulted in significant contributions to our understanding of island marble butterfly habitat and threats to that habitat. Outside of American Camp, the only conservation efforts that specifically create habitat for the species are the small island marble butterfly habitat plots established by SJPT and SJCLB. These efforts will be crucial to establishing new populations of island marble butterfly in the future, but the achievement is too recent for their effectiveness to be evaluated, especially in the context of the extensive, ongoing habitat loss from changing land use, changing agricultural practices, and other factors that inhibit recolonization by island marble butterflies outside of American Camp.

Despite successful habitat restoration experiments, continued use of deer exclusion fencing, and the removal of woody plants and nonnative and native weedy species, the increase in the total area of currently suitable habitat within American Camp has not been fully quantified, although it remains small (on the scale of quarters of acres). Despite these minor gains in habitat as a result of restoration since we published our 12-month finding on April 5, 2016 (81 FR 19527), the range of the species—the number of sites within American Camp where it is observed—has continued to contract, and the number of island marble butterflies observed each year remains

low. Conservation measures will need to continue into the future, with monitoring to assess their long-term value to the island marble butterfly. Until measureable changes to the island marble butterfly population have been documented, it will be difficult to determine whether the implemented measures are effecting positive change in the status of the island marble butterfly. Based on the analysis above, we conclude that plant succession and competition with invasive species, herbivory by deer and brown garden snails, and storm surges are likely to have population-level impacts on the island marble butterfly.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization for Commercial or Recreational Purposes

Under NPS regulations, collection of living or dead wildlife, fish, or plants, or products thereof, is prohibited on lands under the jurisdiction of NPS without a permit (36 CFR 2.1(a)(1)(i) and (a)(1)(ii)), but there are no State or County regulations that prohibit recreational collection of the island marble butterfly at this time.

Rare butterflies and moths are highly prized by collectors, and an international trade exists in specimens for both live and decorative markets, as well as the specialist trade that supplies researchers (Collins and Morris 1985, pp. 155–179; Morris *et al.* 1991, pp. 332–334; Rieunier and Associates 2013, entire). Before the island marble butterfly was formally described, collectors may have exerted little pressure on the taxon because it was unknown and because it occurs in remote islands that had been little-surveyed for butterflies. Following formal description of the species in 2001, at least three inquiries about potential for collection were made to WDFW, which is responsible for managing fish and wildlife in the State of Washington, and one with NPS at American Camp, which requires a permit for the collection of any plant or animal from park property (Reagan 2015, *in litt.*). WDFW has discouraged collection, and NPS rejected the single permit request for collection it received (Reagan 2015, *in litt.*; Weaver 2015a, *in litt.*). In addition to these permit requests, we are aware of one specimen of the island marble butterfly purportedly being listed for sale on a website devoted to trade in butterfly species (Nagano 2015, pers. obs.), although the origin and authenticity of this specimen could not be verified.

Even limited collection of butterfly species with small populations could have deleterious effects on the reproductive success and genetic variability within those populations and could thus contribute eventually to extinction or local extirpation (Singer and Wedlake 1981, entire; Gall 1984, entire). Capture and removal of females dispersing from a population also can reduce the probability that new populations will be established or that metapopulation structure will be developed or maintained. (A metapopulation is a group of spatially separated populations that interact when individual members move from one population to another.) Collectors pose a potential threat because they may not be aware of other collection activities, and are unlikely to know, and may not care, whether or not they are depleting numbers below the threshold necessary for long-term persistence of populations and the species (Martinez 1999, *in litt.*). This is especially true if collectors lack adequate biological training or if they visit a collection area for only a short period of time (Collins and Morris 1985, p. 165). In addition, collectors often target adult individuals in perfect condition, including females that have not yet mated or had the opportunity to lay all of their eggs. Some collectors go to the length of collecting butterfly eggs in order to rear perfect specimens (USDOJ 1995, p. 2).

Collection of the island marble butterfly, which is prohibited on NPS lands, could potentially occur without detection because occupied areas are not continuously patrolled and adult butterflies do move outside of protected areas onto adjoining lands where collection is not currently prohibited. Consequently, the potential for collection of adult island marble butterflies, and especially surreptitious collection of early stages (eggs, larvae, and pupae) exists, and such collection could go undetected, despite the protection provided on NPS lands. Taking into consideration the small remaining population, illegal collection could have strong detrimental effects on the known population, were it to occur. However, no illegal collection efforts for this species have been documented to date.

Scientific Overutilization

The widespread surveys that took place in the period 2005–2012 included capturing and releasing butterflies when necessary for positive identification, as specified in Miskelly and Fleckenstein 2007 (p. 4). Although a limited number of individuals may have been injured or killed during handling, no data exist on

the number of individuals captured, injured, or killed. To our knowledge, there have been three documented instances of island marble butterfly collection or handling for scientific purposes since the rediscovery of the species. In 2005, two male specimens were collected by WDFW surveyors as vouchers to document newly discovered island marble sites (Miskelly and Potter 2005, pp. 4, 5; Potter 2016, *in litt.*). In 2008, a mark-release-recapture (MRR) study of the species' demography involved the capture and marking of 97 individual adult island marble butterflies and recapture of 56 butterflies across four separate sites, and some individuals were recaptured more than once (Peterson 2009, entire; Peterson 2010, entire). A single individual butterfly was collected as a voucher specimen under a WDFW scientific collection permit in 2008 for the MRR study (Potter 2016, *in litt.*). The other scientific use of the island marble butterfly of which the Service is aware took place in 2013, when two adult butterflies were collected by WDFW for a genetic assessment of the island marble butterfly, the results of which were inconclusive (Potter 2015b, *in litt.*).

The handling of adult butterflies for scientific purposes has been evaluated for effects on populations elsewhere in western North America (Singer and Wedlake 1981; Gall 1984). Murphy (1988, p. 236) reported that MRR work by others resulted in about 10 percent mortality to the endangered mission blue butterfly (*Icaricia icarioides missionensis*); however, studies by Singer and Wedlake (1981, entire) with other butterflies resulted in less than 2 percent of the marked butterflies being recaptured, suggesting that mortality from handling the butterflies may have been a factor.

Peterson's 2008 MRR study may have resulted in unintended injury or mortality to island marble butterfly individuals, but we have no evidence to suggest that the study resulted in population- or species-level effects. Surveyors were unable to recapture 38 percent of the handled individuals during the short duration of this research, but whether this research directly increased mortality for the handled individuals is unknown. Several outcomes could have led to this low recapture rate: The butterflies may have fully matured after completing their life cycle and died during this period; they may have been injured during handling and died following release; they may have become more susceptible to other stressors after handling (*e.g.*, predation); or they may

have simply eluded recapture. Based on the relative encounter rate for the island marble butterfly that was measured during subsequent years (see "Abundance," above, for additional information), this research does not appear to have contributed to a constriction in the range of the species or a decline in the abundance of individuals.

The probability of numerous future collections of live island marble butterflies for research purposes is low because all researchers who study the island marble butterfly work collaboratively with the Service, NPS, and WDFW, and are aware of the very low and declining number of individual butterflies. Any research proposal requiring the collection and removal of live island marble butterflies from the population is carefully reviewed to determine whether the conservation benefit to the species outweighs the loss of individuals.

Summary of Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

We continue to find that overutilization does not have a population-level impact on the island marble butterfly for the following reasons: The lack of evidence of commercial or recreational collection of island marble butterflies; our conclusion that handling of the species during the 2008 MRR study did not result in documented negative effects to island marble butterfly populations; and the small number of individuals collected for genetic evaluation.

Factor C. Disease or Predation

Disease

There is a single report of disease affecting the island marble butterfly (Miskelly 2004, p. 35). We discussed this observation with the author and discovered that this was an isolated event and that the mortality was likely attributable to causes other than disease (Miskelly 2015a, *in litt.*). Therefore, there is no evidence to suggest that disease is currently a threat to the island marble butterfly.

Direct Predation

Predation is a risk for island marble butterflies during all stages of their life cycle, although mortality is highest during the earliest stages of life: Egg to first instar (Lambert 2011, p. 92). A study conducted from 2005 through 2008 on survivorship of the island marble butterfly identified high levels of mortality attributable to predation by spiders and, to a lesser extent, paper

wasps (*Polistes* spp.) (Lambert 2011, p. 117). Two species of spider, *Pardosa distincta* and *Zelotes puritanus*, both native to Washington State, prey on adult island marble butterflies and may also account for a large proportion of the predation on eggs and larvae (Lambert 2011, p. 100; Crawford 2015, *in litt.*). The paper wasp common to American Camp is the nonnative *Polistes dominula* (Miskelly 2015b, *in litt.*), discovered in the State of Washington in 1998 (Landolt and Antonelli 1999, entire).

Direct predation of eggs and larvae was the greatest source of mortality in this 4-year study, affecting 47 percent of all individuals tracked (Lambert 2011, p. 99). Mortality levels attributable to direct predation varied depending on the larval host plant used, with almost 80 percent mortality attributable to direct predation on Menzies' pepperweed and approximately 40 percent on field mustard (Lambert 2011, p. 117). These differences are likely attributable to variation in the structure and growth form of the larval host plants that can facilitate access by predators (Lambert 2011, p. 100).

In addition, predation on island marble butterfly larvae by spiders and wasps increases as the season advances (Lambert 2015d, p. 14). This increase is likely because: (a) As spiders mature, they are more effective at locating and consuming the larvae; and (b) wasps increase in number as the season progresses (Reeve 1991, pp. 104–106), and the predation pressure they exert on their prey species increases with these increased numbers. Later emergence of island marble butterflies has been observed to correlate closely with increased predation pressure on island marble larvae; in the 2015 field season, when emergence was notably late, none of the 329 individuals tracked from egg through their larval development survived to form a chrysalis (Lambert 2015d, p. 14) (see *Cumulative Effects*, below, for additional discussion). Predation on adult island marble butterflies by birds and spiders has been observed anecdotally, although no effort has been made to quantify mortality attributable to predation on adults (Lambert 2011, p. 90; Vernon and Weaver 2012, p. 10). We found no evidence to suggest that predation by small mammals or other vertebrate predators presents a threat.

Direct predation of island marble butterfly eggs and larvae is ongoing where the species occurs (at American Camp) and is expected to continue into the future. Direct predation of eggs and larvae is a significant cause of mortality for the island marble butterfly,

consistently accounting for more than 45 percent of deaths for tracked individuals (Lambert 2011, p. 99; Lambert 2015d, p. 14). Native spiders are responsible for a significant proportion of observed predation, and the island marble butterfly presumably coexisted for hundreds or thousands of years with these spiders. However, the small and declining numbers of island marble butterflies, under pressure from habitat loss and other threats, now cannot tolerate what may once have been a sustainable rate of natural predation. The threat of direct predation affects the island marble butterfly at the individual, population, and species levels (see Factor E discussion, below, for more information).

Incidental Predation

Incidental predation by browsing black-tailed deer also is a common source of mortality for island marble butterfly eggs and larvae (Lambert 2011, pp. 93–97; Lambert 2015d, pp. 17–18). As discussed above under Factor A, female island marble butterflies select oviposition sites on or near the tips of the inflorescences of the larval host plants, which is the same portion of the plant that deer prefer to browse (Lambert 2015c, *in litt.*). Similar to rates of direct predation, each species of larval host plant is correlated with differing levels of mortality attributable to deer browse. Incidental predation by deer was highest on field mustard, which accounted for slightly more than 40 percent of mortality tracked for this larval host plant over the course of the 4-year study (Lambert 2011, p. 117). Mortality attributable to deer browsing was less than 10 percent for both Menzies' pepperweed and tumble mustard (Lambert 2011, p. 117).

In nearly every report provided to the Service, deer browsing has been identified as particularly problematic for the island marble butterfly at American Camp as well as throughout the species' former range, where browsing deer continue to degrade the butterfly's habitat (Miskelly and Fleckenstein 2007, p. 6; Miskelly and Potter 2009, pp. 11, 15; Hanson *et al.* 2009, pp. 4, 13, 20; Hanson *et al.* 2010, pp. 21–22; Potter *et al.* 2011, pp. 5, 13; Lambert 2011, p. 104; Lambert 2014a, entire; Vernon and Weaver 2012, p. 9; Weaver and Vernon 2014, p. 10; Lambert 2014a, p. 3; Lambert 2015d, pp. 17–18; Vernon 2015a, p. 12). Incidental predation by deer is a significant cause of mortality of the island marble butterfly at American Camp (Lambert 2014a, p. 3). Incidental predation by deer is a threat of increasing severity within American Camp, where it affects

the island marble butterfly at the individual, population, and species level; outside American Camp, this source of habitat degradation is ongoing throughout the formerly occupied range of the species because of the apparent increase in deer numbers throughout the San Juan Islands (Milner 2015, *in litt.*; McCutchen 2016, *in litt.*).

Although incidental predation by other herbivores has not been as rigorously quantified as it has been for black-tailed deer, the negative effects of livestock on occupied larval host plants cannot be discounted (Miskelly and Fleckenstein 2007, p. 5; Miskelly and Potter 2009, pp. 9, 11, 15; Hanson *et al.* 2009, pp. 18, 20; Hanson *et al.* 2010, pp. 5, 16, 21; Potter *et al.* 2011, p. 13; Vernon 2015c *in litt.*, entire). Incidental predation by livestock, brown garden snails, and European rabbits is possible where the range of the island marble butterfly overlaps with these species. However, in the case of European rabbits, only two documented instances exist of rabbits consuming plants with eggs or larva on them (Lambert 2015d, p. 17). Suitable island marble butterfly larval habitat is closely monitored at American Camp, so while consumption of occupied larval host plants by European rabbits does occasionally take place, it is currently rare, is geographically circumscribed, and does not have a population-level impact to the species. The existing information does not indicate that incidental predation by livestock, brown garden snails, and European rabbits is occurring at a rate that currently causes population-level impacts to the island marble butterfly.

Conservation Efforts To Reduce Disease or Predation

As described above under "Habitat Conservation and Restoration," the Service and NPS installed deer exclusion fencing in American Camp from 2013 to 2016 to reduce browsing by black-tailed deer on the larval host plants field mustard and tumble mustard. The fencing was placed to reduce incidental predation, as well, by protecting areas where larval host plants are most likely to be occupied by island marble butterfly eggs and larvae.

The Service has supported ongoing research into the effects of deer exclusion fencing on island marble butterfly survival. The first deer exclusion fencing was erected in three locations of American Camp in 2013. Areas immediately adjacent to the fenced habitat with similar structure, quality, and connectivity as the fenced habitat were left unfenced as control plots. First-year monitoring of deer

exclusion areas showed that 74 percent of eggs tracked survived to first instar in the fenced area compared with 41 percent survival to first instar in the control plots (Lambert 2014a, p. 6). In 2014, additional deer exclusion fencing was installed, and different types of exclusion fencing were compared. Wire-mesh fencing was found to be effective at preventing incidental predation by deer, while electric fencing was determined to be largely ineffective at excluding deer, although mortality from deer in electric-fenced areas was lower than in previous years (Lambert 2015d, pp. 17–18). Deer exclusion fencing has emerged as an important tool for protecting eggs and early instar larvae from consumption by deer, especially early in the flight season when survivorship is expected to be the highest (Lambert 2015d, p. 19; Lambert 2016a, pp. 3, 27).

Summary of Disease and Predation

The best available information does not indicate that disease is a threat to the island marble butterfly. However, a substantial amount of research completed since 2006 clearly documents the effects of predation. Direct and incidental predation rates, together, account for the vast majority of the recorded deaths of island marble butterfly eggs and larvae at American Camp. Although deer exclusion fencing at American Camp has been an important tool for reducing mortality due to incidental consumption since 2013, the number of island marble butterflies observed continues to be low. No conservation measures have yet been identified to address the threat of predation from paper wasps and spiders. Taken together, all forms of predation have pervasive, population-level impacts on the island marble butterfly.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Under this factor, we examine whether existing regulatory mechanisms ameliorate or exacerbate the threats to the species discussed under the other factors. Section 4(b)(1)(A) of the Act requires the Service to take into account “those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species” In relation to Factor D under the Act, we interpret this language to require the Service to consider relevant Federal, State, and tribal laws, regulations, and other such mechanisms that may ameliorate or exacerbate any of the threats we describe in threat analyses under the other four factors, or

otherwise enhance conservation of the species. We give strongest weight to statutes and their implementing regulations and to management direction that stems from those laws and regulations. An example would be State governmental actions enforced under a State statute or constitution, or Federal action under statute.

Federal Laws and Regulations

American Camp, as part of San Juan Island National Historical Park, is managed under the National Park Service’s Organic Act and implementing regulations. The National Park Service Organic Act of 1916, as amended (54 U.S.C. 100101 *et seq.*), states that the National Park Service “shall promote and regulate the use of the National Park System . . . to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (54 U.S.C. 100101(a)). Further, 36 CFR 2.1(a)(1)(i) and (a)(1)(ii) specifically prohibit collection of living or dead wildlife, fish, or plants, or parts or products thereof, on lands under NPS jurisdiction. This prohibition on collection extends to the island marble butterfly where it exists on NPS-managed lands. In addition, under the general management plan for San Juan Island National Historical Park, NPS is required to follow the elements of the conservation agreement (NPS 2008, p. 73). This includes restoring native grassland ecosystem components at American Camp, avoiding management actions that would destroy host plants, avoiding vegetation treatments in island marble butterfly habitat when early life-stages are likely to be present, and implementing a monitoring plan for the species (Pyle 2006, pp. 10–12).

The Bureau of Land Management (BLM) owns the 27-ac (11-ha) Cattle Point Lighthouse property east of American Camp and Cattle Point Natural Resource Conservation Area. This site was formerly occupied by island marble butterflies, is proximal to occupied habitat on American Camp, and contains suitable habitat for the species. The Cattle Point Lighthouse property is part of the San Juan Islands National Monument established by Presidential proclamation on March 25, 2013, under the American Antiquities Act of 1906 (54 U.S.C. 320301 *et seq.*). This proclamation specifically identifies the island marble butterfly and states that protection of the lands in the San Juan Islands will maintain their

historical and cultural significance and enhance their unique and varied natural and scientific resources, for the benefit of all Americans. Under this proclamation, the monument is being managed as part of the National Landscape Conservation System, requiring that the land be managed “in a manner that protects the values for which the components of the system were designated” (16 U.S.C. 7202(c)(2)). The first resource management plan for the National Monument is still in development, so specific regulatory protections for the species and its habitat have not yet been established. Nevertheless, anthropogenic threats at this site are unlikely given its current designation as a National Monument.

The island marble butterfly is also listed as a sensitive species for the purposes of the BLM’s Sensitive Species Policy (BLM 2008, p. 3; USFS 2015, entire). This policy directs the BLM to initiate conservation measures that reduce or eliminate threats and minimize the likelihood of listing under the Act, but until the resource management plan for the National Monument is complete, the BLM has not identified the required conservation measures. At this time, it is unclear what protections, if any, these existing regulatory mechanisms will confer to the island marble butterfly.

State Laws and Regulations

State laws and regulations that apply across San Juan and Lopez Islands include provisions to limit collection of butterflies for scientific purposes, but no specific protections to island marble butterfly habitats. The island marble butterfly is currently classified as a candidate species by the State of Washington (WDFW 2015a, p. 2). Candidates are those species considered by Washington State to be sensitive and potentially in need of protection through the process of designation as endangered, following procedures established by the Washington Administrative Code (WAC) (220–610–110). However, candidates are not afforded any specific regulatory protections (Potter 2015c, *in litt.*). The island marble butterfly is afforded limited State regulatory protections from overcollection as the State of Washington requires a scientific collection permit for handling or collecting any fish, or wildlife, their nests, or eggs for scientific purposes (WAC 220–200–150; Revised Code of Washington (RCW) 77.32.240).

The island marble butterfly was identified as critically imperiled in the Washington State Comprehensive Wildlife Conservation Strategy (WDFW

2005, pp. 219, 314, 336–337). Since 2005, WDFW has retired the Comprehensive Wildlife Conservation Strategy and incorporated it into Washington's State Wildlife Action Plan (SWAP). Although the SWAP addresses the island marble butterfly's conservation status, identifies it as a "species of greatest conservation need," and recommends conservation actions (WDFW 2015b, p. 3–39), the SWAP is not a regulatory mechanism.

WDNR owns the Cattle Point Natural Resources Conservation Area consisting of 112 acres directly to the east of American Camp, a portion of which provides potentially suitable habitat for island marble butterflies. Natural resource conservation areas are managed to protect outstanding examples of native ecosystems; habitat for endangered, threatened, and sensitive plants and animals; and scenic landscapes. Removal of any plants or soil is prohibited unless written permission is obtained from WDNR (WAC 332–52–115).

Local Laws and Regulations

American Camp is the only area known to be occupied by the island marble butterfly, and because the area is managed by NPS under the National Park Service's Organic Act and implementing regulations, local laws and regulations governing land use do not apply. However, the following local laws and regulations may provide some benefit to the island marble butterfly, should the species expand its range or recolonize suitable habitat areas outside American Camp.

The Washington State Growth Management Act of 1990 (GMA) requires all jurisdictions in the State to designate and protect critical areas (RCW 36.70A). The State defines five broad categories of critical areas, including: (1) Wetlands; (2) areas with a critical recharging effect on aquifers used for potable water; (3) fish and wildlife habitat conservation areas; (4) frequently flooded areas; and (5) geologically hazardous areas (RCW 36.70A.030). The upland prairie habitat type that island marble butterflies may use, but are not restricted to, is considered both a fish and wildlife habitat conservation area and an area with a critical recharging effect on aquifers under the GMA. Identification as a fish and wildlife habitat conservation area mandates that each county within Washington State preserve and protect the fish and wildlife associated with each habitat conservation area by developing policies and regulations to protect the functions and values of critical areas.

Within counties, the mandate to protect and regulate critical areas applies to all unincorporated areas. In addition, incorporated cities within counties are required to address critical areas within their "urban growth area" (UGA; the area in which urban growth is encouraged by the municipal government) independently. The only incorporated city within San Juan County is Friday Harbor, which is located outside of NPS-owned land on San Juan Island and outside of habitat currently occupied by the island marble butterfly. The Friday Harbor Comprehensive Plan provides no specific protections for animal species that are not listed as endangered or threatened under State or Federal law; however, Upland Category III may confer some benefits to the species based on conservation status of the species.

San Juan County encompasses the range of the island marble butterfly. The County regulates critical areas through a Critical Areas Ordinance, which mandates protection for species listed under the Act through San Juan County Critical Areas Ordinance (section 18.30.110, Fish and Wildlife Habitat Conservation Areas). The Critical Areas Ordinance also identifies species of local importance, including the island marble butterfly (San Juan County 2018, p. 34), and provides protection for the island marble butterfly by requiring that development applications for areas determined to be occupied by the island marble butterfly develop a habitat management plan consistent with County recommendations for the conservation of the island marble butterfly prior to permitting. The San Juan County Comprehensive Plan recommends that property owners with occupied island marble butterfly habitat avoid the use of insecticides and herbicides, limit grazing and agricultural disturbance, and protect areas with larval host plants during the development process (San Juan County 2018, pp. 51, 56). However, the conservation recommendations are not comprehensive enough to prevent local extirpation of the island marble butterfly because they do not address all of the stressors influencing its persistence (e.g., landscaping, permanent landscape conversion, mowing, etc.), as evidenced by the complete loss of occupied island marble butterfly habitat within areas developed since 2006 (see "Development," above, under Factor A).

In addition, the San Juan County Comprehensive Plan concentrates urban density within UGAs in order to preserve the rural nature of the San Juan

archipelago (San Juan County 2010, entire). We considered the plan in our 2006 12-month finding (71 FR 66292; November 14, 2006), concluding that the restriction of high-density development would lead to the maintenance of suitable habitat on Lopez and San Juan Islands. While preserving the low-density agricultural environment on San Juan and Lopez Islands partially prevents the direct conversion of suitable island marble butterfly habitat to other incompatible uses (e.g., impermeable surfaces, manicured lawns, residential housing), new evidence indicates that despite these planning efforts, island marble butterfly habitat has been severely curtailed rangewide since 2006, due to a variety of factors (e.g., mowing, landscaping, or removal of host plants) (Miskelly and Potter 2005, p. 6; Miskelly and Fleckenstein 2007, p. 6; Potter 2015a, *in litt.*).

Summary of Existing Regulatory Mechanisms

The island marble butterfly and its host plant are afforded substantial regulatory protections from anthropogenic threats at American Camp through NPS regulations and the current general management plan for San Juan Island National Historical Park. In addition, State- and County-level regulatory mechanisms that influence development and zoning on San Juan and Lopez Islands are generally beneficial to suitable habitat that could be occupied by the island marble butterfly in the future. However, this impressive suite of regulatory mechanisms has not prevented the extirpation of other populations, and the species remains in precarious shape with only one remaining known location. Therefore, we conclude that the existing Federal, State, and local regulatory mechanisms provide some benefits to the island marble butterfly and its habitat, but do not sufficiently ameliorate the threats to the species such that it does not meet the definition of an endangered species.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Under Factor E, we evaluate the island marble butterfly's small population size and its vulnerability to stochastic events, vehicular collisions, insecticide application, late emergence of adult butterflies, and climate change.

Small Population Size and Vulnerability to Stochastic Events

Since its rediscovery in 1998, the island marble butterfly has been

documented to have a narrow distribution, which has become increasingly constrained as secure habitat has been reduced or destroyed throughout the butterfly's range (Miskelly and Potter 2005, entire; Miskelly and Fleckenstein 2007, entire; Miskelly and Potter 2009, entire; Hanson *et al.* 2009, entire; Hanson *et al.* 2010, entire; Potter *et al.* 2011, entire; Vernon and Weaver 2012, entire; Weaver and Vernon 2014, entire; Potter 2015a, *in litt.*; Vernon 2015a, entire). Declining numbers for the island marble butterfly have been documented during annual monitoring at American Camp that has taken place from 2004 through 2015 (see "Abundance," above), and the species now appears to be restricted to a single known population centered on American Camp.

Compared to large populations, small populations are disproportionately affected by environmental, demographic, and genetic stochasticity, and thus face greater risk of extinction (Frankham 1996, p. 1506; Saccheri *et al.* 1998, entire; Harper *et al.* 2003, pp. 3349, 3354). Environmental stochasticity is the variation in birth and death rates from one season to the next in response to weather, disease, competition, predation, or other factors external to the population (Shaffer 1981, p. 131). For example, drought or predation in combination with a low population year could result in extirpation, and butterflies are known to be sensitive to environmental variation, increasing the influence of this factor (Weiss *et al.* 1993, pp. 267–269). Stochastic environmental events can be natural or human-caused.

Demographic stochasticity refers to random variability in survival or reproduction among individuals within a population (Shaffer 1981, p. 131). This random variability has a proportionately large effect on small populations, such that any loss of beneficial alleles (genes that provide for more successful reproduction and survival) may result in a rapid reduction in fitness, making small populations much more likely to go extinct than large populations (Frankham 1996, p. 1507). Genetic stochasticity, or genetic drift, describes random changes in the genetic composition of a population that are not related to systemic forces such as natural selection, inbreeding, or migration. In small populations, genetic stochasticity is more likely to result in reduced fitness and ultimately a lower number of individuals contributed to each successive generation. Small, narrowly distributed populations generally have lower genetic diversity than larger populations, which can

result in less resilience to changing environmental conditions.

Because the island marble butterfly persists in low numbers, loss of a portion of the remaining population could have disproportionately negative effects. Storm surges that destroy nearshore habitat containing overwintering island marble butterfly chrysalids may further deplete the genetic diversity of the island marble butterfly. Similarly, in grassland habitat, a poorly timed or uncontrolled fire could destroy a large portion of the remaining population. The effect of predation, which has always been at least a baseline limiting factor for the island marble butterfly, is magnified when there are so few individuals left. Additional stochastic events that could potentially be devastating include a late-spring weather abnormality, such as an extended hard freeze or a powerful storm during the flight season; a year in which predator populations were unusually high; or introduction of a novel predator. Given that the very small population at American Camp is likely the only remaining population of the species, we conclude that small population size makes it particularly vulnerable to a variety of likely stochastic events, and this constitutes a threat to the island marble butterfly at the individual, population, and species levels.

Vehicular Collisions

Habitat occupied by the island marble butterfly within American Camp is bisected by Cattle Point Road, a highway that is the only point of access for a small residential community at the southeastern tip of San Juan Island (approximately 100–150 housing units) and, as such, is routinely driven by the residents. The highway runs along the shoulder of Mount Finlayson, a landscape feature that male island marble butterflies typically follow when patrolling for females (Lambert 2016b, pers. comm.). While there have been no specific reports of island marble butterfly road kills, the presence of the highway within occupied habitat exposes the species to potential vehicle collisions. Few studies provide detail on the scale of vehicle-caused mortality for invertebrate species, and even fewer specifically examine butterfly mortality or the effects of traffic on individual butterfly species (Seibert and Conover 1991, p. 163; Munguira and Thomas 1992, entire; Rao and Girish 2007, entire).

One peer-reviewed study that examined vehicular mortality for butterflies found that a species in the same family as the island marble

butterfly, *Pieris rapae*, was more likely to be struck and killed by vehicles in comparison to the other more sedentary species in the study, with 7 percent of a local population killed by cars in a 44-day period (Munguira and Thomas 1992, p. 325). The study was conducted along "main roads" in the United Kingdom that connected relatively large cities (Munguira and Thomas 1992, p. 317); thus, it is likely they had more traffic than the highway at American Camp. While the authors of the study did not find the percentage of the population killed by vehicles to be significant in comparison to mortality caused by other natural factors affecting their survival (Munguira and Thomas 1992, p. 316), the loss of individual island marble butterflies could have disproportionately large negative effects on the species as a whole because of its restricted range and small population size.

Male island marble butterflies are attracted to white (ultraviolet-reflecting) objects that may resemble females and have been observed to investigate white flowers (e.g., field chickweed and yarrow), white picket fences, and white lines painted on the surface of roads (Lambert 2011, p. 47). The highway through American Camp has fog lines that are painted white that could be attractive to adult butterflies, thereby increasing their risk of being killed by vehicles. The centerlines on the highway are painted yellow.

Given the presence of a highway within the single remaining site occupied by island marble butterflies, and their attraction to white road stripes that are present along the Cattle Point Road edges, we expect that some vehicular mortality is likely. However, we cannot estimate the severity of this stressor, as vehicular mortality has not been specifically studied for the island marble butterfly or documented at American Camp. Therefore, while there is the potential for mortality resulting from vehicular collisions, the best available information does not indicate that vehicular collision currently has an individual-, population-, or species-level impact to the island marble butterfly.

Insecticide Application

The best available information does not indicate any insecticide use in proximity to areas that are currently known to be occupied by the island marble butterfly at American Camp. However, remnant patches of potentially suitable habitat for the species are located within a matrix of rural agricultural lands and low-density residential development, where

insecticides may be used. One such insecticide that has the potential to adversely affect the island marble butterfly if applied during its larval phase is *Bacillus thuringiensis* var. *kurstaki* (Btk). This insecticide, derived from a common soil bacterium, is used in a wide range of settings, including organic agriculture, for the control of lepidopteran (butterfly and moth) pest species (National Pesticide Information Center 2015, p. 1; Oregon Health Authority 2015, p. 1). In forestry, it is used broadly for the control of the Asian and European gypsy moth species (*Lymantria dispar*, and *L. dispar dispar*, respectively) (see WSDA 2015, entire). Btk is also more generally applied for other lepidopteran pest species, such as tent caterpillars (*Malacosoma* spp.).

Btk has the potential to kill the island marble butterfly larvae if applied in close proximity and upwind of an occupied site. Spraying of Btk has had adverse effects to nontarget butterfly and moth species (Severns 2002, p. 169; Wagner and Miller 1995, p. 19), with butterfly diversity, richness, and abundance (density) reduced for up to 2 years following the application of Btk (Severns 2002, p. 168). One study demonstrated that most nontarget lepidopteran species may be more susceptible to Btk than target species such as Asian and European gypsy moths or western tent caterpillars (Haas and Scriber 1998). For nontarget lepidopterans, the early instar stages of larvae are the most susceptible stage (Wagner and Miller 1995, p. 21).

Large-scale application of Btk in Washington State is done in a targeted fashion in response to positive trapping of pest species. In most years, Btk application is conducted at the scale of hundreds of acres per year, although in years when detection of pest species are high, such as in 2015, application of Btk may be scaled up to thousands of acres in response (WSDA 2015, p. 1). Large-scale application of Btk does not normally overlap with areas where the island marble butterfly is known to occur within American Camp, although if pest species were detected in close proximity and if the target species is active at the same time as larvae of the island marble butterfly, the effect of Btk treatment could be detrimental. Because the island marble butterfly produces a single brood per year, has a spring flight season, and has developing larvae during the summer insecticide application period, this species is more likely to be susceptible to the adverse effects of Btk than butterfly species with later flight and developmental periods or those that produce multiple broods per year. Btk is commonly used to

control tent caterpillars and is likely to have been used on San Juan Island (Potter 2015d, *in litt.*), although the effect on the island marble butterfly at American Camp is not documented. At this time, the best available information does not indicate that Btk has been applied at or adjacent to any location where island marble butterflies are known to occur.

We recognize that the use of insecticides could have a negative impact on larvae of the island marble butterfly if applied in such a way that individuals were exposed. However, there is no documented exposure to insecticide use in the island marble butterfly at this time. While there is the potential for high levels of mortality resulting from insecticide exposure, we conclude that insecticide use is not having a known impact on the island marble butterfly, principally because of the low likelihood of exposure at American Camp.

Late Emergence of Adult Butterflies

Since regular transect surveys for the island marble butterfly began in 2004, the first date of the flight period has shifted an average of approximately 9 days later in the year (USFWS 2016, unpublished data). The reason for this change is unclear, and the existing time-series is too brief to ascertain whether this change is a trend or part of natural variability on a longer time scale. For example, no clear correlation exists between average winter temperatures and the beginning of the island marble flight season and the shift toward later emergence between 2004 and 2016. Later emergence cannot currently be attributed to climate change, although temperature may play a role. When conditions inside the captive-rearing lab for island marble butterflies were cooler than the ambient temperature in 2015, butterflies emerged later than the wild population (Shrum 2015b, *in litt.*). The temperature was increased inside in 2016, and the captive and wild adults emerged at the same time (Weaver 2015b, *in litt.*; Shrum 2016, *in litt.*). Other environmental conditions, including moisture, likely influence emergence time as well (Tauber *et al.* 1998, entire).

Ongoing research has recently detected a steep increase in mortality for late-season eggs and larvae compared to the mortality of early-season eggs, with none of the larvae observed in study plots surviving to the fifth instar in 2015 (Lambert 2015d, p. 14). Only a portion of the mortality documented was attributable to starvation (25 percent); the greatest cause of mortality was attributable to direct predation (60

percent) (Lambert 2015d, p. 14; see discussion above under Factor C). The single, small population of island marble butterflies likely cannot sustain the increased late-season predation pressure, and probable survival of fewer offspring, over multiple years.

Climate Change

Our analyses under the Act include consideration of ongoing and projected changes in climate. The majority of climate models for the Pacific Northwest region predict wetter winters, with an increase in the proportion of precipitation falling as rain rather than snow due to increasing ambient temperature, and drier summers as a result of reduced snowpack and ensuing hydrologic drought (Mote and Salathé 2010, p. 48). No downscaled climate models specific to the San Juan Island archipelago are available, and San Juan Island is not reliant on snowpack for its water. The portion of San Juan Island where the known population of the island marble butterfly occurs is in the rain shadow of mountain ranges on Vancouver Island, Canada, and in Washington State, resulting in weather patterns commonly drier than much of the rest of the Pacific Northwest (Mass 2009, entire). While the San Juan Island archipelago may be subject to the increasing average annual temperatures associated with climate change, it is unclear how changing temperatures will affect the island marble butterfly.

One predicted stressor associated with climate change for herbivorous (plant-eating) insect species is the potential for the development of phenological asynchrony (a mismatch in timing) between insects and their larval host plants (Bale *et al.* 2002, p. 8). If an herbivorous insect emerges earlier or later than the optimal stage of its larval host plant, the insect may not be able to find plants at the right stage for egg laying, or the insect's larvae may not have adequate food resources. If the insect emerges earlier than its larval host plant, the plants may not be detectable, leaving the animal with no place to lay her eggs, or the plants may be too small to provide enough forage for larvae, leading to starvation. Conversely, if the insect emerges when the plant is at a later phenological stage, eggs may be laid on a larval host plant that has matured to the point that plant tissues are too tough for the larvae to consume, or the plant may die before the insect has acquired enough resources to survive to the pupation stage. The island marble butterfly is an early-flying species, generally emerging in April and immediately mating and laying eggs on the larval host plants that

are available. This strategy ensures that the host plants are young enough to provide tender plant tissue for first instar larvae, which have mouthparts incapable of consuming anything but the high-moisture flower buds. In the absence of access to tender buds, early instar larvae die from desiccation (Lambert 2011, p. 12). Although evidence exists that some larvae of late-emerging island marble butterflies have suffered starvation (Lambert 2015d, p. 14), perhaps as a result of mismatch between butterfly and food-plant phenology, no recurring pattern in such mismatch exists now that can be associated with climate change. However, monitoring of phenology and survival in the island marble butterfly is ongoing and may shed light on this relationship in the future.

Sea-level rise associated with climate change is expected to continue as polar ice melts, leading to an increase in ocean volume (Adelsman *et al.* 2012, p. 82). The warming climate is also expected to lead to rising ocean temperatures resulting in thermal expansion of the water, which will also increase the volume of the ocean (Dalton *et al.* 2013, p. 70). Both of these effects of climate change are expected to lead to rising sea level, which will have the direct effect of increasing the impacts of storm surges and flooding events in low-lying areas, such as the nearshore lagoon habitat of the island marble butterfly (MacLennan *et al.* 2013, pp. 4–5; Vose *et al.* 2014, p. 381; Friends of the San Juans 2014, p. 7; Whitman and MacLennan 2015, *in litt.*; NOAA 2015a, entire; NOAA 2015b, entire). Because the nearshore habitat is barely above sea level, rise in sea level increases the risk of inundation and direct mortality for island marble butterflies overwintering as chrysalids in low-lying nearshore habitat. Powerful storm surges have historically deposited large amounts of coarse sediment and driftwood in areas occupied by Menzies' pepperweed (an estimated 5 to 8 percent of habitat occupied in 2006) and where a number of island marble butterflies were overwintering as chrysalids, leading to low numbers of individuals detected in nearshore habitat in years following a storm surge event (Lambert 2011, pp. 99, 145–146; Lambert 2015f, *in litt.*). Due to the small number of individuals remaining, mortality and habitat loss resulting from storm surges likely has a population-level impact on the island marble butterfly, and we expect these impacts to increase over time as an effect of global climate change.

While some effects of global climate change, such as sea-level rise and storm

intensity, are expected to be nearly universal, warming associated with climate change is expected to be variable or even patchy, depending on localized weather patterns (*e.g.*, patterns influenced by oceanographic phenomena such as El Niño and La Niña) (Adelsman *et al.* 2012, p. 37). The Pacific Northwest region of the United States abuts the eastern edge of the Pacific Ocean, which warms and cools in sync with the Pacific Decadal Oscillation (Mantua and Hare 2002, entire). Given the unclear direction of climate trends in the San Juan archipelago, we cannot conclude that the island marble butterfly is exhibiting phenological changes such as later emergence as a result of climate change, or that the species will do so in the future.

Climate conditions that affect phenology in a given year can have important impacts to the species, however. Cooler temperatures are associated with later emergence of butterflies reared in captivity (Weaver 2015b, *in litt.*), and late emergence leads to a spike in late-season predation on island butterfly larvae, when spider and wasp populations are greatest (see discussions above under Factor C, and above under “Late Emergence of Adult Butterflies”). Compared with an abundant species with numerous, well-distributed populations, the island marble butterfly's small remaining population is far more vulnerable to such fluctuations in mortality.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

The Service, NPS, and other partners have been implementing multiple conservation efforts in an attempt to ameliorate the threats posed by small population size, vulnerability to stochastic events, and insecticide applications. No conservation efforts currently address collisions with vehicles or the effects of climate change. Below we summarize the conservation measures that have been implemented by NPS, WDFW, University of Washington researchers, and conservation partners on San Juan Island to address the threats to the island marble butterfly described above under Factor E.

The Service, NPS, and other partners have conducted conservation efforts to address the effects of small population size and vulnerability to stochastic events on the island marble butterfly since 2008. Specifically, NPS and other partners began exploring methods for captive-rearing island marble butterflies in 2008. In 2009, 16 island marble

butterfly individuals were rescued from a construction site, reared to emergence as adult butterflies, and released in the spring of 2010 (Vernon 2015d, p. 2). In 2010, more individuals were reared as part of a food preference experiment (Trapp and Weaver 2010, entire), and 32 adults were released in 2011 (Vernon 2015d, p. 5). These opportunistic events demonstrated that rescue, rearing, and releasing of island marble butterflies could be successful. A handbook based on these captive-rearing events and more recent efforts was developed to guide captive-rearing and release efforts for the island marble butterfly (Vernon 2015d, entire).

In 2013, continued decline in the number of island marble butterflies observed in the wild led to the rescue, captive-rearing, and release of the species in an effort to improve survivorship and reverse the trend of declining numbers, and provide a safety net against stochastic events. Forty-seven individuals successfully formed chrysalids, and 40 adult island marble butterflies emerged in the spring of 2014, and were released at American Camp (85 percent survival) (Vernon 2015d, p. 3). NPS has scaled up and streamlined the captive-rearing program. In 2014, NPS converted an outbuilding into a rearing facility, and 89 eggs and larvae were brought in for captive-rearing. Of those, 75 adult island marble butterflies emerged (84 percent survival) in the spring of 2015, and were released at American Camp (Silahua 2015, *in litt.*). In 2015, 126 eggs and larvae were brought in for captive-rearing, 114 of which survived to become chrysalids (Silahua 2015, *in litt.*). The productivity of the captive rearing facility has continued to increase in subsequent years; in 2016, 111 adult island marble butterflies were released; in 2017, 136; and in 2018, 158 adults were released (SJINHP 2018, *in litt.*). In total, more than 500 adult island marble butterflies have been released back into the wild through this program (SJINHP 2018, *in litt.*).

Although the number of adult island marble butterflies recorded during annual surveys remains small (fewer than 30 butterflies were observed each year during monitoring for the 2014 and 2015 flight seasons), the captive-rearing effort has likely provided crucial support to the population remaining in the wild and will remain necessary in the future. We note, that there is no data available allowing a precise characterization of the success released individuals have in contributing to the overall population of the species. However, this ongoing conservation effort to address small population size

and vulnerability to stochastic events is not without risk and does not ameliorate other threats to the species in the long term. For example, in 2015, individuals reared in captivity emerged late in the flight season (on or around May 13) (Weaver 2015b, *in litt.*), and available data suggest that the majority of the offspring of these captive-reared individuals died as a result of high late-season predation rates (Lambert 2015d, p. 14; see discussion under Factor C, above). In 2016, the date of emergence in the captive-rearing facility was better calibrated to ambient environmental temperatures by adjusting the temperature in the facility to match those of the surrounding outdoor area, but there are likely to be other unforeseen challenges to successful captive-rearing.

Conservation efforts to reduce natural or manmade factors include efforts to reduce the application of the insecticide Btk in close proximity to sites occupied by the island marble butterfly. The final decision over the use of insecticide for control of invasive moths and butterflies has been, and will continue to be, made by the Washington State Department of Agriculture after coordination with the Service and WDFW. All pesticide used by the State of Washington is applied in compliance with label instructions, which are designed to reduce overspray, drift, and other negative impacts to nontarget organisms and areas.

Summary of Other Natural or Manmade Factors Affecting Its Continued Existence

The small population size of the island marble butterfly makes the species highly vulnerable to stochastic events (such as storm surges and climate anomalies) that directly or indirectly affect survival and reproductive success or the extent of habitat. Storm surges, which can cause direct mortality of island marble butterflies and habitat loss, are likely to increase with climate change. Although successful captive-rearing and release of island marble butterflies is an important achievement that has supplemented numbers at American Camp since 2013, threats to the species and its habitat continue. The range of the island marble butterfly has continued to contract at American Camp, and the number of island marble butterflies observed annually has continued to decline. These conservation efforts will need to be continued into the future and be monitored to assess their long-term conservation value to the island marble butterfly before we can determine their efficacy.

Cumulative Effects

In our analysis of the five factors, we found that the island marble butterfly is likely to be affected by loss and degradation of habitat, direct and incidental predation, and vulnerabilities associated with small population size. Multiple stressors acting in combination have greater potential to affect the island marble butterfly than each factor alone. For example, increased sea level resulting from climate change may enhance the impacts of storm surges and flooding on low-lying coastal habitat where the one native larval host plant for the species occurs. The combined effects of environmental and demographic stochasticity, especially on a small population, can lead to a decline that is unrecoverable and results in extinction (Brook *et al.* 2008, pp. 457–458). The impacts of the stressors described above, which might be sustained by a larger, more resilient population, have the potential in combination to rapidly affect the size, growth rate, and genetic integrity of a species that persists as a small, isolated population. Thus, factors that, by themselves, may not have a significant effect on the island marble butterfly, may affect the species when considered in combination.

Determination of Island Marble Butterfly

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

As required by the Act, we have carefully assessed the best scientific and

commercial information available regarding the past, present, and future threats to the island marble butterfly. Since the species was discovered in the San Juan Islands in 1998, the species’ range has contracted from five populations on two islands (San Juan and Lopez) to a single population, at American Camp on San Juan Island, today. The causes of these extirpations are not well understood, but likely include habitat loss outside American Camp from a combination of sources. Within the single remaining population at American Camp, the number of sites where island marble butterflies are detected during surveys declined from 25 in 2007, to 4 in 2015. Encounter rates for adult butterflies calculated from survey data have declined each year, from almost 2 per 100 meters in 2004, to about 0.3 per 100 meters in 2015. The slight increase in this rate in 2016, to 0.6 per 100 meters, does not reverse the overall trend of decline. Captive rearing and release of the island marble butterfly shows promise for bolstering the remaining population of the species. However, the potential for this species to recolonize areas within its historical range is uncertain due to ongoing, pervasive habitat degradation that results from herbivory by deer and other animals on larval host plants, from plant succession and invasion by nonnative plants that render habitat unsuitable for larval host plants, and potentially from cultivation and other land uses. The widespread occurrence of native (spiders) and nonnative (wasps) predators of eggs and larvae is also an ongoing threat that may hamper or prevent potential recolonizations. Furthermore, the source for any recolonizations consists of a single, small population already vulnerable to these threats and to stochastic sources of mortality, such as severe storms and other climate anomalies.

In summary, we have identified the following threats to the island marble butterfly: (1) Habitat loss and degradation from plant succession and competition with invasive species that displace larval host plants; herbivory by deer, European rabbits, and brown garden snails; and storm surges (Factor A); (2) direct predation by spiders and wasps, and incidental predation by deer (Factor C); (3) small population size and vulnerability to stochastic events (Factor E); and (4) the cumulative effects of small population size and the restricted range combined with any stressor that removes individuals from the population or decreases the species’ reproductive success (Factor E). These threats affect the island marble butterfly

throughout the entirety of its range and are ongoing and likely to persist into the foreseeable future. These factors pose threats to the island marble butterfly whether considered individually or cumulatively. The existing regulatory mechanisms (Factor D) and ongoing conservation efforts are not currently sufficient to ameliorate the impact of these threats; despite intense focused efforts to conserve the species, population numbers continue to decline.

The ongoing threats of habitat loss and degradation, predation, the effects of small population size, and stochastic events that cause mortality or reduce reproductive success render this species in its entirety presently in danger of extinction throughout all of its range.

The Act defines an endangered species as any species that is “in danger of extinction throughout all or a significant portion of its range” and a threatened species as any species “that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” The ongoing threats of habitat loss and degradation, predation, the effects of small population size, and stochastic events that cause mortality or reduce reproductive success render this species in its entirety presently in danger of extinction. Therefore, on the basis of the best available scientific and commercial information, we are listing the island marble butterfly as endangered in accordance with sections 3(6) and 4(a)(1) of the Act. We find that threatened species status is not appropriate for the island marble butterfly because of its already contracted range and single remaining population, because the threats are ongoing and affecting the entirety of the species, and because these threats are expected to continue into the future.

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. We have determined that the island marble butterfly is in danger of extinction throughout all of its range, and accordingly, did not undertake an analysis of any significant portion of its range. Because we have determined that the island marble butterfly warrants listing as endangered throughout all of its range, our determination is consistent with the decision in *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020), in

which the court vacated the aspect of the 2014 Significant Portion of its Range Policy that provided the Services do not undertake an analysis of significant portions of a species’ range if the species warrants listing as threatened throughout all of its range.

Determination of Status

Our review of the best available scientific and commercial information indicates that the island marble butterfly meets the definition of an endangered species. Therefore, we are listing the island marble butterfly as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species’ decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The

recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be reclassified from endangered to threatened (“downlisted”) or removed from listed status (“delisted”), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (<http://www.fws.gov/endangered>) or from our Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Washington will be eligible for Federal funds to implement management actions that promote the protection or recovery of the island marble butterfly. Information on our grant programs that are available to aid species recovery can be found at: <http://www.fws.gov/grants>.

Please let us know if you are interested in participating in recovery efforts for the island marble butterfly. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their

actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the Bureau of Land Management, Farm Service Agency, Federal Highway Administration, National Park Service, U.S Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Department of Agriculture, and the U.S. Coast Guard.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. In addition, it is unlawful to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22. With regard to endangered wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with

otherwise lawful activities. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Due to the cryptic nature of this species throughout a large portion of the year, we are unable, at this time, to identify specific activities within the known range of the species that would not result in unauthorized take under section 9 of the Act.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of island marble butterflies, including import or export across State lines and international boundaries, except for properly documented antique specimens at least 100 years old, as defined by section 10(h)(1) of the Act;

(2) Introduction of nonnative species that compete with or prey upon the island marble butterfly or its host and nectar plants—for example, the introduction of competing, nonnative plants or animals to the State of Washington, and in particular the San Juan Islands;

(3) The unauthorized release of biological control agents that attack any life stage of the island marble butterfly—for example, Btk release in the range of the species;

(4) Unauthorized modification of the soil profiles or the vegetation components on sites known to be occupied by island marble butterflies; or

(5) Intentional disturbance of butterflies (or any life stage thereof), especially mowing or burning of areas where butterflies are known to occur during the breeding season.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat,

the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the obligation of the Federal action agency and the landowner is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the specific features that support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106-554; H.R.

5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the species status assessment (SSA) document and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and

substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

On August 27, 2019, we published a final rule in the **Federal Register** (84 FR 45020) to revise our regulations concerning the procedures and criteria used for listing or removing species from the Lists of Endangered and Threatened Wildlife and Plants and designating critical habitat. That rule became effective on September 26, 2019, but as stated in that rule, the revisions it sets forth apply to classification and critical habitat rules for which a proposed rule was published after September 26, 2019. Since the proposed rule for the Island marble butterfly critical habitat was published on April 12, 2018 (83 FR 15900), this final rule follows the version of § 424.12 that was in effect prior to September 26, 2019.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas within the geographical area occupied by the species at the time of listing to designate as critical habitat, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. For example, physical features might include gravel of a particular size required for spawning, alkali soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species. In considering whether features are essential to the conservation of the species, the Service may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or

physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

We derive the specific physical or biological features essential to the conservation of the island marble butterfly from studies of this species' habitat, ecology, and life history as described below. We have determined that the following physical or biological features are essential to the conservation of the island marble butterfly:

Space for Individual and Population Growth and for Normal Behavior

The island marble butterfly has previously been documented as having as many as five core populations across San Juan and Lopez Islands in the San Juan archipelago, but of those five, there is only one location where it has been consistently detected on an annual basis since its rediscovery in 1998 at American Camp, part of San Juan Island National Historical Park. The long-term occupancy of American Camp indicates that one or more aspects of this site provide the combination of habitat factors needed by the species. American Camp encompasses multiple small populations within large expanses of diverse habitat, including open south-facing slopes, varied broad-scale topographic features, and low-statured plant communities (Lambert 2011, pp. 151–152; Lambert 2016a, p. 4). Surface topography (slope and aspect) and landscape features that have topographic relief (slopes, bluffs, sand banks, or driftwood berms) are critical to the movement and dispersal of the island marble butterfly (Lambert 2011, p. 152).

The portion of the park where the island marble butterfly persists contains an open expanse of prairie and dune habitat greater than 700 ac (283 ha) and is bounded on two sides by marine shoreline. The island marble butterfly uses landscape features to fly low across the land, following shallow ridgelines associated with sand dunes, road cuts, and coastal bluffs. We surmise that island marble butterflies use the lee of rolling hills or hollows in broader expanses of prairie and dune habitats to facilitate their movements. Therefore, we determine habitat areas large enough to include broad topographic features (e.g., ridgelines, hills, and bluffs) to be physical or biological features for the island marble butterfly.

At a rangewide scale, the island marble butterfly exhibits metapopulation dynamics, while on a local scale, "patchy" population dynamics best describes the movement

of individuals between suitable habitat patches (Lambert 2011, pp. 147–148). Specifically, the island marble butterfly tends to occupy multiple habitat patches within a larger, heterogeneous area, with some small amount of movement between suitable habitat patches. Individual butterflies rarely move distances greater than 0.4 mi (600 m) (Peterson 2010, p. 3). Marked individuals are nearly always recaptured at the sites where they were marked, with a single exception when a marked individual was recaptured 1.2 mi (1.9 km) from its site of origin (Peterson 2010, p. 3). Within the last known occupied site, smaller occupied patches have been observed to undergo local extirpation events, but the close proximity of nearby populations within the larger contiguous area has allowed for recolonization (Lambert 2011, p. 155). Areas large enough to contain multiple small populations of island marble butterfly that allow for population connectivity and re-establishment are essential to the conservation of the species. Therefore, we conclude that areas large enough to support multiple small populations of the species are a physical or biological feature essential to the island marble butterfly.

Island marble butterflies tend to fly close to the ground, along the edges of treed areas or along marine shorelines. Therefore, forest and open water create natural barriers to movement (Lambert 2011, pp. 49, 50). Male island marble butterflies fly low (approximately 5 ft (1.5 m) above the ground) and follow ridgelines, bluffs, road-cuts, trail edges, fence lines, and shrub or forest edges in search of mates (Lambert 2011, pp. 47–48). Female island marble butterflies have been observed to fly in low (approximately 3 ft (1 m) above the ground), wide (330–980 ft (100–500 m)) circles above the ground searching for suitable host plants upon which to lay their eggs (Lambert 2011, p. 49). We conclude that large open areas with few trees are a physical or biological feature for the island marble butterfly.

Based on the best information available, we estimate that the conservation of the island marble butterfly is best supported by open, primarily treeless areas with short-statured forb- and grass-dominated vegetation. Areas should be large enough to allow for the inclusion of diverse topographic features and habitat types, including sites for mating, egg laying, feeding, refugia (places to safely harbor), and diapause locations, and should support multiple discrete occupied habitat patches, which increases the likelihood of

recolonization if local extinction takes place. Therefore, we conclude that open, primarily treeless habitat areas that are large enough to support multiple, small populations and that include broad topographic features such as ridgelines, hills, and bluffs are physical or biological features essential to the conservation of the island marble butterfly.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

The island marble butterfly needs larval and adult food resources in order to complete its life cycle: larval host plants (food plants required by the immature stages of the butterfly) and nectar plants for the adults. The island marble butterfly has three known larval host plants, all in the mustard family (Brassicaceae). One is native, *Menzies' pepperweed*, and two are nonnative, *field mustard* and *tumble mustard* (Miskelly 2004, pp. 33, 38; Lambert 2011, p. 2). These three larval host plants are essential components of habitat for the island marble butterfly.

All three larval host plants occur in open grass- and forb-dominated plant communities, but each species is most robust in one of three specific habitat types, with little overlap: *Menzies' pepperweed* at the edge of low-lying coastal lagoon habitat; *field mustard* in upland prairie habitat, disturbed fields, and disturbed soils, including soil piles from construction; and *tumble mustard* in sand dune habitat (Miskelly 2004, p. 33; Miskelly and Potter 2009, p. 9; Lambert 2011, pp. 24, 121–123). While each larval host plant can occur in each of the three habitat types referenced above, female island marble butterflies typically lay eggs on only the most robust host plants in each aforementioned habitat type (Miskelly 2004, p. 33; Lambert 2011, pp. 24, 41, 50, 55–57, 121–123).

We conclude that the presence of *Menzies' pepperweed*, *field mustard*, or *tumble mustard* is a physical or biological feature upon which the island marble butterfly depends.

Adults primarily forage for nectar on their larval host plants (Potter 2015e, pers. comm.). They also use a variety of other nectar plants that flower during the island marble butterfly's flight period, which is generally from mid-April to mid- to late-June. Adults have been observed to nectar on yellow sand verbena, yarrow, small-flowered fiddleneck, American sea rocket, field chickweed, common stork's bill, dovefoot geranium, hairy cat's ear, common lomatium, seashore lupine, common forget-me-not, California

buttercup, trailing blackberry, dandelion, death camas, and Howell's brodiaea (Miskelly 2004, p. 33; Pyle 2004, pp. 23–26, 33; Miskelly and Potter 2005, p. 6; Lambert 2011, p. 120; Vernon and Weaver 2012, appendix 12; Lambert 2015a, p. 2; Lambert 2015b, *in litt.*). Of these additional nectar resources, island marble butterflies are most frequently observed feeding on yellow sand verbena, small-flowered fiddleneck, and field chickweed (Potter 2015e, pers. comm.). We conclude that adult nectar resources, including, but not limited to, those listed here, are a physical or biological feature upon which the island marble butterfly depends.

Like many animals that rely on external sources of body heat (ectotherms), the island marble butterfly is more active at warmer temperatures; for this species, this generally means temperatures that are higher than 55 degrees Fahrenheit (°F) (13 degrees Celsius (°C)). This leads to adult (winged) island marble butterflies being most active between the hours of 10 a.m. and 4 p.m. The island marble butterfly relies upon solar radiation for the warmth that drives their development, mate-finding, and reproduction. We conclude that exposure to the sun provided by open, primarily treeless areas with some south-facing slopes and short-statured vegetation is a physical or biological feature upon which the island marble butterfly depends.

We consider open sunlit areas containing at least one species of larval host plant, Menzies' pepperweed, field mustard, and/or tumble mustard, with both flower buds and blooms between the months of May through July to be physical or biological features of island marble butterfly habitat. We additionally consider the presence of adult nectar plants in flower to be a physical or biological feature of island marble butterfly habitat.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Male island marble butterflies are attracted to white and may investigate white picket fences, white lines on surface roads, or other white objects while searching for a mate (Lambert 2011, p. 47). The island marble butterfly primarily uses short-statured, white-flowering plants such as field chickweed as sites for mate attraction and mating (Lambert 2014b, p. 17). We conclude that the presence of short-statured, white-flowering plants during the flight period (generally from mid-April to mid- to late-June) for the island marble butterfly to be a physical or

biological feature of the island marble butterfly habitat.

Once mated, gravid female island marble butterflies seek out larval host plants at an optimal growth stage for egg laying (recently hatched caterpillars require tender plant parts, such as immature flower buds, because their mouthparts are not developed enough to eat hardened plant matter) (Lambert 2011, pp. 9–10). Larval host plant flowering phenology (timing of flower opening) is important for island marble butterflies. If the plants emerge too early, there may not be enough tissue at the right stage available for the larvae to go through their developmental phases. If the plants emerge too late, female butterflies may not recognize the larval host plants as suitable sites to lay eggs.

Female island marble butterflies carefully gauge the suitability of each larval host plant, preferentially selecting plants that possess both flowers and buds to lay eggs on. Plants with greater than 50 percent of their flowers in bloom are more likely to be selected than plants in an earlier (less than 50 percent of flowers in bloom) or later developmental stage (Lambert 2011, pp. 59–60). Female island marble butterflies tend to lay eggs singly on the immature buds of the flowers of their larval host plants, rarely laying eggs on inflorescences that are already occupied by island marble butterfly eggs or larvae (Lambert 2011, pp. 51–57). Female island marble butterflies prefer larval host plants growing in low-density patches with less than one plant per meter square and tend to choose plants that are along the outer edge of a patch of larval host plants rather than in areas with a high density of host plants (Lambert 2011, pp. 53, 68–69; Lambert 2015d, p. 9). Additionally, host plant phenology (timing of development) plays a significant role in determining where females lay eggs. Low- to medium-density larval host plants, with both flower buds and blooms on them between the months of May through July, for egg-laying and larval development are a physical or biological feature of island marble butterfly habitat.

After hatching, larvae of the island marble butterfly rapidly progress through five instars (larval growth stages) and have been documented to then move up to 13 ft (4 m) from their larval host plant to nearby standing vegetation (usually tall grasses) to pupate (Lambert 2011, p. 19). Island marble butterfly larvae use nearby vegetation as bridges to other plants and appear to avoid being close to the ground while searching for a safe site on which to form a chrysalis (pupal casing)

(Lambert 2011, pp. 20–21). Therefore, we find that the presence of larval host plants, in complement with tall, standing vegetation that provides the structure necessary to allow mature larvae to cross to a safe pupation site, is a physical or biological feature of island marble butterfly habitat.

Habitats That Are Protected From Disturbance or Are Representative of the Historical, Geographical, and Ecological Distributions of a Species

The island marble butterfly spends approximately 300 days in diapause (a form of dormancy) as a chrysalis (pupa) before undergoing metamorphosis to emerge as a winged adult the following spring. Unlike other butterfly species that may diapause underground or, alternatively, rapidly advance from egg to winged adult and overwinter in an adult phase, the island marble butterfly enters diapause aboveground and very close to where it hatched. During diapause, the island marble butterfly is vulnerable to any activity such as trampling, mowing, harvesting, grazing, or plowing that may disturb or destroy the vegetative structure to which a larva has attached its pupal casing. The larval host plants for the island marble butterfly are annual (or biennial), and habitat patches for the island marble butterfly do not tend to persist in the same area continuously over time. Leaving the vegetation near where larval host plants established in the spring until mid-summer the following year provides a safe place for the island marble butterfly chrysalids to harbor until they emerge. Therefore, we find that sufficient areas of undisturbed vegetation surrounding larval host plants that are left standing for a sufficient period of time in order for the island marble butterfly to complete its life cycle is a physical or biological feature of island marble butterfly habitat.

Summary of Essential Physical or Biological Features

We have determined that the following physical or biological features of the areas on San Juan Island, Washington, that are essential to the conservation of the island marble butterfly are:

(a) Open, primarily treeless areas with short-statured forb- and grass-dominated vegetation that include diverse topographic features such as ridgelines, hills, and bluffs for patrolling, dispersal corridors between habitat patches, and some south-facing terrain. Areas must be large enough to allow for the development of patchy-population

dynamics, allowing for multiple small populations to establish within the area.

(b) Low- to medium-density larval host plants, with both flower buds and blooms on them between the months of May through July, for egg-laying and larval development. Larval host plants may be any of the following: *Brassica rapa*, *Sisymbrium altissimum*, or *Lepidium virginicum*.

(c) Adult nectar resources in flower and short-statured, white-flowering plants in bloom used for mate-finding, which may include, but are not limited to, *Abronia latifolia* (yellow sand verbena), *Achillea millefolium* (yarrow), *Amsinckia menziesii* (small-flowered fiddleneck), *Cakile edentula* (American sea rocket), *Cerastium arvense* (field chickweed), *Erodium cicutarium* (common stork's bill), *Geranium molle* (dovefoot geranium), *Hypochaeris radicata* (hairy cat's ear), *Lomatium utriculatum* (common lomatium), *Lupinus littoralis* (seashore lupine), *Myosotis discolor* (common forget-me-not), *Ranunculus californicus* (California buttercup), *Rubus ursinus* (trailing blackberry), *Taraxacum officinale* (dandelion), *Toxicoscordion venenosum* (death camas, formerly known as *Zigadenus venenosus*), and *Triteleia grandiflora* (Howell's brodiaea, formerly *Brodiaea howellii*).

(d) Areas of undisturbed vegetation surrounding larval host plants sufficient to provide secure sites for diapause and pupation. The vegetation surrounding larval host plants must be left standing for a sufficient period of time for the island marble butterfly to complete its life cycle.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and which may require special management considerations or protection. Because the island marble butterfly depends on vegetation that requires disturbance and open areas to establish, special management may be necessary to both maintain low-level disturbance and to prevent the invasion of weedy native and nonnative plant species, such as Douglas fir, Mediterranean pasture grasses, and thistle. Beneficial special management activities could include prescribed burning to remove standing vegetation and seedlings and to reduce seed set of nonnative plant species. Additionally, the application of selective herbicides to combat specific invasive plants may also prove useful in

vegetation management. For some weedy species, hand-pulling can be an effective vegetation management tool, if staffing and resources allow.

Special management considerations within the critical habitat unit may include protection of larval host plants from herbivory by browsing deer, European rabbits, and brown garden snails. These herbivores constitute the primary threat to the larval host plants upon which the island marble butterfly depends. Special management actions that could ameliorate the threat of herbivory by deer, European rabbits, and brown garden snails could include lethal control methods, such as targeted hunting or professional removal. For deer, exclusion fencing increases the survivorship of both larval host plants and the island marble butterfly in the fenced areas, but the fences are difficult to erect and maintain and provide a host of other challenges for the land management agencies. Additionally, exclusion fencing does nothing to reduce the number of deer, which is the primary cause of the intense browsing pressure on the larval host plants for the island marble butterfly (Lambert 2011, pp. 85–104, 127; Lambert 2014a, p. 3; Lambert 2015d, pp. 14–18). Fencing is not effective against European rabbits and brown garden snails.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. In this case, we are not designating any areas outside the geographical area occupied by the species.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, other unpublished materials, or experts' opinions or personal knowledge. In this case, we used existing occurrence data for the

island marble butterfly and information on the habitat and ecosystems upon which it depends. These sources of information included, but were not limited to:

- (1) Data used to prepare the rule to list the species;
- (2) Information from biological surveys;
- (3) Various agency reports and databases;
- (4) Information from NPS and other cooperators;
- (5) Information from species experts;
- (6) Data and information presented in academic research theses; and
- (7) Regional Geographic Information System (GIS) data (such as species occurrence data, land use, topography, aerial imagery, soil data, and land ownership maps) for area calculations and mapping.

Areas Occupied at the Time of Listing

In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we reviewed available information pertaining to the habitat requirements of the species, identified specific areas within the geographical area occupied by the species at the time of listing, and examined whether we could identify any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. In this case, as we are listing the island marble butterfly concurrently with the designation of critical habitat, all areas presently occupied by the island marble butterfly constitute those areas occupied at the time of listing.

We plotted the known locations of the island marble butterfly where they occur in Washington using 2015 National Agriculture Imagery Program (NAIP) digital imagery in ArcGIS, version 10.4 (Environmental Systems Research Institute, Inc.), a computer geographic information system program, and determined that the currently occupied areas contain the physical or biological features needing special management, as discussed above. We also analyzed the appropriate quantity and spatial arrangement of these features in the context of the life history, status, and conservation needs of the species.

We note that limitations in available GIS data and the scale of designations can affect our precision in mapping critical habitat boundaries. We strive to use clearly recognizable geographic or legal features in designating critical habitat boundaries; however, in those instances where we think critical habitat maps may cause uncertainty over the precise extent of mapped critical

habitat, we have attempted to clarify with supplemental narrative descriptions.

Survey effort for the island marble butterfly has not been consistent spatially or temporally. Island-wide surveys of San Juan and Lopez Islands were discontinued by WDFW in 2012, due to decreased detections and the lack of larval host plants in previously occupied areas across both islands. In 2015, the Service funded an island-wide survey of San Juan, and no occurrences were documented outside of the known occupied area centered on American Camp at the southern end of San Juan Island. The last survey of Lopez Island was conducted in 2012, and a single larva was observed. There have been no reports of island marble butterflies from Lopez Island since 2012.

Therefore, the Service considers areas to be occupied at the time of listing if there are occurrence records within those areas within the last 5 years, or if areas adjacent to known occupied areas have the physical or biological features upon which the island marble butterfly depends and there are no barriers to dispersal. It is reasonable to conclude that the species regularly occurs in such areas because of the species' population dynamics and frequent movement between habitat patches, as discussed above. Occurrence records are deemed credible if recorded by a Federal, State, or contract biologist, or a qualified surveyor for the island marble butterfly.

We have also determined that all of these occupied areas (areas with documented occurrences as well as adjacent areas containing suitable habitat and where there are no barriers to dispersal) contain one or more of the essential physical or biological features. For these reasons and due to the restricted range of the island marble butterfly, we determined that all known occupied areas should be designated as critical habitat. The only known occupied area is centered on American Camp at San Juan Island National Historical Park and includes adjacent lands to the east and west of the National Park that are owned and/or managed by BLM, WDNR, San Juan County, Washington State Parks and Recreation, and private individuals.

The critical habitat designated on the private parcels along Eagle Cove only includes the area of steep coastal bluff between the marine shoreline and the upland edge at the top of the bluff. It does not include areas landward of the top of the bluff, which are typically mowed and maintained as yard.

When determining critical habitat boundaries within this final rule, we made every effort to avoid including

developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features for the island marble butterfly. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this final rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat. Please note that we specifically include road margins and shoulders in the critical habitat designation, as the island marble butterfly larval host plants often establish in these disturbed areas and may be used by the island marble butterfly for egg-laying and development. Special management considerations for road margins and shoulders may apply.

We are not designating any areas as critical habitat outside the geographical area occupied by the species at the time of listing. While we know the conservation of the species will depend on increasing the number and distribution of populations of the island marble butterfly, not all of its historical range will be essential to the conservation of the species, and we are unable to delineate any specific unoccupied areas that are essential at this time. Sites both within and outside of the central valleys of San Juan and Lopez Islands were previously occupied by the island marble butterfly. A number of areas within and outside of these valleys continue to contain some or could develop many of the physical and biological features upon which the species depends, although the best available scientific data indicate all these areas are currently unoccupied. The areas of the central valleys with the potential to support the physical and biological features continue to be important to the overall conservation strategy for the island marble butterfly. However, due to the ephemeral and patchy nature of island marble butterfly habitat, only some of these areas within these larger central valley landscapes will likely be essential to the species' long-term persistence and conservation because of the ease with which field mustard recruits and the uncertainty

associated with habitat patch longevity at any one site.

Any specific areas essential to the species' conservation within these broader landscapes are not currently identifiable due to our limited understanding regarding the ideal configuration for the development of future habitat patches to support the island marble butterfly's persistence, the ideal size and number of these habitat patches, and how these habitat patches may naturally evolve within and persist on the landscape. Finally, the specific areas needed for conservation will depend in part on landowner willingness to restore and maintain the species' habitat in these areas.

Consequently, the Service is considering proposing the future establishment of one or more experimental populations (such as, but not limited to, those provided for under section 10(j) of the Act) within these broad geographic areas after we list the island marble butterfly under the Act. Section 10(j) of the Act authorizes the Service, by rulemaking, to establish new populations of listed species that are within the species' historical range but outside its current natural range. If we designate a nonessential population, we can adopt a rule to minimize restrictions on landowners. Any such rule would, to the maximum extent practicable, represent an agreement between the Service and affected landowners and government agencies (50 CFR 17.81(d)).

The critical habitat unit was designated based on one or more of the elements of physical or biological features being present to support island marble butterfly life processes. The critical habitat unit contains all of the identified elements of physical or biological features and supports multiple life processes. Some segments contain only some elements of the physical or biological features necessary to support the island marble butterfly's particular use of that habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Regulation Promulgation. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on <http://www.regulations.gov> at Docket No. FWS-R1-ES-2016-0145, on our internet site at <https://www.fws.gov/wafwo/>, and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT**, above).

Final Critical Habitat Designation

We are designating one unit as critical habitat for the island marble butterfly.

The critical habitat area described below constitutes our best assessment at this time of areas that meet the definition of

critical habitat. Table 1 shows the unit, which is occupied.

TABLE 1—DESIGNATED CRITICAL HABITAT FOR THE ISLAND MARBLE BUTTERFLY

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)
Island marble butterfly critical habitat	NPS	718 (291)
	BLM	19 (8)
	DHS	5 (2)
	WDNR and SJCLB	1 (0.4)
	WDNR	37 (15)
	SJCPD	30 (12)
	Private	2 (0.8)
Total:	812 (329)

Note: Area sizes may not sum due to rounding. NPS = National Park Service, BLM = Bureau of Land Management, DHS = Department of Homeland Security (Coast Guard), WDNR = Washington Department of Fish and Wildlife, SJCLB = San Juan County Land Bank, SJCPD = San Juan County Parks Department.

The critical habitat designation consists of 812 ac (329 ha) of land at the southern end of San Juan Island, with San Juan Island National Historical Park (NPS) being the largest landholder of 718 ac (291 ha). The Bureau of Land Management (BLM) owns and manages 19 ac (8 ha), Washington Department of Natural Resources (WDNR) owns and manages 37 ac (15 ha) at Cattle Point, the Department of Homeland Security owns 5 ac (2 ha), WDNR and the San Juan County Land Bank (SJCLB) jointly own 1 ac (0.4 ha), San Juan County Parks Department owns 30 ac (12 ha), and approximately 2 ac (0.8 ha) is in private ownership. The critical habitat designation is centered on the American Camp portion of San Juan Island National Historical Park, which is owned and managed by the National Park Service, but includes adjacent lands both to the east and the west of National Park Service lands. Boundaries for the critical habitat unit follow the open, generally treeless habitat that the island marble butterfly relies upon during its flight period for mate-finding, reproduction, feeding, and dispersal.

The entirety of the critical habitat unit is within the geographical area occupied at the time of listing. The designation contains all of the physical or biological features required to support the island marble butterfly. The critical habitat designation is almost entirely conserved for use by or for the benefit of the public and is heavily used for recreation, primarily in the form of day hiking on easy trails. NPS has maintained a conservation agreement for the island marble butterfly with the Service since 2006, with the most recent renewal signed in December of 2018. As the largest landholder within the critical habitat unit, NPS continues to support

and participate in ongoing research integral to the conservation of the island marble butterfly. BLM, DHS, WDNR, SJCLB, and San Juan County Parks are all engaged in the conservation of the island marble butterfly and meet with the Service multiple times annually to coordinate conservation efforts.

Within the critical habitat designation, all of the current threats to the island marble butterfly are present. Please see Determination, above, for a summary of the threats and “Special Management Considerations or Protection” for additional recommendations.

Effects of Critical Habitat Designation
Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

We published a final rule with a new definition of destruction or adverse modification on February 11, 2016 (81 FR 7214). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical

or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent

alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define “reasonable and prudent alternatives” (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency’s legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director’s opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinstate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency’s discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the “Adverse Modification” Standard

The key factor related to the adverse modification determination is whether, with implementation of the Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that result in a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of the island marble butterfly. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of these species or that preclude or significantly delay development of such features. As

discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for the island marble butterfly. These activities include, but are not limited to:

(1) Actions that destroy the habitat within the critical habitat unit. Such activities could include, but are not limited to, new infrastructure developments, planting forests in historical prairie, or large paving projects. These activities could disrupt dispersal, mate finding, and patchy population dynamics, as well as prevent the recruitment of future habitat.

(2) Actions that would temporarily or permanently remove host plants from areas within the critical habitat unit that were otherwise phenologically and spatially available for use by the species. Such activities could include, but are not limited to, mowing, burning, or applying herbicide to host plants leading up to or during the flight season. These activities could reduce the quantity or distribution of oviposition sites available to the species.

(3) Actions that would temporarily or permanently remove nectar resources or plants used for mate finding from areas within the critical habitat unit that were otherwise phenologically and spatially available for use by the species. Such activities could include, but are not limited to, mowing, burning, or applying herbicide to nectar or mate-finding plants leading up to or during the flight season. These activities could reduce nectaring opportunities or disrupt mate finding, both of which could reduce fecundity.

(4) Actions that would physically disturb appropriate areas for diapause and pupation. Such activities could include, but are not limited to, mowing, trampling, grazing, or burning between flight seasons. These activities could also kill island marble butterflies in diapause as pupae.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that: “The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan [INRMP] prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.” There are no Department of Defense (DoD) lands with a completed INRMP within the final critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the statute on its face, as well as the legislative history are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis, which, together with our narrative and interpretation of effects, we consider our draft economic analysis (DEA) of the proposed critical habitat designation and related factors. The DEA was made available for public review and comment concurrently with the April 12, 2018, proposed rule (Industrial Economics, Incorporated 2017). The DEA addresses probable economic impacts of the critical habitat designation for island marble butterfly. No additional information was

submitted during the comment period that pertained to our consideration of the probable incremental economic impacts of this critical habitat designation. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the island marble butterfly is summarized below and available in the screening analysis for the island marble butterfly (Industrial Economics, Incorporated 2017), available at <http://www.regulations.gov>.

The critical habitat designation for the island marble butterfly is comprised of a single unit and is considered occupied. The critical habitat designation consists of 812 ac (329 ha) and is owned and managed by NPS, BLM, DHS, WDNR, San Juan County, and private landowners. In these areas, any actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts will be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the island marble butterfly. Therefore, the potential incremental economic impacts of the island marble butterfly critical habitat designation are expected to be limited to administrative costs. We anticipate that the incremental administrative costs of addressing adverse modification of the island marble butterfly critical habitat in a section 7 consultation will be minor.

Total annualized incremental costs of critical habitat designation for the island marble butterfly are anticipated to be less than \$150,000 over the next 20 years, or approximately \$10,000 annually. The incremental administrative burden resulting from the designation of critical habitat for the island marble butterfly is not anticipated to reach \$100 million in any given year based on the anticipated annual number of consultations and associated consultation costs, which are not expected to exceed \$10,000 in most years.

Exclusions

Exclusions Based on Economic Impacts

The Service considered the economic impacts of the critical habitat designation and the Secretary is not exercising his discretion to exclude any areas from this designation of critical habitat for the island marble butterfly based on economic impacts.

A copy of the IEM and screening analysis with supporting documents may be obtained by contacting the

Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**) or by downloading from the internet at <http://www.regulations.gov>.

Exclusions Based on Impacts on National Security and Homeland Security

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (e.g., a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i) of the Act, national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of "critical habitat." Nevertheless, when designating critical habitat under section 4(b)(2), the Service must consider impacts on national security, including homeland security, on lands or areas not covered by section 4(a)(3)(B)(i) of the Act. Accordingly, we will always consider for exclusion from the designation areas for which DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns.

We cannot, however, automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the basis of national-security or homeland-security impacts, it must provide a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction, as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If the agency provides a reasonably specific justification, we will defer to the expert judgment of DoD, DHS, another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be

adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

Department of Homeland Security currently owns 5 ac (2 ha) of land that is surrounded by land owned and managed by BLM and lies within the critical habitat boundary. Specifically, these lands include a lighthouse facility that is managed by the U.S. Coast Guard. The U.S. Coast Guard is in the process of transferring ownership of these lands to BLM; therefore, we anticipate no impact on national security from the inclusion of these lands in the critical habitat designation. Consequently, the Secretary is not intending to exercise his discretion to exclude any areas from the final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements, or candidate conservation agreements with assurances (CCAA), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no non-permitted conservation agreements or partnerships for the island marble butterfly. There is a CCAA which is designed to provide non-federal landowners with the opportunity to create and maintain habitat for the island marble butterfly while providing incidental take coverage and regulatory certainty. The final designation does not include any tribal lands or tribal trust resources. We anticipate no impact on tribal lands, partnerships, permitted or non-permitted plans or agreements from this critical habitat designation. Accordingly, the Secretary is not exercising his discretion to exclude any areas from this final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771

This rule is not an E.O. 13771 (“Reducing Regulation and Controlling Regulatory Costs”) (82 FR 9339, February 3, 2017) regulatory action because this rule is not significant under E.O. 12866.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include

small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term “significant economic impact” is meant to apply to a typical small business firm’s business operations.

The Service’s current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are only required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself, and are, therefore, not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that the final critical habitat designation will not have a significant economic impact on a substantial number of small entities.

During the development of this final rule, we reviewed and evaluated all

information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. Based on this information, we affirm our certification that this final critical habitat designation will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use— *Executive Order 13211*

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute “a significant adverse effect” when compared to not taking the regulatory action under consideration. The economic analysis finds that none of these criteria is relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with island marble butterfly conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both “Federal intergovernmental mandates” and “Federal private sector mandates.” These terms are defined in 2 U.S.C. 658(5)–(7). “Federal intergovernmental mandate” includes a regulation that “would impose an enforceable duty upon State, local, or tribal governments” with two exceptions. It excludes “a condition of Federal assistance.” It also excludes “a duty arising from participation in a voluntary Federal program,” unless the regulation “relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement

authority,” if the provision would “increase the stringency of conditions of assistance” or “place caps upon, or otherwise decrease, the Federal Government’s responsibility to provide funding,” and the State, local, or tribal governments “lack authority” to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.”

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because the area included in the critical habitat designation is largely owned by Federal and State agencies (greater than 95 percent). None of these government entities fits the definition of “small government jurisdiction.” Consequently, we do not believe that the critical habitat designation would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the island marble butterfly in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed and concludes that this designation of critical habitat for the island marble butterfly does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies in Washington. We did not receive comments from Washington Department of Fish and Wildlife. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more

clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist these local governments in long-range planning (because these local governments no longer have to wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) will be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the applicable standards set forth in sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, the rule identifies the elements of physical or biological features essential to the conservation of the island marble butterfly. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act

(NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to NEPA in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President’s memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior’s manual at 512 DM 2, we readily acknowledge our responsibility

to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes. We determined that there are no tribal lands occupied by the island marble butterfly at the time of listing that contain the physical or biological features essential to conservation of the species, and no tribal lands unoccupied by the island marble butterfly that are essential for the conservation of the species. Therefore, we are not designating critical habitat for the island marble butterfly on tribal lands.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <http://www.regulations.gov> and upon request from the Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Washington Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by adding an entry for “Butterfly, island marble” to the List of Endangered and Threatened Wildlife in alphabetical order under “INSECTS” to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *
(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	* * *
INSECTS				
Butterfly, island marble ...	<i>Euchloe ausonides insulanus</i> .	Wherever found	E	85 FR [insert Federal Register page where the document begins], 5/5/2020; 50 CFR 17.95(i). ^{CH}
*	*	*	*	* * *

■ 3. In § 17.95, amend paragraph (i) by adding an entry for “Island Marble Butterfly (*Euchloe ausonides insulanus*)” in the same alphabetical order that the species appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects*.

* * * * *

Island Marble Butterfly (*Euchloe ausonides insulanus*)

(1) The critical habitat unit is depicted for San Juan County, Washington, on the map below.

(2) Within the critical habitat area on San Juan Island, Washington, the physical or biological features essential to the conservation of the island marble butterfly consist of the following components:

(i) Open, primarily treeless areas with short-statured forb- and grass-dominated vegetation that include diverse topographic features such as ridgelines, hills, and bluffs for patrolling, dispersal corridors between habitat patches, and some south-facing terrain. Areas must be large enough to allow for the development of patchy-population dynamics, allowing for multiple small populations to establish within the area.

(ii) Low- to medium-density larval host plants, with both flower buds and blooms on them between the months of May through July, for egg-laying and larval development. Larval host plants may be any of the following: *Brassica rapa*, *Sisymbrium altissimum*, or *Lepidium virginicum*.

(iii) Adult nectar resources in flower and short-statured, white-flowering plants in bloom used for mate-finding, which may include, but are not limited to, *Abronia latifolia* (yellow sand verbena), *Achillea millefolium* (yarrow), *Amsinckia menziesii* (small-flowered fiddleneck), *Cakile edentula* (American sea rocket), *Cerastium arvense* (field chickweed), *Erodium cicutarium*

(common stork's bill), *Geranium molle* (dovefoot geranium), *Hypochaeris radicata* (hairy cat's ear), *Lomatium utriculatum* (common lomatium), *Lupinus littoralis* (seashore lupine), *Myosotis discolor* (common forget-me-not), *Ranunculus californicus* (California buttercup), *Rubus ursinus* (trailing blackberry), *Taraxacum officinale* (dandelion), *Toxicoscordion venenosum* (death camas, formerly known as *Zigadenus venenosus*), and *Triteleia grandiflora* (Howell's brodiaea, formerly *Brodiaea howellii*).

(iv) Areas of undisturbed vegetation surrounding larval host plants sufficient to provide secure sites for diapause and pupation. The vegetation surrounding larval host plants must be left standing for a sufficient period of time for the island marble butterfly to complete its life cycle.

(3) Critical habitat includes road shoulders and road margins, but does not include other manmade structures (such as buildings, aqueducts, runways,

paved portions of roads, and other paved areas) and the land on which they are located existing within the legal boundaries on June 4, 2020.

(4) *Critical habitat map unit.* Data layers defining the map were created using 2015 National Agriculture Imagery Program (NAIP) digital imagery in ArcGIS, version 10.4 (Environmental Systems Research Institute, Inc.), a computer geographic information system program. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's internet site at <https://www.fws.gov/wafwo/>, at <http://www.regulations.gov> at Docket No. FWS-R1-ES-2016-0145, and at the field office responsible for this designation. You may obtain field office location information by contacting one

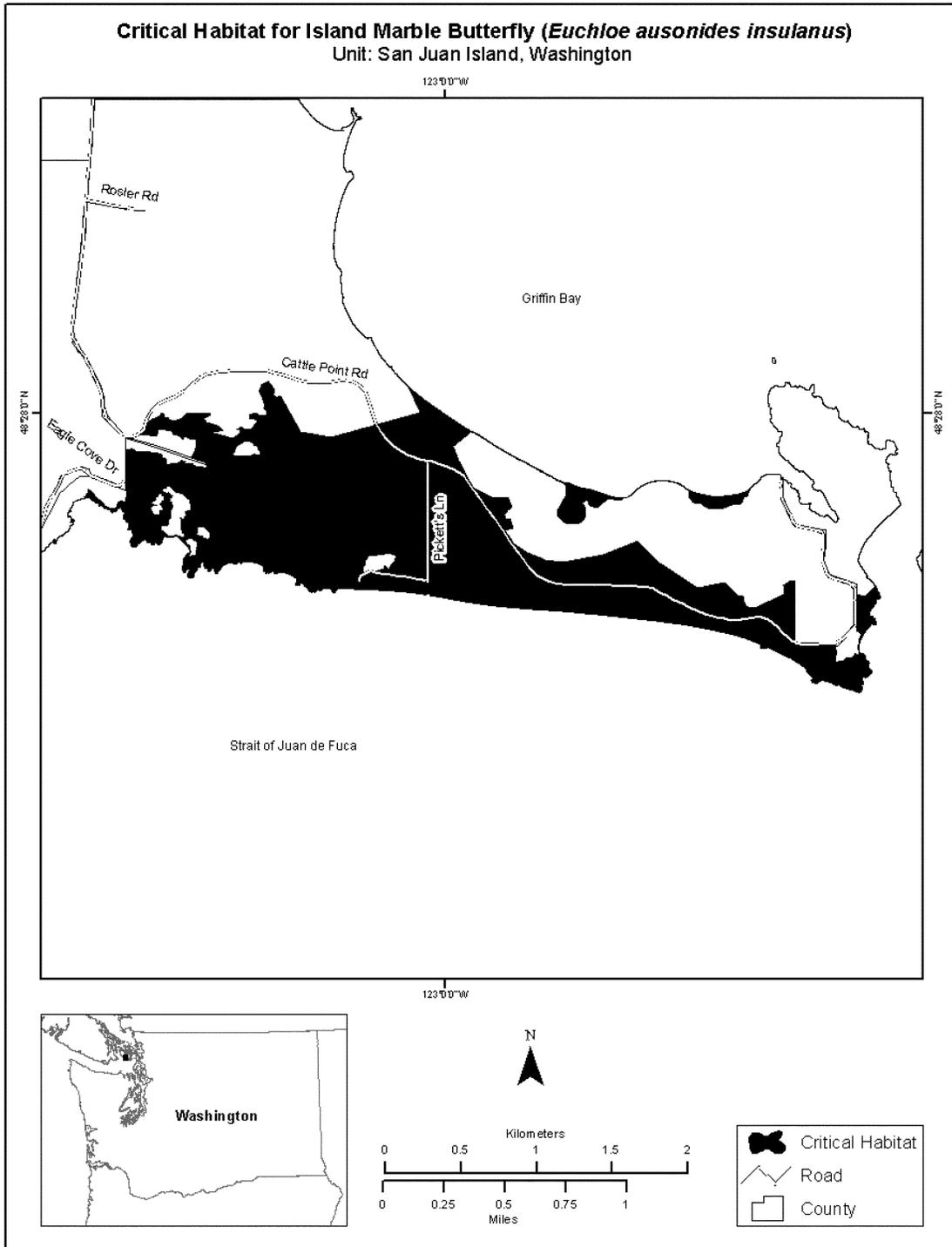
of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) Island marble butterfly critical habitat, San Juan County, Washington.

(i) Island marble butterfly critical habitat consists of 812 acres (ac) (329 hectares (ha)) on San Juan Island in San Juan County, Washington, and is composed of lands in Federal (742 ac (301 ha)), State (37 ac (15 ha)), State/County joint (1 ac (0.4 ha)), County (30 ac (12 ha)), and private (2 ac (0.8 ha)) ownership. The critical habitat designated on private parcels along Eagle Cove only includes the area of steep coastal bluff between the marine shoreline and the upland edge at the top of the bluff; it does not include areas landward of the top of the bluff, which are typically mowed and maintained as yard.

(ii) Map of island marble butterfly critical habitat follows:

BILLING CODE 433-15-P



* * * * *

Signed:
Aurelia Skipwith,
Director, U.S. Fish and Wildlife Service.
 [FR Doc. 2020-07856 Filed 5-4-20; 8:45 am]
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Part III

The President

Proclamation 10019—National Foster Care Month, 2020

Proclamation 10020—National Mental Health Awareness Month, 2020

Proclamation 10021—National Physical Fitness and Sports Month, 2020

Proclamation 10022—Older Americans Month, 2020

Proclamation 10023—Loyalty Day, 2020

Presidential Documents

Title 3—

Proclamation 10019 of April 30, 2020

The President

National Foster Care Month, 2020

By the President of the United States of America

A Proclamation

Families are the foundation of our communities and our country. All children deserve a stable, supportive, and loving home in which to grow, thrive, and realize their full potential. During National Foster Care Month, we honor the selfless men and women who open their homes to nurture at-risk children and promote healing, unification, and family-based empowerment.

Foster care plays a critical role in providing young people who have had to be removed from their homes a critical place of refuge. It is an invaluable resource for keeping children safe in temporary circumstances and providing stability, direction, and comfort to our Nation's most vulnerable sons and daughters. The dedicated individuals, families, professionals, and faith-based and community organizations who support children in foster care help maintain essential parent-child relationships and support parents working to regain custody of their children.

A focus of my Administration has been to keep families together by working to prevent the situations that necessitate children being removed from their homes. In 2018, I enacted the Family First Prevention Services Act to enhance the ability of American families to keep their children safe at home whenever possible. It provides funding for community-based treatment and intervention services that have been proven to curtail abuse and neglect and to help families address the issues that might require separation. These services include access to skills-based parenting classes, family counseling, mental health therapy, and treatment for substance abuse and addiction. In addition, this legislation encourages States to place children with families rather than in group homes, which can minimize the risk of additional trauma. Last year, I signed into law legislation to encourage States to fully implement the Family First Prevention Services Act as quickly as feasible in order to connect families with appropriate resources and transition to a more proactive and prevention-based system.

In cases where intervention becomes necessary, it is important to place children in the best position to maintain their family, school, and other social connections. It is also critical that older youth in foster care establish permanent bonds with a family member or caring adult before they exit the system and enter adulthood. For these reasons, my Administration is funding programs to provide in-family caregivers with the services and support they need to succeed. In partnership with the States, we are promoting more family-friendly options that reduce additional trauma to the children who must enter foster care.

This month, we encourage all Americans to invest in the lives of children and to provide them with unconditional love, support, guidance, and every available resource to ensure their health and well-being. We acknowledge with gratitude the selfless citizens who open their hearts and homes to children in need and the organizations that tirelessly support foster and kinship caregivers. Together, they are giving hope and the promise of a better tomorrow to countless children and families.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2020 as National Foster Care Month. I call upon all Americans to observe this month by taking time to help children and youth in foster care, and to recognize the commitment of those who touch their lives, particularly celebrating their foster parents and other caregivers.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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.



Presidential Documents

Proclamation 10020 of April 30, 2020

National Mental Health Awareness Month, 2020

By the President of the United States of America

A Proclamation

This year, National Mental Health Awareness Month coincides with one of the most complex and challenging periods in our Nation's recent history—combatting the coronavirus pandemic. Not only has the virus caused immense physical suffering and loss for many people, it has also resulted in mental and emotional hardship. The stress and worry over the health and safety of family and friends, forced isolation, and financial distress can all result in anxiety, depression, substance misuse and abuse, and, tragically, even suicide. There is no question this is a difficult and unprecedented time for Americans. Yet, we know that there are ways to help people cope during these uncertain times, and we are committed to caring for those in need.

Mental illness can affect anyone and can develop at any time. Its effects spread well beyond the individual to family, friends, and coworkers. As a Nation, we must fight the stigmas surrounding mental illness and empower those affected by emotional distress and their loved ones to seek care. We also recommit to strengthening our efforts to ensure every individual living with a mental illness, including children and young adults, our Nation's fastest growing population diagnosed with behavioral, mental, or emotional issues, receives the care and treatment they need to enjoy the blessings of a fulfilling and productive life.

One of my first actions in response to the pandemic was to ensure easy access to vital medical resources. Expanded access to medical care through telemedicine is essential to fighting the virus. Through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, we have simplified access to health care and treatment without fear of the transmission of COVID-19 and other illnesses. By expanding Medicare telehealth coverage for the duration of the public health emergency, we have enabled our most vulnerable and high-risk populations to access important medical care from the comfort and safety of their home. Additionally, we have given \$19.6 billion to the Department of Veterans Affairs (VA) to further support our veterans through this crisis. This funding covers things like expanded telehealth services, including for mental health, and additional access to the VA Video Connect app, which offers a free, secure, virtual platform for patients to receive direct care from their VA medical providers through video.

Providing an uninterrupted connection to essential mental health treatment and social support groups through telehealth technology can be lifesaving, especially for the more than 11 million American adults who struggle with serious mental illnesses such as bipolar disorder, schizophrenia, or major depressive disorder. That is one of the reasons I have overseen a historic expansion of telehealth services to give people in need easier access to mental health treatments, crisis interventions, and other vital resources. We must continue to find innovative ways to link doctors, nurse practitioners, physician assistants, clinical psychologists, and licensed clinical social workers to people who need their help.

As President, it is my top priority to ensure the health and wellness of all Americans, especially during the present crisis. Through the Community

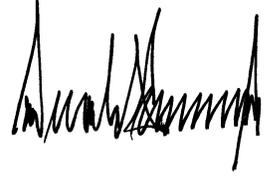
Mental Health Services Block Grant program, the Substance Abuse and Mental Health Services Administration (SAMHSA) provides critical funding to every State to support community services for adults with serious mental illnesses and children with significant emotional disturbances. Through these grants, States and communities have increased ability to make substantial improvements in treatment delivery and to greatly expand access to those in need of behavioral healthcare services. As the virus began to take hold, I ensured that SAMHSA very quickly began releasing \$360 million in emergency grant funding to provide Americans with substance use treatment and mental health services. Additionally, to help meet the needs of Americans during this crisis, I authorized the Department of Homeland Security and Federal Emergency Management Agency to make crisis counseling and training services available to States hardest hit through the Stafford Act.

Tragically some individuals feel their problems are insurmountable, lose their will and hope, and succumb to suicide. We must prevent these tragedies. The Federal Communications Commission has designated a national three-digit number for suicide prevention to connect directly to the National Suicide Prevention Lifeline. The proposed abbreviated number, 988, would make crisis help more widely available to Americans. Additionally, in March of 2019, I signed an Executive Order to establish the President's Roadmap to Empower Veterans and End a National Tragedy of Suicide (PREVENTS), which unites State and local governments, faith communities, employers, schools, and healthcare organizations through a whole-of-government and whole-of-Nation approach to provide world-class, evidence-based tactics for veteran suicide prevention. Rather than waiting for veterans in need to seek help, this program actively empowers veteran communities through local and national support networks. In response to the current crisis, the PREVENTS initiative—with Second Lady Karen Pence as Lead Ambassador—has launched the #MoreThanEverBefore campaign to encourage all Americans to compassionately reach out to veterans in need. My fiscal year 2021 budget requests \$313 million—a 32-percent increase from the enacted fiscal year 2020 level—to support and sustain these initiatives. My Administration will always champion policies and treatments to help all Americans appreciate the full and abundant potential of life.

No American should ever feel alone. Let us recommit to lifting up our struggling friends, family members, and neighbors with the touch of humanity. There is always the promise of recovery, healing, and renewal.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2020 as National Mental Health Awareness Month. I call upon all Americans to support citizens suffering from mental illnesses, raise awareness of mental health conditions through appropriate programs and activities, and commit our Nation to innovative prevention, diagnosis, and treatment.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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.

A handwritten signature in black ink, appearing to be "Donald Trump", located in the upper right quadrant of the page.

[FR Doc. 2020-09737
Filed 5-4-20; 11:15 am]
Billing code 3295-F0-P

Presidential Documents

Proclamation 10021 of April 30, 2020

National Physical Fitness and Sports Month, 2020

By the President of the United States of America

A Proclamation

During National Physical Fitness and Sports Month, we encourage all Americans to maintain more physically active and healthy lifestyles, which can help improve our overall well-being. We also recognize the important role that sports play in American society and the ways sports help unite us. Through friendly competition, the development of lifelong skills and character traits, and memorable times spent with family and friends, sports help bring communities together, entertain us, and improve our health.

As our Nation continues to practice social distancing during the coronavirus pandemic, regular physical activity at home can be an effective way to improve and maintain physical fitness. Even during this difficult time, Americans should strive to engage in the recommended amounts of physical activity—at least 60 minutes a day of moderate-to-vigorous physical activity for youth ages 6–17, including aerobic activities and activities that strengthen muscles and bones, and at least 150 minutes a week of moderate intensity activity, plus two or more days a week of muscle-strengthening activities, for adults. In addition, adults 65 years and older should do multicomponent physical activities that include balance training, such as standing on one foot. Even as we social distance, we can do jumping jacks or push-ups, household chores, tend our lawns and gardens, and engage in numerous other activities that promote a healthy and active lifestyle. The United States Department of Health and Human Services' Move Your Way campaign has tools and resources to help Americans of all ages and abilities live healthier lives through increased physical activity.

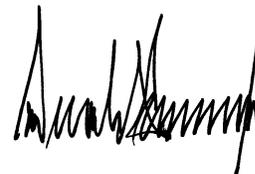
As our country defeats the coronavirus, sports will once again help unite us as a Nation. Participation in sports instills values such as teamwork, discipline, and leadership that transcend the field or court and help everyone, especially our youth, flourish in life. Last September, we launched the National Youth Sports Strategy, which awarded \$6.7 million in grants to help increase youth sports participation. This bold initiative is the first Federal roadmap designed to unify the American youth sports culture around a shared vision that one day all youth will have the opportunity to play sports—regardless of race, ethnicity, sex, ability, or zip code. I have also appointed more than 20 youth sports advocates to the President's Council on Sports, Fitness, and Nutrition. These individuals have been encouraging families to stay active even while they are staying at home during the coronavirus pandemic. Once sports programming resumes, this Council will continue to ensure that children and youth have access to safe places to play sports, encouraging healthier lifestyles. By providing a solid foundation for participation in safe, fun, inclusive, and accessible sporting opportunities, our children and youth will be better suited to thrive.

This month, I urge all Americans to invest in the health of our great Nation by incorporating physical activity into their daily lives and by promoting the positive effects of sports on youth development. Through regular physical activity, we can achieve our shared goal of living healthier lives.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution

and the laws of the United States, do hereby proclaim May 2020 as National Physical Fitness and Sports Month. I call upon the people of the United States to make physical activity and sports participation a priority in their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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.



Presidential Documents

Proclamation 10022 of April 30, 2020

Older Americans Month, 2020

By the President of the United States of America

A Proclamation

Older Americans are cherished and invaluable members of our society, deserving our utmost respect, gratitude, and admiration. During Older Americans Month, we pause to draw upon the wisdom, spirit, and experience older adults bring to our families, our communities, and our Nation. We also recognize that during this time of crisis caused by the coronavirus pandemic, we can persevere and prevail by emulating the resolve, tenacity, and determination of America's more experienced individuals who have endured and overcome life's most challenging times.

Older Americans have built our economy, defended our freedom, and shaped our Nation's character. They have raised families and dedicated themselves to improving the quality of life for future generations. They sacrificed in times of hardship and took pride in a job well done. Many served honorably in our Armed Forces during some of the darkest times in the history of our Republic. Older Americans have lived lives of service and sacrifice, bound by devotion to the sacred principles of our country. Although no one could begrudge them rest and respite during their retirement years, having worked decades to support and grow their families and nurture their communities, many older Americans spend their time volunteering for those in need, mentoring young people, or learning new skills. They pour love into their extended families, places of worship, and neighborhood centers, and offer profound perspective and insight gleaned from years of life lessons.

My Administration remains committed to enacting policies that benefit our Nation's older adults. In an effort to lower the cost of prescription drugs, the Food and Drug Administration has approved more generic drugs each year during my 3 years in office than any other year in the history of our country. We have also developed a path to allow less expensive prescription drugs to be imported from Canada. Additionally, I ended the terrible gag clauses that prevented pharmacists from telling patients when they could pay less out of pocket by not using their insurance. I have also taken executive action to improve seniors' access to medical care and to bolster Medicare's fiscal sustainability by reducing regulatory burdens and eliminating unnecessary barriers. This action puts older Americans first by strengthening the program and helping to ensure its success for years to come.

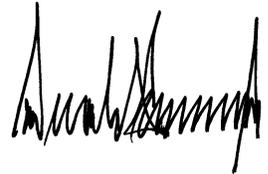
Our Nation's older Americans are among the most susceptible to fraud and other financial schemes. To help counter these vile crimes, I have instructed the Department of Justice (DOJ) to prioritize protecting older Americans from financial exploitation and use every tool they have to disrupt and prosecute these criminals. Over the last year, DOJ has taken unprecedented action against transnational fraud schemes that target seniors, the networks of "money mules" that move stolen funds from Americans' bank accounts to overseas fraudsters, and telephone companies that knowingly facilitate billions of fraudulent robocalls. DOJ has also launched an Elder Fraud Hotline (1-833-FRAUD-11) so that America's seniors can more easily

report fraud, find resources, and better protect themselves from this abhorrent criminal behavior.

Older Americans are among those most vulnerable to the ravages of the coronavirus. As they continue to adhere to the special guidance put in place to protect them, we must acknowledge that far too many are facing hardships of loneliness and social isolation. Many families are unable to visit elderly parents and grandparents, and many men and women in retirement and nursing homes have been cut off from personal contact and meaningful social connections. During this precarious and stressful time, we must remember our treasured older adults and recommit to doing what we can to support and care for them. I urge all Americans to reach out to loved ones, neighbors, and strangers to extend love, compassion, and encouragement. By delivering food and supplies to the homebound, mailing greeting cards, or using technology to stay connected, we can support our seniors as we defeat the virus. Older Americans know how to overcome. They have done it their whole lives. With the country rallying behind them we can ensure that they can continue to live lives of dignity, joy, and purpose long after the threat of the virus has faded.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 2020 as Older Americans Month. I call upon all Americans to honor our elders, acknowledge their contributions, care for those in need, and reaffirm our country's commitment to older Americans this month and throughout the year.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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.



Presidential Documents

Proclamation 10023 of April 30, 2020

Loyalty Day, 2020

By the President of the United States of America

A Proclamation

The United States has been a strong Nation for more than two centuries not only because of the ideals that we share as a people, but also because of the love we have for our home and the loyalty we have for each other. From the beginning of our history and through trials of war and peace, Americans have always been filled with a devotion to freedom, a fierce spirit of independence, a courageous dedication to the cause of self-government, and a sacred commitment to our shared and glorious destiny. Together, we honor the wisdom of our Founders. We revere the words of our Constitution and our Declaration of Independence. We celebrate the heroes of our history and treasure the majesty of America's natural beauty. We marvel at the achievements of American artists, scientists, engineers, inventors, business leaders, and pioneers. And we cherish the nobility of the American way of life.

For all of these reasons and more, the United States is the most just and virtuous nation in the history of the world—and the American people are exceptional citizens of an exceptional republic. Americans rightly take pride in our country—and we take pride in the unique culture of freedom that has been forged over nearly 250 years. Our national character is defined by the values of faith and family, liberty and fairness, and hard work and personal responsibility. Generations of Americans have poured out sweat, blood, soul, and tears to defend these values—and on this day, we rededicate ourselves to protecting them in our own time, and for unborn generations to come.

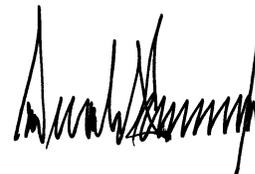
Americans have always been loyal to their Nation—and they deserve a government that is always loyal to them in return.

As we confront the global pandemic that is now afflicting our country, we draw strength from the bonds of duty, love, and loyalty that have always sustained our Nation through trying times. An army of doctors, nurses, truckers, clerks, scientists, service workers, researchers, and first responders are doing everything in their power to heal the sick, find a cure, and care for the needs of every American—often at grave risk to themselves. All across our country, Americans are courageously fighting a daily battle against an invisible enemy. In light of the extraordinary heroism and dedication we have witnessed, each of us will go forward from this challenging time stronger and even more certain that when duty calls, we will answer it. On this Loyalty Day, we recognize that as long as we take pride in our country, defend our great inheritance, and love our Nation, America will rise to every occasion and achieve a magnificent future.

In order to reaffirm our loyalty to our country, to our freedoms, and to each other, the Congress, by Public Law 85–529, as amended, has designated May 1 of each year as “Loyalty Day,” and has requested the President issue a proclamation inviting the people of the United States to observe that day with appropriate activities. On this day, we honor the United States of America and its values, as well as those who have fought and continue to fight for our freedom.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, do hereby proclaim May 1, 2020, as Loyalty Day. I call on all Americans to observe this day by learning more about the proud history of our Nation. I urge all Government officials to display the flag of the United States on all Government buildings and grounds on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth 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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Vol. 85, No. 87

Tuesday, May 5, 2020

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