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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2018–1004; Product Identifier 2018–NM–106–AD; Amendment 39–19642; AD 2019–10–03]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracks caused by corrosion of the edge of the bore of the spot face and corrosion of the lug bore of certain side-strut support fitting lugs. This AD requires repetitive detailed inspections of the left and right side-strut support fitting lugs with bushings installed for any corrosion, any crack, or any severed lug; repetitive detailed and high frequency eddy current (HFEC) inspections of the left and right side-strut support fitting lugs with bushings removed for any corrosion or any crack; and applicable on-condition actions. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 11, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 11, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1004.

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–1004; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on December 6, 2018 (83 FR 62741). The NPRM was prompted by reports of cracks caused by corrosion of the edge of the bore of the spot face and corrosion of the lug bore of certain side-strut support fitting lugs. The NPRM proposed to require repetitive detailed inspections of the left and right side-strut support fitting lugs with bushings installed for any corrosion, any crack, or any severed lug; repetitive detailed and HFEC inspections of the left and right side-strut support fitting lugs with bushings removed for any corrosion or any crack; and applicable on-condition actions.

We are issuing this AD to address cracks caused by corrosion, which could result in sudden loss of the side-strut support fitting joint and main landing gear attachment to the airplane, resulting in the collapse of a main landing gear.

### Comments

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

### Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type Certificate (STC) ST01219SE does not affect the actions specified in the proposed AD.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

### Request To Change Format of Paragraphs (g) and (h) of the Proposed AD

Boeing requested that we eliminate paragraph (h) of the proposed AD and incorporate the information as paragraph (g)(2) of this AD. Boeing pointed out that the title of paragraph (g) of the proposed AD would change to ''Required Actions,'' and that paragraphs (g)(1) and (g)(2) of this AD would apply to Group 7 and Groups 1 through 6, respectively. Boeing stated that this request is for consistency with previous ADs for Boeing airplanes.

We disagree that elimination of paragraph (h) of the proposed AD and incorporating the information as paragraph (g)(2) of this AD is necessary. Over time we have used both formats, but most recently we have been using the format that was utilized in the NPRM. We do not find that there is a difference in clarity of the required actions. We also find that the requested change does not affect the requirements

of this final rule in this case. We have not changed this AD in this regard.

**Request To Clarify ACO Branch Authority**

Boeing requested that we clarify the ACO branch that has the authority to approve AMOCs for this group of airplanes. Boeing pointed out that previous final rules for The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes have identified The Manager, Los Angeles ACO Branch, FAA, had the authority to approve AMOCs, even when the service bulletin was submitted for approval through the Seattle ACO Branch. Additionally, Boeing pointed out that previous ADs for The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes identified a Los Angeles ACO Branch specialist in the ''Related Information'' paragraph of the proposed rule, even when the service bulletin was submitted for approval through the Seattle ACO Branch.

We agree that clarification is necessary. Normally, in NPRMs for The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, we include the Manager, Los Angeles ACO Branch, as the designated approval authority for AMOCs. We have updated paragraph (j) of this AD to specify The Manager, Los Angeles ACO Branch. The Seattle ACO Branch is responsible during drafting of the NPRM and final rule of an AD for The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. After publication of the final rule, responsibility for the product is transferred to the Los Angeles ACO Branch. Therefore, when we draft the final rule of an AD for The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, we also specify a specialist from the Los Angeles ACO Branch. We have updated paragraph (k) of this AD to include the responsible specialist from the Los Angeles ACO Branch.

**Conclusion**

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

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

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

**Related Service Information Under 1 CFR Part 51**

We reviewed Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018. This service information describes procedures for repetitive detailed inspections of the left and right side-strut support fitting lugs at body station (BS) 685 with bushings installed for any corrosion, any crack, or any severed lug; repetitive detailed and HFEC inspections of the left and right side-strut support fitting lugs at BS 685 with bushings removed for any corrosion or any crack; and applicable on-condition actions. On-condition actions include, among other things, inspections, corrosion removal, and a preventative modification. Doing the repetitive detailed and HFEC inspections of the side-strut support fitting lugs at BS 685 with bushings removed terminates the repetitive detailed inspections of the side-strut support fitting lugs at BS 685 with bushings installed. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 302 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Repetitive detailed inspection of left and right side lugs with bushings installed. | 17 work-hours × $85 per hour = $1,445 per inspection cycle. | $0 | $1,445 per inspection cycle. | $436,390 per inspection cycle. |
| Repetitive detailed and HFEC inspections of left and right side lugs with bushings removed. | 29 work-hours × $85 per hour = $2,465 per inspection cycle. | 0 | $2,465 per inspection cycle. | $744,430 per inspection cycle. |

We estimate the following costs to do any necessary on-condition actions that would be required. We have no way of determining the number of aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| Up to 18 work-hour × $85 per hour = $1,530 per inspection cycle | Unknown | Up to $1,530 per inspection cycle. |

We have received no definitive data that would enable us to provide parts cost estimates for the on-condition inspections and repairs specified in this AD.

**Authority for This Rulemaking**

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

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

is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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

### Regulatory Findings

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

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

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

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

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

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

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**2019–10–03 The Boeing Company:** Amendment 39–19642; Docket No. FAA–2018–1004; Product Identifier 2018–NM–106–AD.

**(a) Effective Date**

This AD is effective July 11, 2019.

**(b) Affected ADs**

None.

**(c) Applicability**

(1) This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by reports of cracks caused by corrosion of the edge of the bore of the spot face and corrosion of the lug bore of the body station (BS) 685 side-strut support fitting lugs. We are issuing this AD to address cracks caused by corrosion, which could result in sudden loss of the side-strut support fitting joint and main landing gear attachment to the airplane, resulting in the collapse of a main landing gear.

**(f) Compliance**

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

**(g) Required Actions for Group 7 Airplanes**

For airplanes identified as Group 7 in Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018: Within 120 days after the effective date of this AD, inspect the left and right side-strut support fitting lugs at BS 685 and do all applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

**(h) Required Actions for Groups 1 Through 6 Airplanes**

For airplanes identified as Groups 1 through 6 in Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018, except as specified in paragraph (i) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018.

**(i) Exceptions to Service Information Specifications**

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018, uses the phrase ''the Revision 1 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018, specifies contacting Boeing for repair instructions or for work instructions: This AD requires doing the repair or the work instructions and doing applicable on-condition actions using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (i) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

**(k) Related Information**

For more information about this AD, contact George Garrido, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *george.garrido@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Boeing Service Bulletin 737–53–1246, Revision 1, dated May 30, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; phone: 562–797–1717; internet: *https://www.myboeingfleet.com.*

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

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

Issued in Des Moines, Washington, on May 20, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–11790 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2018–0801; Product Identifier 2017–NM–147–AD; Amendment 39–19632; AD 2019–08–11]**

**RIN 2120–AA640**

## Airworthiness Directives; Bombardier, Inc., Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** We are superseding Airworthiness Directive (AD) 2008–24–14, which applied to all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2008–24–14 required revising the instructions for continued airworthiness to incorporate certain airworthiness limitations for the main landing gear (MLG) trunnion fitting assembly. This AD requires revising the maintenance or inspection program, as applicable, to incorporate certain airworthiness limitations (AWLs). This AD also requires reworking the trunnion fitting in order to meet new structural safe-life limits. This AD was prompted by reports of cracks on the MLG trunnion fitting during fatigue testing; the introduction of new AWL tasks with revised inspection, modification, and safe-life requirements; and a determination that the trunnion fitting lower flange and both forward and aft bore holes are also subject to fatigue cracking. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 11, 2019.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 11, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 19, 2008 (73 FR 73785, December 4, 2008).

**ADDRESSES:** For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0801.

**Examining the AD Docket**

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0801; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2008–24–14, Amendment 39–15758 (73 FR 73785, December 4, 2008) (''AD 2008–24–14''). AD 2008–24–14 applied to all Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on October 1, 2018 (83 FR 49317). The NPRM was prompted by reports of cracks on the MLG trunnion fitting during fatigue testing; the introduction of new AWL tasks with revised inspection, modification, and safe-life requirements; and a determination that the trunnion fitting lower flange and both forward and aft bore holes are also subject to fatigue cracking. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate certain AWLs. The NPRM also proposed to require reworking the trunnion fitting in order to meet new structural safe-life limits. We are issuing this AD to address fatigue cracking of the MLG trunnion fitting. Failure of the MLG trunnion fitting could result in MLG collapse.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2017–27, dated August 2, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> Cracks on the main landing gear (MLG) trunnion fitting web discovered during fatigue testing led to the issuance of [Canadian] AD CF–2008–21 [which corresponds to FAA AD 2008–24–14], which mandated new inspection requirements to ensure that fatigue cracking of the trunnion web would be detected and corrected.
>
> Additional fatigue test article findings and in-service findings have shown that the trunnion fitting lower flange and both forward and aft bore holes are also subject to fatigue cracking. Failure of the main landing gear trunnion fitting could result in the collapse of the main landing gear. Bombardier Inc. has decided to implement a series of design changes to improve the fatigue life of the trunnion fitting that is now a safe-life assembly.
>
> New and revised Airworthiness Limitation (AWL) tasks for the MLG trunnion fitting

assembly have been introduced in order to require new inspection, modification, and safe-life requirements. This [Canadian] AD mandates the incorporation of these new and revised AWL tasks, and removal of the AWL tasks they replace, to ensure that fatigue cracking of the MLG trunnion fitting is detected and corrected. This [Canadian] AD also requires rework of the trunnion fitting in order to meet new structural safe-life limits.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0801.

**Comments**

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

**Support for the NPRM**

Air Line Pilots Association, International stated its support for the NPRM.

**Request To Clarify Compliance Times in Paragraph (l) of the Proposed AD**

Air Wisconsin Airlines requested that we clarify the compliance times for the rework specified in paragraph (l) of the proposed AD. Air Wisconsin Airlines stated that the AWLs do not include requirements to incorporate the service information identified in paragraph (l)(1), (l)(2), and (l)(3) of this AD. Air Wisconsin Airlines added that Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012, would be required only if Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013, is done and therefore there is no requirement to do Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012.

We agree to clarify the compliance times for the rework required by paragraph (l) of this AD. We acknowledge that the compliance times for incorporating the rework are not clear. We note that Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012, is not contingent on whether Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013, is done. As specified in certain AWLs, ''SB 601R–57–046 shall be incorporated at or before 34,900 flight cycles.''

However, we acknowledge that the AWLs do not specify requirements to incorporate Bombardier Service Bulletin 601R–57–047, Revision B, dated October 2, 2012; and Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013. Since the AWLs do not specify compliance times for incorporating that service information, operators would need to accomplish the actions specified in that service information within 2,000 flight cycles after the effective date of this AD.

However, we have determined that the actions specified in Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012; Bombardier Service Bulletin 601R–57–047, Revision B, dated October 2, 2012; and Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013; must be done within the initial compliance times specified in the service information, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later. We have coordinated with TCCA to clarify the compliance times for incorporating the service information. We have added compliance times to paragraphs (l)(1) through (l)(3) of this AD accordingly.

**Request To Reword Requirement Paragraph**

Air Wisconsin Airlines requested that paragraph (g) of the proposed AD be reworded to indicate that paragraph (f)(1) of AD 2008–24–14 required incorporation of Bombardier Maintenance Requirements Manual (MRM), CSP A–253, Part 2, Appendix B task AWL 57–21–161, because Temporary Revision (TR) 2B–2136 (Global alternative method of compliance (AMOC) with log #14–83) was superseded by TR 2B–2153 and later incorporated into a general revision of Bombardier Maintenance Requirements Manual (MRM), CSP A–253, Part 2, Appendix B.

We disagree, because the requirements specified in paragraph (g) of this AD are a restatement of the actions required by paragraph (f)(1) of AD 2008–24–14 and are still applicable until the new actions required by paragraph (i) of this AD are done. The FAA cannot impose the latest requirements for a paragraph that has the initial compliance date of AD 2008–24–14 since the latest documents were not available at the time that AD 2008–24–14 became effective. Additionally, paragraph (i) of this AD addresses the commenter's concerns regarding the latest documents. For clarity, we have added a statement to paragraph (i) of this AD to specify that accomplishing the revision required by paragraph (i) of this AD terminates the revision required by paragraph (g) of this AD.

**Request To Clarify Compliance Table Reference**

Air Wisconsin Airlines observed that the reference to ''table 1 or table 2 to paragraphs (g) and (j) of this AD, as applicable'' in paragraph (g) was not in AD 2008–24–14 and therefore is a change to that paragraph, because paragraph (j) is a new requirement of the proposed AD. We infer that the commenter would like us to clarify the inclusion of a reference to ''paragraph (j)'' within paragraph (g) of the proposed AD.

We agree to clarify the paragraph in question. The inclusion of ''paragraph (j)'' within paragraph (g) of this AD is merely as part of the designation of one of the tables referenced and has no bearing upon the requirements of paragraph (g) of this AD. 1 CFR parts 8 and 21 require orderly codification of regulations. This means that all elements of an AD, including tables and figures, must be properly designated. A table's designation includes the sequential number of the table, the paragraphs to which it applies, and the location of the table within the AD. The Office of the Federal Register (OFR) requires a complete designation when a table is cross-referenced. Both of the tables in question are referenced in paragraphs (g) and (j) of this AD, therefore, the correct reference is to ''table 1 to paragraphs (g) and (j)'' and ''table 2 to paragraphs (g) and (j),'' as stated in paragraphs (g) and (j) of this AD. We have not changed this AD with regard to table designations.

**Request To Reword Compliance Time**

Air Wisconsin Airlines requested that we reword the compliance time statement in paragraph (j)(2) of the proposed AD to specify the compliance time instead of referring to the AWL. The commenter stated that rewording would simplify the paragraph.

We acknowledge the commenter's request. However, the information is contained in the AWL and we matched the language in the MCAI by referring to the AWL. Unless the language in the MCAI is not enforceable, we generally do not deviate from the MCAI. We have not changed this AD in this regard.

**Request To Address Missing Compliance Time**

Bombardier requested that we add paragraph (j)(4) to the proposed AD in order to align with the instructions in paragraph B.3. of the MCAI. Bombardier stated that paragraph (j)(3) of the proposed AD mentions the compliance time for the initial inspection but not for the limitation for AWL 57–21–145 and AWL 57–21–155. Additionally, Air Wisconsin Airlines asked whether our intent in paragraph (j)(3) of the proposed AD was to ''speak only to the initial inspections in AWL 57–21–145 and AWL 57–21–155.'' We infer Air

Wisconsin Airlines is also requesting that we address the missing compliance time statement for the limitation sections of AWL 57–21–145 and AWL 57–21–155.

We agree with the request to include the information in paragraph B.3. of the MCAI in this AD. The compliance time in paragraph B.3. of the MCAI includes the grace period for both the initial inspection and the limitation sections of the AWLs. We have added paragraph (j)(4) of this AD to address the compliance time for the limitation sections of AWL 57–21–145 and AWL 57–21–155.

**Request To Combine ''No Alternative Actions or Intervals'' Paragraphs**

Air Wisconsin Airlines requested that we consider combining paragraphs (h) and (k) of the proposed AD. The commenter asserted that paragraph (h) of the proposed AD does not restate the requirement of paragraph (f)(2) of AD 2008–24–14.

We do not agree to the request to combine paragraphs (h) and (k) of this AD because the retained and new requirements are addressed separately in this supersedure AD. Paragraph (h) of this AD restates the requirements of paragraph (f)(2) of AD 2008–24–14, with a new exception. Paragraph (h) of this AD applies to the retained action required by paragraph (g) of this AD while paragraph (k) of this AD applies to the new action required by paragraph (i) of this AD. We have not changed this AD in this regard.

**Request To Clarify Figure Reference**

Air Wisconsin Airlines requested that we clarify the reference to ''the AWLs identified in figure 1 to paragraphs (i) and (o)'' in paragraph (o) of the proposed AD. The commenter remarked that no AWLs are specifically listed in paragraph (o) of the proposed AD.

We agree to clarify the figure reference in paragraph (o) of this AD. The AWLs are specifically listed in figure 1, which is designated ''figure 1 to paragraphs (i)(1) and (o).'' Paragraphs (i)(1) and (o) both reference that figure. As previously mentioned, OFR requires that the designation of any figure in an AD must include all paragraphs in which it is referenced, and the full designation is required in each reference. The correct designation of the figure in question is ''figure 1 to paragraphs (i)(1) and (o),'' as referenced in paragraphs (i)(1) and (o) of this AD. We have not changed this AD with regard to figure designations.

**Request To Revise Paragraph (l) of the Proposed AD**

Air Wisconsin Airlines requested that we revise paragraph (l) of the proposed AD to state that the compliance time for the limitation section is at the applicable time specified in the applicable AWLs.

As stated previously, we have revised paragraph (l) of this AD to specify the compliance times for the rework. We note that the compliance times for the limitation sections are provided in paragraphs (j)(2) and (j)(4) of this AD. If affected parts are removed and replaced with MLG trunnion, part numbers 601R10068–5 and –6, the inspection and limitation sections compliance times of the affected AWLs start from the installation of the new part numbers 601R10068–5 and –6. After the part replacement, the inspections and limitation sections of AWL 57–21–155 and AWL 57–21–161 still apply.

**Clarification of Compliance Times**

Where the compliance times for the repetitive inspections and life limits specified in the TRs identified in figure 1 to paragraphs (i)(1) and (o) of this AD specify ''landings,'' those compliance times are based on the landings of the affected part. The compliance times for the initial inspections are specified in paragraphs (j)(1) and (j)(3) of this AD and those compliance times are based on flight cycles or landings of the airplane. We have clarified the compliance times in paragraphs (i) and (j)(3) of this AD.

**Conclusion**

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

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

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

**Related Service Information Under 1 CFR Part 51**

Bombardier has issued the following service information.

- Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012, describes the cold working of fastener holes in the MLG trunnion fitting, and related investigative and corrective actions.
- Bombardier Service Bulletin 601R–57–047, Revision B, dated October 2, 2012, describes the installation of forcemate bushings in the MLG trunnion, and related investigative and corrective actions.
- Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013, describes the cold working of holes on the web of the MLG trunnion, and related investigative and corrective actions.

Bombardier has also issued the following temporary revisions (TRs), which are distinct because they describe different AWL tasks that apply to different Canadair part numbers.

- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2237, dated June 19, 2014. This TR describes AWL task 57–21–145, MLG Mounting Trunnion Fitting Assembly (Pre-SB 601R–57–047).
- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2238, dated June 19, 2014. This TR describes AWL task 57–21–161, MLG Mounting Trunnion Web at WS66 (Pre-SB 601R–57–046 or Pre-SB 601R–57–048).
- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2239, dated June 19, 2014. This TR describes AWL task 57–21–155, MLG Mounting Trunnion Fitting Assembly (Pre-SB 601R–57–046 or Pre-SB 601R–57–048).
- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2241, dated June 19, 2014. This TR describe AWL tasks 57–21–162, MLG Mounting Trunnion Assembly; and 57–21–163, MLG Mounting Trunnion Assembly.
- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2242, dated June 19, 2014. This TR removes certain AWL tasks.
- Bombardier Maintenance Requirements Manual Temporary Revision 2B–2246, dated November 7, 2014. This TR describes AWL tasks 57–21–162, MLG Mounting Trunnion Assembly; and 57–21–163, MLG Mounting Trunnion Assembly.

This AD also requires Bombardier Temporary Revision 2B–2136, dated May 1, 2008, to the Bombardier CL–600–2B19 Maintenance Requirements Manual, Part 2, Appendix B—Airworthiness Limitations, which the Director of the Federal Register approved for incorporation by reference as of December 19, 2008 (73 FR 73785, December 4, 2008).

This service information is reasonably available because the interested parties

have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 460 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2008–24–14. | 1 work-hour × $85 per hour = $85 | $0 | $85 | $39,100. |
| New actions | Up to 178 work-hours × $85 per hour = Up to $15,130. | 38,928 | Up to $54,058 | Up to $24,866,680. |

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

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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

**Authority for This Rulemaking**

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

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

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

**Regulatory Findings**

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008–24–14, Amendment 39–15758 (73 FR 73785, December 4, 2008), and adding the following new AD:

**2019–08–11 Bombardier, Inc.:** Amendment 39–19632; Docket No. FAA–2018–0801; Product Identifier 2017–NM–147–AD.

**(a) Effective Date**

This AD is effective July 11, 2019.

**(b) Affected ADs**

This AD replaces AD 2008–24–14, Amendment 39–15758 (73 FR 73785, December 4, 2008) (''AD 2008–24–14'').

**(c) Applicability**

This AD applies to Bombardier, Inc., Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7002 and subsequent.

**(d) Subject**

Air Transport Association (ATA) of America Code 57, Wings.

**(e) Reason**

This AD was prompted by reports of cracks on the main landing gear (MLG) trunnion fitting during fatigue testing; the introduction of new airworthiness limitation (AWL) tasks with revised inspection, modification, and safe-life requirements; and a determination that the trunnion fitting lower flange and both forward and aft bore holes are also subject to fatigue cracking. We are issuing this AD to address fatigue cracking of the MLG trunnion fitting. Failure of the MLG trunnion fitting could result in MLG collapse.

**(f) Compliance**

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

**(g) Retained Revision of Airworthiness Limitation Section With No Changes**

This paragraph restates the requirements of paragraph (f)(1) of AD 2008–24–14, with no changes. Within 30 days after December 19, 2008 (the effective date of AD 2008–24–14), revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate AWL 57–21–161, as identified in Bombardier Temporary Revision 2B–2136, dated May 1, 2008, to the Bombardier CL–600–2B19 Maintenance Requirements Manual, Part 2, Appendix B—

Airworthiness Limitations. The initial compliance time for the task starts from the applicable time specified in table 1 to paragraphs (g) and (j) of this AD or table 2 to paragraphs (g) and (j) of this AD, as applicable. Repeat the inspection thereafter at the applicable interval specified in Bombardier Temporary Revision 2B–2136, dated May 1, 2008.

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**Table 1 to paragraphs (g) and (j)** - *Pre-modsum TC601R15827 airplanes*

| If the airplane has accumulated as of December 19, 2008 (the effective date of AD 2008-24-14)— | Then phase in the initial inspection— |
|---|---|
| 23,500 or fewer total flight cycles | Prior to the accumulation of 25,000 total flight cycles. |
| 23,501 to 25,000 total flight cycles | Prior to the accumulation of 26,000 total flight cycles, or within 1,500 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14), whichever occurs first. |
| 25,001 to 26,000 total flight cycles | Prior to the accumulation of 26,500 total flight cycles, or within 1,000 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14), whichever occurs first. |
| 26,001 or more total flight cycles | Within 500 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14). |

**Table 2 to paragraphs (g) and (j)** - *Post-modsum TC601R15827 airplanes*

| If the airplane has accumulated as of December 19, 2008 (the effective date of AD 2008-24-14)— | Then phase in the initial inspection— |
|---|---|
| 15,667 or fewer total flight cycles | Prior to the accumulation of 16,667 total flight cycles. |
| 15,668 to 16,667 total flight cycles | Prior to the accumulation of 17,333 total flight cycles, or within 1,000 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14), whichever occurs first. |
| 16,668 to 17,333 total flight cycles | Prior to the accumulation of 17,666 total flight cycles, or within 666 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14), whichever occurs first. |
| 17,334 or more total flight cycles | Within 333 flight cycles after December 19, 2008 (the effective date of AD 2008-24-14). |

**(h) Retained No Alternative Actions or Intervals With New Exception**

This paragraph restates the requirements of paragraph (f)(2) of AD 2008–24–14, with a new exception: Except as required by paragraph (i) of this AD, after accomplishing the actions specified in paragraph (g) of this AD, no alternative inspections or inspection intervals may be used unless the inspection or inspection interval is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (p)(1) of this AD.

**(i) New Requirement of This AD: Revision of Existing Maintenance or Inspection Program**

(1) Within 60 days after the effective date of this AD: Revise the existing maintenance or inspection program, as applicable, by incorporating the AWL tasks specified in figure 1 to paragraphs (i)(1) and (o) of this AD. Except as specified in paragraph (j) of this AD, the initial compliance times for the tasks are at the applicable times specified in the temporary revisions (TRs) identified in figure 1 to paragraphs (i)(1) and (o) of this AD, or within 60 days after the effective date of this AD, whichever occurs later. When the information in AWL tasks identified in the TRs specified in figure 1 to paragraphs (i)(1) and (o) of this AD has been included in the general revisions of Bombardier Maintenance

Requirements Manual (MRM), CSP A–053, Part 2, Appendix B, the general revisions may be inserted in the MRM, and the TRs may be removed. Accomplishing the revision required by this paragraph terminates the actions required by paragraph (g) of this AD. Where the compliance times for the repetitive inspections and life limits specified in the TRs identified in figure 1 to paragraphs (i)(1) and (o) of this AD specify ''landings,'' those compliance times are based on the landings of the affected part.

**Figure 1 to paragraphs (i)(1) and (o)** - *AWL Tasks to be Incorporated*

| Section Within MRM, CSP A-053, Part 2, Appendix B | AWL Task | TR Number | TR Issue Date |
|---|---|---|---|
| Structural AWLs | 57-21-145 | TR 2B-2237 | June 19, 2014 |
| | 57-21-161 | TR 2B-2238 | June 19, 2014 |
| | 57-21-155 | TR 2B-2239 | June 19, 2014 |
| Structural Life Limits | 57-21-162 | TR 2B-2246 | November 7, 2014 |
| | 57-21-163 | | |
| Structural Life Limits, High Altitude Airfield Operations (HAAO) | 57-21-162 | TR 2B-2241 | June 19, 2014 |
| | 57-21-163 | | |

(2) Within 60 days after the effective date of this AD: Revise the existing maintenance or inspection program, as applicable, by removing the AWL tasks specified in figure 2 to paragraph (i)(2) of this AD.

**Figure 2 to paragraph (i)(2)** - *AWL Tasks to be Removed*

| Section Within MRM, CSP A-053, Part 2, Appendix B | AWL Task | TR Number | TR Issue Date |
|---|---|---|---|
| Structural AWLs | 57-21-164 | TR 2B-2242 | June 19, 2014 |
| | 57-21-165 | | |
| | 57-21-166 | | |

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**(j) New Requirement of This AD: Initial Compliance Times for AWL Tasks**

(1) For AWL 57–21–161, the compliance time for the initial inspection of AWL 57–21–161 is as specified in table 1 to paragraphs (g) and (j) of this AD or table 2 to paragraphs (g) and (j) of this AD, as applicable, or within 60 days after the effective date of this AD, whichever occurs later.

(2) For AWL 57–21–161, the compliance time for the limitation section is at the applicable time specified in AWL 57–21–161 or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

(3) For AWL 57–21–145 and AWL 57–21–155, the compliance times for the initial inspections are at the applicable times specified in AWL 57–21–145 and AWL 57–21–155 or within 2,000 flight cycles after the effective date of this AD, whichever occurs later. Where the compliance times for the initial inspections in the AWLs specify ''landings,'' those compliance times are based on the landings of the airplane.

(4) For AWL 57–21–145 and AWL 57–21–155, the compliance times for the limitation sections is at the applicable time specified in AWL 57–21–145 and AWL 57–21–155 or within 2,000 flight cycles after the effective date of this AD, whichever occurs later.

**(k) New Requirement of This AD: No Alternative Actions or Intervals**

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

**(l) New Requirement of This AD: Rework of MLG Trunnion To Meet Structural Safe-Life Limits**

(1) Except as specified in paragraph (m)(1) of this AD: At or before the accumulation of 34,900 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later, rework the MLG trunnion (cold working of fastener holes in the MLG trunnion fitting, and all applicable related investigative and corrective actions) in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012. Do all applicable related investigative and corrective actions before further flight.

(2) At or before the accumulation of 38,900 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later, rework the MLG trunnion (installation of forcemate bushings in the MLG trunnion, and all applicable related investigative and corrective actions) in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–047, Revision B, dated October 2, 2012. Do all applicable related investigative and corrective actions before further flight.

(3) Except as specified in paragraph (m)(2) of this AD: At or before the accumulation of 34,900 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later, rework the MLG trunnion (cold work of holes on the web of the MLG trunnion, and all applicable related

investigative and corrective actions) in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013. Do all applicable related investigative and corrective actions before further flight.

**(m) Exceptions To Rework Specified in Paragraph (l) of This AD**

(1) For airplanes on which Bombardier Service Bulletin 601R–57–046, Revision A, dated December 21, 2009; or Bombardier Service Bulletin 601R–57–046, Initial Issue, dated July 17, 2009; was accomplished prior to the effective date of this AD: Within 6 months after the effective date of this AD, do Part G of the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012.

(2) For airplanes on which Bombardier Service Bulletin 601R–57–048, Revision A, dated November 24, 2009; or Bombardier Service Bulletin 601R–57–048, Initial Issue, dated July 17, 2009; was accomplished prior to the effective date of this AD: Within 6 months after the effective date of this AD, do Part C of the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013.

**(n) Credit for Previous Actions**

(1) This paragraph provides credit for actions required by paragraph (l)(1) of this AD, if those actions were performed before the effective date of this AD, using Bombardier Service Bulletin 601R–57–046, Revision B, dated August 24, 2012.

(2) This paragraph provides credit for actions required by paragraph (l)(2) of this AD, if those actions were performed before the effective date of this AD, using the service information specified in paragraph (n)(2)(i) or (n)(2)(ii) of this AD.

(i) Bombardier Service Bulletin 601R–57–047, Revision A, dated February 1, 2012.

(ii) Bombardier Service Bulletin 601R–57–047, Initial Issue, dated June 29, 2011.

(3) This paragraph provides credit for actions required by paragraph (l)(3) of this AD, if those actions were performed before the effective date of this AD, using Bombardier Service Bulletin 601R–57–048, Revision B, dated August 24, 2012.

(4) This paragraph provides credit for actions required by paragraph (m)(1) of this AD, if those actions were performed before the effective date of this AD, using Part G of the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–046, Revision B, dated August 24, 2012.

(5) This paragraph provides credit for actions required by paragraph (m)(2) of this AD, if those actions were performed before the effective date of this AD, using Part C of the Accomplishment Instructions of Bombardier Service Bulletin 601R–57–048, Revision B, dated August 24, 2012.

**(o) Repairs and Alternative Actions or Intervals**

(1) If any damage is found during an inspection required by the AWLs identified in figure 1 to paragraphs (i)(1) and (o) of this AD, repair before further flight using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature. The approved repair instructions must specifically refer to this AD or Canadian AD CF–2017–27, dated August 2, 2017.

(2) Repairs approved by Bombardier, Inc., that deviate from the AWLs identified in figure 1 to paragraphs (i)(1) and (o) of this AD are acceptable methods of compliance if approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature. The approved repair instructions must specifically refer to this AD or Canadian AD CF–2017–27, dated August 2, 2017.

(3) For repairs approved before the effective date of this AD that affect the AWLs identified in figure 1 to paragraphs (i)(1) and (o) of this AD and the approved repair instructions do not specifically refer to Canadian AD CF–2017–27, dated August 2, 2017: Within 6 months of the effective date of this AD, contact the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO Inc., for new or revised limitations or inspection requirements on the repair area and comply with the revised limitations or inspection requirements. The new or revised limitations or inspection requirements must specifically refer to this AD or Canadian AD CF–2017–27, dated August 2, 2017.

(4) Canadian AMOC No. AARDG–2018/A21, dated May 1, 2018, which was approved before the effective date of this AD by TCCA, is an acceptable method of compliance to the corresponding requirements of this AD.

**(p) Other FAA AD Provisions**

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature. The approved corrective action instructions must specifically refer to this AD or Canadian AD CF–2017–27, dated August 2, 2017.

**(q) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2017–27, dated August 2, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0801.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7329; fax 516–794–5531.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (r)(5) and (r)(6) of this AD.

**(r) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on July 11, 2019.

(i) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2237, dated June 19, 2014.

(ii) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2238, dated June 19, 2014.

(iii) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2239, dated June 19, 2014.

(iv) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2241, dated June 19, 2014.

(v) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2242, dated June 19, 2014.

(vi) Bombardier Maintenance Requirements Manual Temporary Revision 2B–2246, dated November 7, 2014.

(vii) Bombardier Service Bulletin 601R–57–046, Revision C, dated December 20, 2012.

(viii) Bombardier Service Bulletin 601R–57–047, Revision B, dated October 2, 2012.

(ix) Bombardier Service Bulletin 601R–57–048, Revision C, dated June 6, 2013.

(4) The following service information was approved for IBR on December 19, 2008 (73 FR 73785, December 4, 2008).

(i) Bombardier Temporary Revision 2B–2136, dated May 1, 2008, to the Bombardier CL–600–2B19 Maintenance Requirements Manual, Part 2, Appendix B—Airworthiness Limitations.

(ii) [Reserved]

(5) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.*

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

(7) You may view this service information that is incorporated by reference at the

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

Issued in Des Moines, Washington, on May 15, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–11830 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2019–0105; Airspace Docket No. 19–AGL–9]**

**RIN 2120–AA66**

## Amendment of Class E Airspace; Manistique, MI

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace extending upward from 700 feet above the surface and the Class E airspace extending upward from 1,200 feet above the surface at Schoolcraft County Airport, Manistique, MI. This action is due to an airspace review caused by the decommissioning of the Schoolcraft VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of Schoolcraft County Airport are also being updated to coincide with the FAA's aeronautic database. Airspace redesign is necessary for the safety and management of instrument flight rules (IFR) operations at this airport.

**DATES:** Effective 0901 UTC, August 15, 2019. 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 7400.11C, 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 7400.11C at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

**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 and the Class E airspace extending upward from 1,200 feet above the surface at Schoolcraft County Airport, Manistique, MI, to support IFR operations at this airport.

### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 8834; March 12, 2019) for Docket No. FAA–2019–0105 to amend the Class E airspace extending upward from 700 feet above the surface and the Class E airspace extending upward from 1,200 feet above the surface at Schoolcraft County Airport, Manistique, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received supporting the proposed action. The FAA provides the following response.

Class E airspace extending from 700 feet and 1,200 feet above the surface of an airport is provided for transition to and from the terminal or en route environment within the National Airspace System. The size and design of this airspace is determined by FAA Order 7400.2M, Procedures for Handling Airspace Matters, and is designed to enhance safety and support IFR operations at the associated airports. Airspace design does not ''cause'' the decommissioning of a navigational aid. The decommissioning of the Schoolcraft VOR was determined by the VOR MON Program, a national program. Airspace redesign is needed due to the decommissioning of the Schoolcraft VOR and the cancellation and revision of instrument flight procedures at the airport. Airspace design takes the current airport requirements and current instrument and visual departures and arrival procedures into consideration to insure the safety of operations at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, 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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C 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 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (reduced from a 7-mile radius) of Schoolcraft County Airport, Manistique, MI; amending the Class E airspace extending upward from 1,200 feet above the surface to within a 9-mile radius of Schoolcraft County Airport; removing the extension to the east of the airport, as it is no longer required; removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M, Procedures for Handling Airspace Matters; and updating the 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 Schoolcraft VOR, which provided

navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

**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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

**AGL MI E5 Manistique, MI [Amended]**

Schoolcraft County Airport, MI
(Lat. 45°58′29″ N, long. 86°10′19″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Schoolcraft County Airport, and that airspace extending upward from 1,200 feet above the surface within a 9-mile radius of Schoolcraft County Airport.

Issued in Fort Worth, Texas, on May 29, 2019.

**John A. Witucki,**

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

[FR Doc. 2019–11773 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2019–0134; Airspace Docket No. 19–ASO–5]**

**RIN 2120–AA66**

## Amendment of the Class E Airspace; Portland, TN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class E airspace extending upward from 700 feet above the surface at Portland Municipal Airport, Portland, TN. This action is due to an airspace review caused by the decommissioning of the Bowling Green VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

**DATES:** Effective 0901 UTC, August 15, 2019. 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 7400.11C, 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 7400.11C at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

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

**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 Portland Municipal Airport, Portland, TN, to support instrument flight rule operations at this airport.

**History**

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 10455; March 21, 2019) for Docket No. FAA–2019–0134 to amend the Class E airspace extending upward from 700 feet above the surface at Portland Municipal Airport, Portland, TN. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA discovered a typographic error in the geographic coordinates (''Lat. 36°35′35″ N'' should be ''lat. 36°35′34″ N'') contained in the airspace legal description and in the bearing (''193°'' should be ''191°''). Those errors are corrected in this action.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, 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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C 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 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (increased from a 6.3-mile radius) of Portland Municipal Airport, Portland, TN; removing the Bowling Green VORTAC and the associated extension from the airport legal description; adding an extension 2 miles each side of the 191° (corrected from 193°) bearing from the airport extending from the 6.5-mile radius to 10.8 miles south of the airport; and updating the 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 Bowling Green VOR, which provided navigation information for the instrument procedures at these airports, as part of the VOR MON Program.

**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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

**ASO TN E5 Portland, TN [Amended]**

Portland Municipal Airport, TN

(Lat. 36°35′34″ N, long. 86°28′37″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Portland Municipal Airport, and within 2 miles each side of 191° bearing from the airport extending from the 6.5-mile radius to 10.8 miles south of the airport.

Issued in Fort Worth, Texas, on May 29, 2019.

**John A. Witucki,**

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

[FR Doc. 2019–11772 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2019–0110; Airspace Docket No. 19–ASW–3]**

**RIN 2120–AA66**

## Amendment of the Class D and Class E Airspace; Tulsa, OK

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action modifies the Class D airspace and Class E airspace extending upward from 700 feet above the surface at Richard Lloyd Jones Jr. Airport, Tulsa, OK, and the Class E airspace extending upward from 700 feet above the surface at William R. Pogue Municipal Airport, Sand Springs, OK, which is contained within the Tulsa, OK, airspace legal description. This action is due to an airspace review caused by the decommissioning of the Glenpool VHF omnidirectional range (VOR), which provided navigation information to the instrument procedures at this airport, as part of the VOR Minimum Operational Network (MON) Program. The geographic coordinates of the Richard Lloyd Jones Jr. Airport are also being updated to coincide with the FAA's aeronautical database.

**DATES:** Effective 0901 UTC, August 15, 2019. 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 7400.11C, 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 7400.11C at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*.

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

**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 D airspace and Class E airspace extending upward from 700 feet above the surface at Richard Lloyd Jones Jr. Airport, Tulsa, OK, and the Class E airspace extending upward from 700 feet above the surface at William R. Pogue Municipal Airport, Sand Springs, OK, to support instrument flight rule operations at these airports.

**History**

The FAA published a notice of proposed rulemaking in the **Federal Register** (84 FR 10453; March 21, 2019) for Docket No. FAA–2019–0110 to amend the Class D airspace and Class E airspace extending upward from 700 feet above the surface at Richard Lloyd Jones Jr. Airport, Tulsa, OK, and the Class E airspace extending upward from 700 feet above the surface at William R. Pogue Municipal Airport, Sand Springs, OK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received. Neither comment addressed the proposed amendments but opposed the decommissioning of the Glenpool VOR. The FAA provides the following response.

The proposed decommissioning of the Glenpool VOR was addressed in airspace case 17–ASW–03NR. The public was given the opportunity to comment on the proposal between February 8, 2017, and April 10, 2017. No objections to the proposal were received. The Service Area Discontinuance Committee reviewed the aeronautical study and recommended the VOR be decommissioned. The Service Area Directors approved the recommendation on June 9, 2017, and the Glenpool VOR was decommissioned on February 28, 2019.

Subsequent to publication, the FAA discovered a typographic error in the geographic coordinates for the Richard Lloyd Jones Jr.: RWY 01L–LOC (''long. 95°59′07″ W'' should be ''long. 95°59′01″ W''). That error is corrected in this action.

Class D and E airspace designations are published in paragraph 5000 and 6005, respectively, of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class D and 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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C 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 by:

Amending the Class D airspace at Richard Lloyd Jones Jr. Airport, Tulsa, OK, by removing the Glenpool VOR/DME and the associated extension to the south of the airport from the airspace legal description; adding an extension 1 mile each side of the 193° bearing from the Richard Lloyd Jones Jr.: RWY 01L–LOC extending from the 4-mile radius to 4.1 miles south of the airport; updating the location in the header of the airspace legal description to Tulsa, OK (previously Tulsa Richard Lloyd Jones Jr. Airport, OK), to comply with FAA Order 7400.2M, Procedures for Handling Airspace Matters; removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M; updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; making an editorial change replacing the outdated term ''Airport/Facility Directory'' with ''Chart Supplement''; and correcting a typographical error in the geographic coordinates for the Richard Lloyd Jones Jr.: RWY 01L–LOC;

Amending 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 Richard Lloyd Jones Jr. Airport; and removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M;

And amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (decreased from a 7.2-mile radius) of the William R. Pogue Municipal Airport, Sand Springs, OK; removing the Glenpool VOR/DME and the associated extension northwest of the William R. Pogue Municipal Airport from the Tulsa, OK, from the airspace legal description; and removing the city associated with the airport from the airspace legal description to comply with FAA Order 7400.2M.

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

**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 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

*Paragraph 5000 Class D Airspace.*

* * * * *

**ASW OK D Tulsa, OK [Amended]**

Richard Lloyd Jones Jr. Airport, OK
(Lat. 36°02′23″ N, long. 95°59′05″ W)
Richard Lloyd Jones Jr.: RWY 01L–LOC
(Lat. 36°02′52″ N, long. 95°59′01″ W)

That airspace extending upward from the surface to and including 3,100 feet MSL within a 4-mile radius of Richard Lloyd Jones Jr. Airport, and within 1 mile each side of the 193° bearing from the Richard Lloyd Jones Jr.: RWY 01L–LOC extending from the 4-mile radius to 4.1 miles south of the airport, excluding that airspace within the Tulsa International Airport, OK, Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be 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.*

* * * * *

**ASW OK E5 Tulsa, OK [Amended]**

Tulsa International Airport, OK
(Lat. 36°11′54″ N, long. 95°53′17″ W)
Richard Lloyd Jones Jr. Airport, OK
(Lat. 36°02′23″ N, long. 95°59′05″ W)
William R. Pogue Municipal Airport, OK
(Lat. 36°10′31″ N, long. 96°09′07″ W)
Tulsa VORTAC
(Lat. 36°11′47″ N, long. 95°47′17″ W)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Tulsa International Airport, and within 1.6 miles each side of the 089° radial of the Tulsa VORTAC extending from the 8-mile radius to 11.9 miles east of the airport, and within a 6.5-mile radius of Richard Lloyd Jones Jr. Airport, and within a 6.5-mile radius of William R. Pogue Municipal Airport, and within 4 miles each side of the 355° bearing from William R. Pogue Municipal Airport extending from the 6.5-mile radius to 10.9 miles north of the airport, and within 4 miles each side of the 175° bearing from William R. Pogue Municipal Airport extending from the 6.5-mile radius to 10.9 miles south of the airport.

Issued in Fort Worth, Texas, on May 29, 2019.

**John A. Witucki,**

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

[FR Doc. 2019–11774 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## POSTAL SERVICE

## 39 CFR Part 20

## International Mailing Services: Mailing Services Product and Price Changes—CPI

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Regulatory Commission (PRC) favorably reviewed an updated weight limitation for First-Class Mail International® (FCMI) large envelopes (flats) in PRC Order No. 4932, issued December 19, 2018, in PRC Docket No. MC2019–3. On March 11, 2019, in a filing at the PRC, the Postal Service announced an implementation date of June 23, 2019, for the revised FCMI large envelopes (flats) maximum weight limitation. The Postal Service has made the accompanying classification changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) in order to reflect this revised weight limitation.

**DATES:** Effective June 23, 2019.

**FOR FURTHER INFORMATION CONTACT:** Michelle Lassiter at 202–268–2914.

**SUPPLEMENTARY INFORMATION:** The Postal Service is revising several sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), to reflect classification changes to Mailing Services. These changes implement a lower maximum weight limit on FCMI large envelopes (flats), to bring them closer to limits established by the Universal Postal Union (UPU).

### I. Regulatory History

On October 10, 2018, the Postal Service filed a notice with the PRC in Docket No. R2019–1 of mailing services price adjustments, effective on January 27, 2019. In addition, on October 17, 2018, the Postal Service published a notice of proposed product and price changes in the **Federal Register** entitled ''International Mailing Services: Proposed Product and Price Changes—CPI'' (83 FR 52351). In the proposed rule, the Postal Service stated that on October 10, 2018, it also filed a notice with the PRC in Docket No. MC2019–3, proposing a change in the maximum weight limit for FCMI large envelopes (flats) from the current 64 ounces to under 16 ounces (the actual weight limit is 15.994 ounces, to accommodate Postal Service systems that round to three decimal places and thus round items that weigh 15.995–15.999 ounces up to 16 ounces). This change would more closely align the Postal Service's definition of FCMI large envelopes (flats) with the UPU Convention's weight limit, which allows a maximum weight of 500 grams (17.6 ounces) for flat-shaped letter post items.

### II. Postal Regulatory Commission Orders

Because the proposed change to FCMI large envelopes (flats) upper weight limit that was the subject of Docket No. MC2019–3 was pending at the time the PRC was scheduled to complete its review in Docket No. R2019–1, the PRC issued an interim order on October 19, 2018, in Docket No. R2019–1. That interim order required the Postal Service to revise its filing in the R2019–1 docket so that the Postal Service's proposed changes in the R2019–1 docket would not include the proposed revision to the FCMI large envelopes (flats) maximum weight limit. *See* PRC Order No. 4859, Interim Order Relating to Outbound Single-Piece First-Class Mail International Flats, Docket No. R2019–1, October 19, 2018. The PRC subsequently favorably reviewed the revised maximum weight limit for FCMI large envelopes (flats) in Order No. 4932, issued December 19, 2018, in Docket No. MC2019–3. On March 11, 2019, the Postal Service announced an implementation date of June 23, 2019, for the revised FCMI large envelopes (flats) maximum weight limit. *See* Notice of the United States Postal Service of Effective Date of Update to the Maximum Weight Limit for Outbound Single-Piece First-Class Mail International Large Envelopes (Flats) in the Mail Classification Schedule, PRC Docket No. MC2019–3 (March 11, 2019).

### III. Effective June 23, 2019

As a result, effective June 23, 2019, mailers must mail items weighing 15.994 ounces or more with First-Class Package International Service, Priority Mail Express International service, or Priority Mail International service. If a mailer, counter to the Postal Service's regulations, presents an FCMI large envelope (flat) weighing above the newly established weight limit, the

Postal Service will offer the customer the option of mailing at the applicable First-Class Package International Service, Priority Mail Express International service, or Priority Mail International service price if the item meets the requirements for those mail classes.

International Priority Airmail (IPA) service, including IPA M-bags, is a commercial service designed for volume mailings of all FCMI postcards, letters, and large envelopes (flats), and for volume mailings of FCPIS packages (small packets). IPA shipments are typically flown to a foreign destination (exceptions apply to Canada and Mexico) and are then entered into that country's air or surface priority mail system for delivery. To qualify for IPA service, a mailpiece must either meet the FCMI characteristics defined in IMM 141.5 or the FCPIS characteristics as defined in IMM 141.6, except for weight, as follows:

—The maximum weight limit for IPA large envelopes (flats) is 17.6 ounces.
—The maximum weight limit for IPA packages (small packets) is 4.4 pounds.

International Surface Air Lift (ISAL) service, including ISAL M-bags, is a commercial service designed for volume mailings of all FCMI postcards, letters, and large envelopes (flats), and for volume mailings of FCPIS packages (small packets). ISAL shipments are typically flown to a foreign destination (exceptions apply to Canada and Mexico) and are then entered into that country's surface nonpriority mail system for delivery. To qualify for ISAL service, a mailpiece must meet either the FCMI characteristics defined in IMM 141.5 or the FCPIS characteristics as defined in IMM 141.6, except for weight, as follows:

—The maximum weight limit for ISAL large envelopes (flats) is 17.6 ounces.
—The maximum weight limit for ISAL packages (small packets) is 4.4 pounds.

Accordingly, for the reasons stated, the Postal Service has adopted the following changes to Mailing Standards of the United States Postal Service, International Mail Manual (IMM®), which is incorporated by reference in the Code of Federal Regulations in accordance with 39 CFR 20.1, along with associated changes to Notice 123, *Price List.*

**List of Subjects in 39 CFR Part 20**

Foreign relations, International postal services.

## PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR Part 20 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of Mailing Standards of the United States Postal Service, International Mail Manual (IMM), as follows:

**Mailing Standards of the United States Postal Service, International Mail Manual (IMM)**

**1 International Mail Services**

* * * * *

**120 Preparation for Mailing**

* * * * *

**123 Customs Forms and Online Shipping Labels**

* * * * *

**123.6 Required Usage**

**123.61 Conditions**

* * * * *

Exhibit 123.61

**Customs Declaration Form Usage by Mail Category**

* * * * *

*[Revise the First-Class Mail International section to read as follows:]*

| Type of item | Declared value, weight, or physical characteristic | Required PS form | Comment (if applicable) |
|---|---|---|---|
| * | * | * | * |
| **First-Class Mail International Letters and Large Envelopes (Flats), as well as International Priority Airmail (IPA) Letters and Large Envelopes (Flats) and International Surface Air Lift (ISAL) Letters and Large Envelopes (Flats)** | | |
| All First-Class Mail International letter-size and flat-size items, as defined in 241.2, containing only nondutiable documents. | Under 16 ounces [1] | None [2] | See 123.63 for additional information concerning "documents." Items containing merchandise are prohibited in First-Class Mail International.[3] |
| All IPA and ISAL letter-size and flat-size items, as defined in 241.2, containing only nondutiable documents. | Under 16 ounces [1]<br>16 ounces to 17.6 ounces | None [2]<br>2976 | See 123.63 for additional information concerning "documents." Items containing merchandise are prohibited in IPA/ISAL letters and large envelopes (flats).[3] |
| All items containing any goods, regardless of weight. | Prohibited | Prohibited | See 123.63 for additional information concerning "documents" and merchandise. Items containing merchandise are prohibited in First Class Mail International and in IPA/ISAL letters and large envelopes (flats).[3] |
| * | * | * | * |

*[Below Exhibit 123.61, add three footnotes to read as follows:]*

[1] The actual weight is 15.994 ounces, to accommodate Postal Service systems that round to three decimal places and thus round items that weight 15.995–15.999 ounces up to 16 ounces.

[2] Certain nonnegotiable documents controlled by export regulatory agencies may require customs documentation. See 510–540 and Publication 699 for additional information.

[3] Items containing merchandise are mailable using Global Express Guaranteed service, Priority Mail Express International service, Priority Mail International service, or First-Class Package International Service; commercial mailers may also use IPA packages (small packets) and ISAL packages (small packets).

* * * * *

**140 International Mail Categories**

**141 Definitions**

* * * * *

**141.5 First-Class Mail International**

*[Revise the first sentence (changing the weight limit) to read as follows:]*

First-Class Mail International is a generic term for mailpieces that are postcard-size, letter-size, or flat-size and weigh less than 16 ounces (the actual weight limit is 15.994 ounces, to accommodate Postal Service systems that round to three decimal places and thus round items that weigh 15.995–15.999 ounces up to 16 ounces).* * *

* * * * *

**2 Conditions for Mailing**

* * * * *

**240 First-Class Mail International**

**241 Description and Physical Characteristics**

* * * * *

**241.2 Physical Characteristics**

* * * * *

**241.23 Physical Standards — Large Envelopes (Flats)**

**241.231 Weight Limit**

*[Revise the text to read as follows (changing the weight limit):]*

The weight limit for a First-Class Mail International large envelope (flat) is less than 16 ounces (the actual weight limit is 15.994 ounces, to accommodate Postal Service systems that round to three decimal places and thus round items that weigh 15.995–15.999 ounces up to 16 ounces).

* * * * *

**243 Prices and Postage Payment Methods**

* * * * *

**243.3 Permit Imprint—General**

*[Revise the fourth sentence to read as follows:]*

* * *For items requiring a customs form (First-Class Mail International letter-size and flat-size mailpieces containing nonnegotiable documents controlled by export regulatory agencies, covered in IMM 510–540), mailers must also meet the following requirements:* * *

* * * * *

**Country Price Groups and Weight Limits**

* * * * *

*[Revise footnote 3 to read as follows:]*

[3] First-Class Mail International maximum weights: Letters, 3.5 ozs.; Large Envelopes (flats), under 16 ounces (the actual weight limit is 15.994 ounces to accommodate Postal Service systems that round to three decimal places and thus round items that weigh 15.995–15.999 ounces up to 16 ounces). First-Class Package International Service maximum weight: 4 lbs.

*[In the table, in the second header row in the farthest column on the right, revise ''Max. Wt. (ozs./lbs)[3]'' to just ''Max. Wt.,'' and revise all of the entries in that column (except Somalia) to read as follows (with the entry for Afghanistan as an example) (the entry for Somalia remains ''n/a''):]*

| Country | Global express guaranteed | | Priority mail express international | | | Priority mail international | | | First-class mail international and first-class package international service | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Price group | Max. Wt. (lbs.) | Price group | Max. Wt. (lbs.) | PMEI flat rate envelopes price group [1] | Price group | Max. Wt. (lbs.) | PMI flat rate envelopes and boxes price group [2] | Price group | Max. Wt. |
| Afghanistan | 6 | 70 | n/a | n/a | n/a | 6 | 66 | 8 | 6 | See Note 3. |
| | * | * | * | * | | * | * | | * | |

* * * * *

**Brittany M. Johnson,**

*Attorney, Federal Compliance.*

[FR Doc. 2019–11821 Filed 6–5–19; 8:45 am]

**BILLING CODE 7710–12–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R10–OAR–2018–0679; FRL–9994–49–Region 10]**

## Air Plan Approval; OR: Infrastructure Requirements for the 2015 Ozone Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA) requires states to submit a plan for the implementation, maintenance, and enforcement of the standard, commonly referred to as infrastructure requirements. The Environmental Protection Agency (EPA) is approving the Oregon Department of Environmental Quality's (ODEQ) State Implementation Plan (SIP), submitted on September 25, 2018, as meeting infrastructure requirements for the 2015 ozone NAAQS. In addition, the EPA is approving the addition of an Oregon Administrative Rule to the SIP, submitted as part of the Cleaner Air Oregon SIP submission on December 11, 2018. This rule identifies the November 2018 edition of the Code of Federal Regulations (CFR) as the CFR version referred to throughout the state's rule.

**DATES:** This final rule is effective July 8, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2018–0679. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and is publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Christi Duboiski, EPA Region 10, 1200 6th Ave., Suite 155, Seattle, WA 98101, (360) 753–9081 or *duboiski.christi@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

### I. Background Information

On March 11, 2019, the EPA proposed to approve Oregon's September 25, 2018, SIP submission as meeting certain infrastructure requirements of the CAA

for the 2015 ozone NAAQS (84 FR 8647). We also proposed to approve, and incorporate by reference, an associated Oregon Administrative Rule (OAR) update, submitted on December 11, 2018, as part of the Cleaner Air Oregon program, which identifies the November 2018 edition of the Code of Federal Regulations (CFR) as the CFR version referred to throughout the state's rule. The public comment period for this proposed action ended on April 10, 2019. The EPA did not receive comments on the proposal.

## II. Final Action

The EPA is approving Oregon's September 25, 2018, SIP submission as meeting specific infrastructure requirements of the Clean Air Act. We find that the Oregon SIP meets the following Clean Air Act section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). We are also approving, and incorporating by reference at 40 CFR part 52, subpart MM, the OAR 340–200–0035(1) *Reference Materials,* submitted as part of the Cleaner Air Oregon SIP on December 11, 2018. The EPA is approving these SIP revisions because they are consistent with section 110 of the CAA.

## III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are finalizing the incorporation by reference as described in section II. Final Action, above, and the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully Federally-enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

## IV. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the 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 the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: May 21, 2019.

**Chris Hladick,**

*Regional Administrator, Region 10.*

For the reasons stated in the preamble, 40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart MM—Oregon

■ 2. Amend § 52.1970 as follows:

[1] 62 FR 27968 (May 22, 1997).

■ a. In paragraph (c), table 2, by revising the entry ''200–0035''; and
■ b. In paragraph (e), table 5, by:
■ i. Revising the undesignated heading for ''110(a)(2) Infrastructure and Intersate Transport''; and
■ ii. Adding an entry for ''Infrastructure for the 2015 ozone NAAQS'' immediately after the entry for ''2015 Ozone NAAQS Interstate Transport''.

The revisions and addition read as follows:

**§ 52.1970 Identification of plan.**

* * * * *

(c) * * *

TABLE 2—EPA APPROVED OREGON ADMINISTRATIVE RULES (OAR) [1]

| State citation | Title/subject | State effective date | EPA approval date | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| **Division 200—General Air Pollution Procedures and Definitions** | | | | |
| * | * | * | * | * |
| 200–0035 | Reference Materials | 12/11/2018 and 4/16/2015. | 6/6/2019, [Insert **Federal Register** citation] and 10/11/2017, 82 FR 47122. | OAR 200–0035(1); OAR 200–0035(2) and (3) previously approved. |
| * | * | * | * | * |

[1] EPA's approval is limited to the extent the provisions relate to section 110 of the Clean Air Act and determining compliance with and for purposes of implementation of SIP-approved requirements.

* * * * *

(e) * * *

TABLE 5—STATE OF OREGON AIR QUALITY CONTROL PROGRAM APPROVED BUT NOT INCORPORATED BY REFERENCE

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| **110(a)(2) Infrastructure and Interstate Transport** | | | | |
| * | * | * | * | * |
| Infrastructure for the 2015 ozone NAAQS. | Statewide ..... | 10/21/2018 | 6/6/2019, [Insert **Federal Register** citation]. | This action addresses the following CAA section 110(a)(2) elements: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). |
| * | * | * | * | * |

[FR Doc. 2019–11765 Filed 6–5–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2018–0811; FRL–9994–06–Region 6]**

## Air Plan Approval; Texas; Control of Air Pollution From Motor Vehicles

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality. The revisions remove rules from the Texas SIP that address vehicle anti-tampering requirements and the Low Income Repair Assistance Program for certain participating counties.

**DATES:** This rule is effective on September 4, 2019 without further notice, unless the EPA receives relevant adverse comment by July 8, 2019. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2018–0811, at *https://www.regulations.gov* or via email to *paige.carrie@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Carrie Paige, 214–665–6521, *paige.carrie@epa.gov.* For the full EPA public comment policy, information

about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

*Docket:* The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at the EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, EPA Region 6 Office, Infrastructure & Ozone Section, (mail code AR–SI), 1201 Elm Street, Suite 500, Dallas, Texas 75270, 214–665–6521, *paige.carrie@epa.gov.* To inspect the hard copy materials, please schedule an appointment with Ms. Paige or Mr. Bill Deese at 214–665–7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

## I. Background

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA's National Ambient Air Quality Standards (NAAQS). These ambient standards are established under CAA section 109 and they currently address six criteria pollutants: Carbon monoxide (CO), nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state is responsible for developing a SIP which provides for the implementation, maintenance, and enforcement of the NAAQS. The SIP must be submitted to EPA for approval and any changes a state makes to the approved SIP also must be submitted to the EPA for approval.

On November 20, 2018, the Texas Commission on Environmental Quality (TCEQ or State) submitted to EPA revisions to the Texas SIP. The submitted revisions address removal of two rules within Title 30 of the Texas Administrative Code (denoted 30 TAC), Chapter 114 (Control of Air Pollution from Motor Vehicles): (1) Subchapter B—Motor Vehicle Anti-Tampering Requirements; and (2) Subchapter C, Division 3, Section 114.86—Low Income Repair Assistance Program (LIRAP) for Participating Early Action Compact (EAC) Counties.

The criteria used to evaluate these SIP revisions are found primarily in CAA section 110. Section 110(*l*) of the Act requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing and requires that EPA not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

## II. EPA's Evaluation of the Revisions

### *A. Revisions to 30 TAC Section 114, Subchapter B*

In the revision submitted on November 20, 2018, the State removes Subchapter B (Motor Vehicle Anti-Tampering Requirements) from the SIP in its entirety. The section 114 requirements would remain in place in the State regulation. The anti-tampering measures restrict removal or modification of motor vehicle emission control equipment. The first anti-tampering rules in the Texas SIP were adopted by the State and submitted to EPA in 1985 (see 54 FR 6286, February 9, 1989). Subsequent revisions to the State's anti-tampering rules were submitted to EPA in 1988, 1989, and 1993, and these revisions were disapproved on February 10, 1998 (63 FR 6651). The State submitted revisions to EPA in 1997 that recodified and renumbered the anti-tampering rules in Chapter 114 to new Subchapter B, which EPA approved into the Texas SIP on July 1, 1998 (63 FR 35839).[1] Between 1994 and 2015, the State submitted four other revisions to the anti-tampering rules that EPA did not act on and those revisions have been withdrawn from our consideration at the State's request.[2]

The anti-tampering measures at 30 TAC 114, Subchapter B are not required under the CAA and did not supersede or otherwise modify requirements for pollution control devices on motor vehicles. The CAA addresses tampering prohibition for emission control equipment for motor vehicles and motor vehicle engines at section 203(a)(3) and prohibits tampering with any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with motor vehicle emission standards. 42 U.S.C. 7522(a)(3).[3] In addition, the anti-tampering rules in the Texas SIP were not relied upon as a source of emissions reductions in any State Air Quality Plan and thus, did not contribute toward rate of progress, attainment, or maintenance of the NAAQS in Texas (see 54 FR 6286 and 63 FR 35839). Removal of Subchapter B from the Texas SIP does not cause a loss in emissions reductions because more stringent anti-tampering rules are in place and enforceable at the federal level. 42 U.S.C. 7522(a)(3).

### *B. Revisions to 30 TAC Chapter 114, Subchapter C, Section 114.86*

Vehicle Inspection and Maintenance (I/M) programs are required by the CAA for certain ozone and CO nonattainment areas, depending upon population and nonattainment classification or design value (see 40 CFR 51, subpart S). The I/M programs focus on reducing vehicle emissions, including nitrogen oxides and volatile organic compounds (precursors to ozone formation), through automobile inspections, which lead to repair and maintenance of such vehicles. The LIRAP is a voluntary program designed to enhance the Texas I/M program. Texas counties implementing the Texas I/M program are eligible to opt-in to the LIRAP. The LIRAP provides funds to assist eligible vehicle owners with emissions-related repairs, retrofits, or the option to retire the vehicle.[4] Vehicle owners in participating counties whose automobiles have failed a recent emissions test and who meet the low-income criteria may be eligible to receive LIRAP funds. The LIRAP also provides funds for local projects targeted at improving air quality in the counties implementing the LIRAP. The Federal I/M rules do not require States to implement a LIRAP type program. The LIRAP rules are found at 30 TAC 114 Subchapter C, Division 2 and are not part of the Texas SIP. It was not necessary to include this program in the Texas SIP because it is not required by the I/M rules and the State did not rely on reductions from the program in any of its air quality programs.

In 2004, Texas adopted rules in Chapter 114, Subchapter C, Division 3 for an I/M program that applies only in Early Action Compact (EAC) areas. Section 114.86 provides local officials in EAC areas the opportunity to opt into

[1] Despite our approval action here, 30 TAC 114 Subchapter B (Motor Vehicle Anti-Tampering Requirements) is not visible in Table (c) ''EPA Approved Regulations in the Texas SIP'' at 40 CFR 52.2270. We believe this was an accidental omission that wasn't noticed until now.

[2] See our letter to the TCEQ, dated April 10, 2019, in the docket for this rulemaking.

[3] The Interim Tampering Enforcement Policy (''Memo 1A''), dated June 25, 1974, provides guidance on what constitutes a violation of CAA section 203(a)(3). Memo 1A is provided in the docket for this rulemaking and posted at *https://www.epa.gov/enforcement/interim-tampering-enforcement-policy-memo-1a-june-25-1974.*

[4] The LIRAP is funded through an additional remittance paid at the time of annual vehicle registration as part of the vehicle emissions inspection fee by vehicle owners in counties participating in the LIRAP.

an EAC I/M LIRAP.[5] The EAC I/M program is distinct from the State's SIP-approved I/M program in Chapter 114, Subchapter C, Division 1, applicable to nonattainment areas (*see* 70 FR 45542, August 8, 2005). Two Texas counties—Travis and Williamson—adopted the EAC I/M program (70 FR 45542).

There were no emission reduction credits requested or approved, however, for implementation of EAC I/M LIRAP for Travis and Williamson counties (*see* 70 FR 48640, August 19, 2005). In addition, the EAC I/M LIRAP is not a CAA requirement and was not relied upon in the SIP to demonstrate reasonable further progress, attainment, or maintenance. The State is simply removing the EAC I/M LIRAP from the SIP to be consistent with the LIRAP rules for nonattainment areas at 30 TAC 114 Subchapter C, Division 2, which, as discussed previously, are not in the Texas SIP.

The EAC I/M LIRAP rules in 30 TAC 114.86 were adopted as a voluntary enhancement to the EAC I/M program. Participation in the LIRAP, however, is at the discretion of each eligible county. Under the rules currently approved in the SIP, Travis and/or Williamson Counties may choose to participate in the EAC I/M LIRAP in any given year at the counties' discretion. Due to this uncertainty, the EAC I/M LIRAP was adopted into the SIP as a voluntary measure and with no quantified or relied upon emissions reductions. As a result, removal of these provisions from the SIP to be consistent with the I/M provisions in nonattainment counties is reasonable and will not contribute to nonattainment or interfere with maintenance.

## III. Final Action

Pursuant to the CAA, the EPA is approving revisions to the Texas SIP submitted by the TCEQ on November 20, 2018. The revisions remove 30 TAC 114, Subchapter B (the Motor Vehicle Anti-tampering Requirements) in its entirety; and the LIRAP for Participating EAC Counties at 30 TAC 114, Section 114.86 from the SIP. These rules both currently remain in place at the State level.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on September 4, 2019 without further notice unless we receive relevant adverse comment by July 8, 2019. If we receive relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

## 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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

[5] The EAC program was developed to allow communities an opportunity to reduce concentrations of ground level ozone sooner than required by the CAA. The program was designed for areas that approached or monitored exceedances of the 1997 8-hour ozone standard and were in attainment for the 1979 1-hour ozone standard. For more information on the EAC, please visit *https://archive.epa.gov/airquality/eac/web/html/basic.html.*

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 5, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

David Gray was designated the Acting Regional Administrator on May 28, 2019 through the order of succession outlined in Regional Order R6–1110.13, a copy of which is included in the docket for this action.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: May 28, 2019.

**David Gray,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart SS—Texas

**§ 52.2270 [Amended]**

■ 2. In § 52.2270 the table in paragraph (c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended by removing the entry for ''Section 114.86'' under Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles.

[FR Doc. 2019–11760 Filed 6–5–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

**[EPA–HQ–OPP–2017–0674; FRL–9994–08]**

## Penthiopyrad; Pesticide Tolerances

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of penthiopyrad in or on multiple commodities that are identified and discussed later in this document. In addition, this regulation removes certain established penthiopyrad tolerances that are superseded by new tolerances established in this final rule. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective June 6, 2019. Objections and requests for hearings must be received on or before August 5, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0674, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

**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 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0674 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 5, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2017–0674, 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 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.*

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 24, 2018 (83 FR 34968) (FRL–9980–31), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 7E8616) by Interregional Research Project Number 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540. The petition requested that 40 CFR 180.658 be amended by establishing tolerances for residues of the fungicide penthiopyrad, (N-[2-(1,3-dimethylbutyl)-3-thienyl]-1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide), in or on Brassica, leafy greens, subgroup 4–16B at 50 parts per million (ppm); Bushberry subgroup 13–07B at 6 ppm; Caneberry subgroup 13–07A at 10 ppm; Celtuce at 30 ppm; Fennel, Florence at 30 ppm; Fruit, stone, group 12–12 at 4.0 ppm; Kohlrabi at 5.0 ppm; Leaf petiole vegetable subgroup 22B at 30 ppm; Leafy greens subgroup 4–16A at 30 ppm; Nut, tree, group 14–12 at 0.06 ppm; Oilseed group 20 at 1.5 ppm; and Vegetable, brassica, head and stem, group 5–16 at 5.0 ppm.

The petitioner also requested that the following established tolerances be removed upon establishment of the petitioned-for tolerances: Brassica, head and stem, subgroup 5A at 5.0 ppm; *Brassica,* leafy greens, subgroup 5B at 50 ppm; Canola at 1.5 ppm; Cotton, seed at 1.5 ppm; Fruit, stone, group 12 at 4.0 ppm; Nut, tree, group 14 at 0.06 ppm; Pistachio at 0.06 ppm; Sunflower, seed at 1.5 ppm and Vegetable, leafy, except Brassica, group 4 at 30 ppm. That document referenced a summary of the petition prepared by DuPont, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has made certain corrections and modifications to petitioned-for tolerances. The reasons for these changes are explained in Unit IV.C.

## III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for penthiopyrad including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with penthiopyrad follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The liver and thyroid are target organs for penthiopyrad toxicity. Metabolism studies show higher radioactive residues in the liver, compared to other tissues. Short-term oral exposure resulted in liver alterations (weight increases, enzyme changes, hypertrophy, and/or histopathology) in rats and mice at similar doses, and dogs at higher doses. Of the three species, the liver effects observed in rats were more significant (fatty change, hepatocellular degeneration, and Kupffer cell proliferation) than the liver effects in the other species (*e.g.,* increased liver weight, hepatocellular hypertrophy).

Short-term exposure also resulted in thyroid changes in mice (hypertrophy) and rats (decreased weight, hypertrophy/proliferation, and hormone changes). Other effects observed were body weight changes and hematological alterations in rats and dogs, along with gallbladder effects (inflammation and edema) in dogs. Short-term dermal exposure did not result in dermal irritation or systemic effects up to the limit dose.

Subchronic rat studies are also available for penthiopyrad metabolites PCA and DM–PCA. Short-term exposure to PCA did not result in treatment-related effects up to the limit dose. Short-term exposure to DM–PCA resulted in decreased body weight gain and food consumption at high doses. However, the effects with DM–PCA were seen at higher doses than the effects observed in subchronic rat studies with the technical grade active ingredient.

Long-term exposure in rats (at lower doses) resulted in liver effects comparable to those seen in subchronic studies, as well as adrenal and thyroid hypertrophy. Higher doses resulted in more progressive liver effects (vacuolation, periportal cell swelling, and necrosis), thyroid tumors (males), and ovarian hypertrophy. No effects were observed in the ovaries in other toxicity studies. In mice, chronic exposure led to liver and thyroid effects and liver tumors (males). Alveolar foamy cell accumulation was also seen in mice, but it was not considered to be an adverse effect. In dogs, effects noted (liver, gallbladder, and adrenal gland) were similar to those seen in subchronic dog studies, with the addition of gallbladder hypertrophy/hyperplasia.

In the developmental toxicity study in rats, comparable toxicity was noted in fetal and maternal animals. Effects observed were decreased body weight gain and food consumption, increased resorptions (resulting in decreased post-implantation survival), decreased litter size, and decreased gravid uterine weight at the limit dose. No effects were noted in a preliminary study in rats up to the limit dose. In the developmental toxicity study in rabbits, decreased fetal body weight was seen in the presence of maternal toxicity. Abortion was noted in one maternal animal, preceded by a period of markedly reduced food consumption and body weight loss, at the highest dose tested. In a preliminary study, decreased fetal body weight was seen at the limit dose. At lower doses, maternal effects including decreased water and food consumption, body

weight loss, and abnormal feces were seen. At the limit dose, increased abortions and mortality were noted in maternal animals. In the reproductive toxicity study in rats, body weight changes, liver, adrenal, and thyroid effects were seen in maternal animals in preliminary and definitive studies. Offspring effects included body weight changes, delay in preputial separation, and decreased thymus weights at similar doses. Decreased spleen weights were seen in offspring animals in the preliminary reproduction study. No reproductive toxicity was observed.

In the developmental neurotoxicity study in rats (definitive study), decreased body weight, increased motor activity, and tremors were seen in offspring animals in the absence of maternal toxicity. In the preliminary study, decreased pup weight, deterioration, and mortality were seen in offspring animals in the absence of maternal toxicity. Clinical signs were observed in the acute neurotoxicity study with penthiopyrad. Transient functional alterations (hunched posture, unsteady gait, reduced body temperature, and increased landing footsplay) and decreased motor activity were seen at the estimated time-to-peak-effect (4 hours). In a subchronic neurotoxicity study, decreased body weight gain was seen at the highest dose tested; however, no clinical signs were observed, and there was no evidence of neurotoxicity.

Immunotoxicity studies were conducted in both mice and rats for penthiopyrad. In the immunotoxicity study in mice, decreased plaque forming ability was observed at the limit dose. However, in the immunotoxicity study in rats, no evidence of immunotoxicity was observed up to the highest dose tested. General toxicity noted in the rat study included decreased body weight gain and food consumption, increased liver weight, and decreased spleen weight.

A mutagenicity battery is available for penthiopyrad technical ingredient and the majority of the studies were negative; however, chromosome aberrations were observed at cytotoxic concentrations in an *in vitro* assay. Mutagenicity studies are also available for several penthiopyrad metabolites (PCA, DM–PCA, PAM, and 753–A–OH). These studies were usually negative; however, the PAM metabolite induced chromosome aberrations (-S9 after 24 hours) and PCA induced a weakly positive mutant frequency (after 24 hours); however, based on the overall analysis of the available data, penthiopyrad is not considered to be mutagenic.

EPA classified penthiopyrad as having ''suggestive evidence of carcinogenicity,'' based on an increased incidence of treatment-related liver tumors in male mice. Thyroid tumors were observed in male rats but were not considered to be treatment related. In accordance with the EPA's Final Guidelines for Carcinogen Risk Assessment (March 2005), the Agency has determined that the quantification of risk using a non-linear approach based on the chronic reference dose (*i.e.,* cRfD) which is 7x lower than the dose at which tumors were observed will adequately account for all chronic toxicity, including carcinogenicity, that could result from penthiopyrad exposure.

Specific information on the studies received and the nature of the adverse effects caused by penthiopyrad as well as the no-observed-adverse-effects-level (NOAEL) and the lowest-observed-adverse-effects-level (LOAEL) identified from the toxicity studies can be found at *http://www.regulations.gov* in document SUBJECT: Penthiopyrad. Human Health Risk Assessment for Proposed New Use on Caneberry Subgroup 13–07A and Bushberry Subgroup 13–07B; and Crop Group/Subgroup Conversions and Expansions at page 39 in docket ID number EPA–HQ–OPP–2017–0674.

*B. Toxicological Points of Departure/Levels of Concern*

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (PODs) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the previously applied penthiopyrad toxicological endpoints for human risk assessment is discussed in Unit III of the final rule published in the **Federal Register** of March 9, 2012 (77 FR 14291) (FRL–9335–7). That database was recently re-evaluated/updated based on current practices and includes updated dermal endpoints and PODs selected for adults and children. As a result of the database update, one endpoint and POD based on the 28-day oral toxicity study in the dog is used for all populations, and also used to derive the endpoints/PODs for the incidental oral and inhalation routes of exposure. The updated NOAELs, LOAELs, and the PODs are summarized below for the affected exposure/scenarios:

i. *Children and adult dermal exposures.* Children and adult dermal exposures were previously assessed with separate endpoints/PODs. Dermal exposure is now being evaluated using the same endpoint and POD for all ages, from the 28-day dog study. The revised dermal NOAEL is 80 milligrams per kilogram (mg/kg/day), based on mucosal edema in gall bladder as well as clinical chemistry and increased organ weight/histopathology in the livers of females at the LOAEL of 269 mg/kg/day.

ii. *Previous adult dermal assessment.* The developmental rabbit study was previously used for the adult dermal assessment with a NOAEL of 75 mg/kg/day based on abortions in one animal at the LOAEL of 225 mg/kg/day. The endpoint is not strong, and the dose spacing is comparable to the selected 28-day dog study.

iii. *Previous children's dermal assessment.* Previously the developmental neurotoxicity (DNT) was selected for the children's dermal assessment. The respective NOAEL and LOAEL for that study are 100 mg/kg/day and 250 mg/kg/day. Again, due to dose spacing, the study is comparable to the 28-dog study, whose NOAEL is protective of the DNT NOAEL. In addition, the effects seen in the 28-day dog study include gallbladder effects, an organ rats do not have, which is a potentially human-relevant effect.

iv. *Inhalation and incidental oral assessments.* The 28-day dog study, which previously was used and continues to also be used for the inhalation and incidental oral assessments was also updated. The NOAEL is now 80 mg/kg/day, based on mucosal edema in the gallbladder; as well as clinical chemistry, increased

organ weight and histopathology in the liver of females at the LOAEL of 269 mg/kg/day. The updated NOAEL is comparable to or protective of other NOAEL and LOAEL values in the database, including those relating to susceptibility.

v. *Residential incidental oral, inhalation, and dermal exposures.* The 28-day dog study is now being used to assess residential incidental oral, inhalation, and dermal exposures.

A summary of the toxicological endpoints for penthiopyrad used for dietary and non-occupational human health risk assessment is shown in the Table of this unit.

TABLE—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR PENTHIOPYRAD FOR USE IN DIETARY AND NON-OCCUPATIONAL HUMAN HEALTH RISK ASSESSMENT

| Exposure/scenario | Point of departure and uncertainty/ safety factors | RfD, PAD, level of concern for risk assessment | Study and toxicological effects |
|---|---|---|---|
| Acute dietary (All populations) .. | NOAEL = 125 mg/kg/day.<br>$UF_A$ = 10x<br>$UF_H$ =10x<br>FQPA SF = 1x | Acute RfD = 1.25 mg/kg/day.<br>aPAD = 1.25 mg/kg/day | Acute Neurotoxicity in Rats.<br>LOAEL = 500 mg/kg/day, based on transient functional alterations (e.g., hunched posture, unsteady gait, reduced body temperature, and increased landing footsplay) and decreased motor activity at the estimated time-to-peak-effect (4 hours) on the day of administration. |
| Chronic dietary (All populations) | NOAEL = 27 mg/kg/day.<br>$UF_A$ = 10x<br>$UF_H$ =10x<br>FQPA SF = 1x | Chronic RfD = 0.27 mg/kg/day.<br>cPAD = 0.27 mg/kg/day | Co-Critical Studies:<br>Chronic Toxicity/Carcinogenicity in Rats LOAEL = 83 mg/kg/day, based on decreased body weight gain and adrenal effects in females and hepatic periportal fatty degeneration in males (NOAEL = 27 mg/kg/day).<br>Chronic Toxicity in Rats.<br>LOAEL = 100 mg/kg/day, based on altered plasma chemistry profile, increased liver weight and alterations in the adrenal and thyroid glands. (NOAEL = 25 mg/kg/day). |
| Incidental oral short-term (1–30 days) and Intermediate-term (1–6 months). | NOAEL = 80 mg/kg/day.<br>$UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x | Residential LOC for MOE = 100. | 28-Day Oral Toxicity in Dogs.<br>LOAEL = 269 mg/kg/day, based on mucosal edema in the gall bladder; clinical chemistry, increased organ weight and histopathology in the liver of females. |
| Dermal short-term (1–30 days); Intermediate-term (1–6 months). | NOAEL = 80 mg/kg/day.<br>$UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x<br>DAF = 40% | Residential LOC for MOE = 100. | 28-Day Oral Toxicity in Dogs.<br>LOAEL = 269 mg/kg/day, based on mucosal edema in the gall bladder; clinical chemistry, increased organ weight and histopathology in the liver of females. |
| Inhalation short-term (1–30 days); Intermediate-term (1–6 months). | NOAEL = 80 mg/kg/day.<br>$UF_A$ = 10x<br>$UF_H$ = 10x<br>FQPA SF = 1x | Residential LOC for MOE = 100. | 28-Day Oral Toxicity in Dogs.<br>LOAEL = 269 mg/kg/day, based on mucosal edema in the gall bladder; clinical chemistry, increased organ weight and histopathology in the liver of females. |
| Cancer (oral, dermal, inhalation). | Classification: ''Suggestive Evidence of Carcinogenicity'' based on liver tumors in male mice. The Agency has determined that a nonlinear approach based on the chronic reference dose will be protective of potential carcinogenicity. | | |

Point of Departure (POD) = A data point or an estimated point that is derived from observed dose-response data and used to mark the beginning of extrapolation to determine risk estimates associated with lower environmentally relevant human exposures. NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. $UF_A$ = extrapolation from animal to human (interspecies). $UF_H$ = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. MOE = margin of exposure. LOC = level of concern. DAF = dermal absorption factor. IAF = inhalation absorption factor.

*C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to penthiopyrad, EPA considered exposure under the petitioned-for tolerances as well as all existing penthiopyrad tolerances in 40 CFR 180.658. EPA assessed dietary exposures from penthiopyrad in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

Such effects were identified for penthiopyrad. In estimating acute dietary exposure, EPA used 2003–2008 food consumption information from the United States Department of Agriculture (USDA) National Health and Nutrition Survey/What We Eat in America (NHANES/WWEIA). The acute dietary (food and drinking water) exposure assessment was conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID), Version 3.16. As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all existing and proposed commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the 2003–2008 food consumption information from the USDA NHANES/WWEIA. The chronic dietary (food and drinking water) exposure assessment was conducted using DEEM–FCID, Version 3.16. As to residue levels in food, EPA assumed 100 PCT and tolerance-level residues for all existing and proposed commodities.

iii. *Cancer.* EPA classified penthiopyrad as having ''suggestive evidence of carcinogenicity,'' based on an increased incidence of treatment-related liver tumors in male mice and determined that the quantification of risk using a non-linear approach (*i.e.,* RfD) will adequately account for all chronic toxicity, including carcinogenicity, that could result from penthiopyrad exposure.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for penthiopyrad. Tolerance level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for penthiopyrad in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of penthiopyrad. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the First Index Reservoir Screening Tool (FIRST) and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of penthiopyrad are based on the use pattern of highest exposure, which is the currently labeled use on turf at 2.9 lbs active ingredient per acre per year. The residues of concern assessed in drinking water included penthiopyrad and its cleavage product PAM. For acute exposures, EDWCs are estimated to be 240 parts per billion (ppb) for surface water and 1,330 ppb for ground water. For chronic exposures for non-cancer assessments, EDWCs are estimated to be 131 ppb for surface water and 978 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 1,330 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 978 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Although the proposed new uses do not include any residential use, registered residential uses including turf, lawn, and sod could result in residential exposure and have been reassessed in support of this rulemaking to reflect updates to new dermal, inhalation, and incidental oral PODs. There is the potential for post-application exposure for individuals exposed as a result of being in an environment that has been previously treated with penthiopyrad. The quantitative exposure/risk assessment for residential post-application exposures is based on the following scenarios:

i. Adult dermal post-application exposure resulting from contact with treated turf;

ii. Dermal post-application exposure to youth 11–16 yrs. old resulting from mowing and playing golf on turf;

iii. Dermal post-application exposure to children 6–11 yrs. old resulting from playing golf on turf;

iv. Dermal post-application exposure to children 1 to <2 yrs. old resulting from playing on turf; and

v. Incidental oral post-application exposure to children 1 to <2 yrs. old resulting from playing on turf.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found penthiopyrad to share a common mechanism of toxicity with any other substances, and penthiopyrad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that penthiopyrad does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

*D. Safety Factor for Infants and Children*

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative susceptibility was observed in developmental toxicity studies in rats or rabbits or in a reproduction toxicity study in rats. However, increased quantitative susceptibility was seen in DNT studies in rats. Decreased body weight (250 mg/kg/day), and increased motor activity and tremors were seen in offspring animals at 500 mg/kg/day. Decreased body weight was seen at 300 mg/kg/day, and mortality was noted at 1,000 mg/kg/day in offspring animals. The effects observed in offspring animals in the DNT studies were seen in the absence of maternal toxicity.

EPA concluded that there is a low concern and no residual uncertainties for prenatal and/or postnatal toxicity effects of penthiopyrad, notwithstanding observed increased susceptibility seen in the preliminary and definitive DNT studies, based on the following data:

i. The pup body weight changes noted in the definitive and preliminary DNT studies were also observed in developmental and reproduction studies at similar doses. Additionally, the body weight changes in these studies occurred in the presence of significant maternal toxicity. Although clinical signs (tremors and increased motor activity) were noted in offspring animals in the definitive study, the neurotoxic potential of penthiopyrad has been adequately characterized in the available neurotoxicity studies. Tremors and changes in motor activity were observed at very high doses in the acute neurotoxicity study and were not present in the subchronic neurotoxicity study. In the preliminary DNT study, mortality was observed in the offspring animals at the limit dose. However, this finding is attributed to the poor condition (body weight loss, under

activity, pallor) of the offspring animals in this dose group.

ii. A clear NOAEL has been identified for all offspring effects in the DNT studies, and the PODs used in the risk assessments are protective of the observed effects.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for penthiopyrad is complete.

ii. There is no concern for neurotoxicity after exposure to penthiopyrad. A complete neurotoxicity battery is available for penthiopyrad. The database includes acute neurotoxicity, subchronic neurotoxicity, and DNT studies in rats. As a result, the neurotoxic potential of penthiopyrad is well characterized, and no additional data are needed.

iii. As discussed in Unit IV.D.2., EPA has concluded that there are no residual uncertainties concerning prenatal and postnatal effects, that would warrant retaining the 10X FQPA safety factor.

iv. There are no residual uncertainties identified in the exposure databases. There are no residual uncertainties with regard to dietary and residential exposure. The dietary food exposure assessments were performed based on conservative assumptions that ensure that exposures to penthiopyrad are not underestimated, including tolerance-level residues and 100 PCT estimates for all registered commodities. The use of default assumptions did not result in risk estimates of concern for the proposed new uses. Actual exposures and risk estimates from penthiopyrad will likely be lower. Furthermore, conservative, upper-bound assumptions were used to determine exposure through drinking water and residential sources, such that these exposures have not been underestimated. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by penthiopyrad.

*E. Aggregate Risks and Determination of Safety*

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to penthiopyrad will occupy 21% of the aPAD for all infants (<1-year-old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to penthiopyrad from food and water will utilize 29% of the cPAD for all infants (<1-year-old), the population group receiving the greatest exposure.

3. *Short-and Intermediate-term risk.* Short- and intermediate-term risk aggregate exposure takes into account short- and intermediate-term risk residential exposure plus chronic exposure to food and water (considered to be a background exposure level). The short- and intermediate-term toxicological endpoints for penthiopyrad are the same for each route of exposure. Therefore, for residential exposure scenarios, only short-term exposures were assessed, and are protective of intermediate-term exposure and risk.

Penthiopyrad is proposed for registration for uses that could result in short-/intermediate-term residential exposures, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short -term residential exposures to penthiopyrad. These assessments include exposure through the dermal route for adults and youth, and from dermal and incidental oral exposure for children (1 to <2 yrs.).

EPA selected the following two residential exposure scenarios which represent the highest exposure and risk scenarios for each population: (1) Adult post-application exposure and (2) children's (1 to <2 yrs.) post-application exposure resulting from contact with treated turf. The level of concern for these assessments is 100. The chronic dietary exposure estimate for adults was the background exposure added to the dermal residential post-application exposure estimates. The adult short-term aggregate risk assessment resulted in estimated MOEs of 440. The chronic dietary exposure estimate for the subgroup children 1 to <2 years old was the background exposure added to the children's dermal and incidental oral residential post-application exposure estimates. The children's short-term aggregate risk assessment resulted in estimated MOEs of 220. These risk estimates are not of concern to EPA.

5. *Aggregate cancer risk for U.S. population.* EPA classified penthiopyrad as having ''suggestive evidence of carcinogenicity'' based on liver tumors in male mice. The quantification of risk using a non-linear approach (*i.e.,* the RfD) adequately accounts for all chronic toxicity, including carcinogenicity, therefore cancer risk is not of concern.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to penthiopyrad residues.

**IV. Other Considerations**

*A. Analytical Enforcement Methodology*

Adequate enforcement methodology (a Liquid chromatography-tandem mass spectrometry (LC/MS/MS) method known as Method CEM 3399–001) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

*B. International Residue Limits*

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The U.S. tolerance definition for penthiopyrad is harmonized with those of Canada and Codex and most relevant established tolerance levels are harmonized with Canadian and Codex MRLs. There are currently no established Canadian or Codex MRLs for

the proposed new uses for bushberries or caneberries.

*C. Revisions to Petitioned-For Tolerances*

In accordance with its authority in FFDCA section 408(d)(4)(A)(i), EPA is establishing tolerances in this rule that vary slightly from what the petitioner sought. These variations are explained below.

1. The petitioner requested tolerances in Fruit, stone, group 12–12 at 4.0 ppm, Kohlrabi at 5.0 ppm, and Vegetable, brassica, head and stem, group 5–16 at 5.0 ppm; EPA is establishing those tolerances without the additional zero to be consistent with OECD calculation procedures.

2. The petitioner requested a tolerance for ''Fennel, Florence''; EPA is establishing a tolerance for the commodity ''Fennel, Florence, fresh leaves and stalk'' to be consistent with commodity terms the Agency uses in tolerances.

3. EPA is establishing a tolerance for the Nut, tree group 14–12 tolerance at 0.05 ppm instead of 0.06 ppm as requested in order to harmonize with Codex MRL. The established tolerance level is appropriate as the highest average field trial residue was 0.037 ppm while other residues were below LOQ (0.01 ppm).

*D. International Trade Considerations*

In this final rule, EPA is reducing the existing tolerances for the commodities in the nut, tree group 14–12 from 0.06 ppm to 0.05 ppm. The Agency is reducing these tolerances to harmonize with Codex MRLs, and available residue data demonstrates that tolerances at 0.05 ppm are sufficient to cover residues on these commodities.

In accordance with the World Trade Organization's (WTO) Sanitary and Phytosanitary Measures (SPS) Agreement, EPA intends to notify the WTO of this revision. In addition, the SPS Agreement requires that members provide a ''reasonable interval'' between the publication of a regulation subject to the agreement and its entry into force to allow time for producers in exporting member countries to adapt to the new requirement. At this time, EPA is establishing an expiration date for the existing tolerances to allow those tolerances to remain in effect for a period of six months after the effective date of this final rule, in order to address the requirement to provide a reasonable interval. After the six-month period expires, residues of penthiopyrad on commodities included in the nut, tree group 14–12 cannot exceed the newly established tolerances of 0.05 ppm.

This reduction in tolerance levels is not discriminatory; the same food safety standard contained in the FFDCA applies equally to domestically produced and imported foods. The new tolerance levels are supported by available residue data.

## V. Conclusion

Therefore, tolerances are established for residues of penthiopyrad, (N-[2-(1,3-dimethylbutyl)-3-thienyl]-1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide), in or on Brassica, leafy greens, subgroup 4–16B at 50 ppm; Bushberry subgroup 13–07B at 6 ppm; Caneberry subgroup 13–07A at 10 ppm; Celtuce at 30 ppm; Fennel, Florence, fresh leaves and stalk at 30 ppm; Fruit, stone, group 12–12 at 4 ppm; Kohlrabi at 5 ppm; Leaf petiole vegetable subgroup 22B at 30 ppm; Leafy greens subgroup 4–16A at 30 ppm; Nut, tree, group 14–12 at 0.05 ppm; Oilseed group 20 at 1.5 ppm; and Vegetable, brassica, head and stem, group 5–16 at 5 ppm. In addition, EPA is removing the following tolerances from paragraph (a)(1) because they are superseded by the new tolerances being established in this rulemaking: Brassica, head and stem, subgroup 5A at 5.0 ppm; Brassica, leafy greens, subgroup 5B at 50 ppm; Canola at 1.5 ppm; Cotton, seed at 1.5 ppm; Fruit, stone, group 12 at 4.0 ppm; Sunflower, seed at 1.5 ppm; and Vegetable, leafy, except brassica, group 4 at 30 ppm. Finally, EPA is establishing a six-month expiration date for the established pistachio and tree nut group tolerances.

## VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

## VII. Congressional Review Act

Pursuant to the Congressional Review Act (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 in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 29, 2019.

**Michael Goodis,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In the table in § 180.658(a)(1):
■ a. Remove the entries ''Brassica, head and stem, subgroup 5A'' and ''Brassica, leafy greens, subgroup 5B'';
■ b. Add alphabetically the commodities ''Brassica, leafy greens, subgroup 4–16B'', ''Bushberry subgroup 13–07B'', and ''Caneberry subgroup 13–07A'';
■ c. Remove the entry ''Canola'';
■ d. Add alphabetically the commodity ''Celtuce'';
■ e. Remove the entry ''Cotton, seed'';
■ f. Add alphabetically the commodity ''Fennel, Florence, fresh leaves and stalk'';
■ g. Remove the entry ''Fruit, stone, group 12'';
■ h. Add alphabetically the commodities ''Fruit, stone, group 12–12'', ''Kohlrabi'', ''Leaf petiole vegetable subgroup 22B'', and ''Leafy greens subgroup 4–16A'';
■ i. Revise the entry ''Nut, tree, group 14'';
■ j. Add alphabetically the commodities ''Nut, tree, group 14–12'' and ''Oilseed group 20'';
■ k. Revise the entry ''Pistachio'';
■ l. Remove the entry ''Sunflower, seed'';
■ m. Add alphabetically the commodity ''Vegetable, brassica, head and stem, group 5–16'';
■ n. Remove the entry ''Vegetable, leafy, except brassica, group 4''; and
■ o. Add footnote 1 to the table.

The additions and revisions read as follows:

**§ 180.658 Penthiopyrad; tolerances for residues.**

(a) * * *
(1) * * *

| Commodity | Parts per million |
|---|---|
| * * * * * | |
| *Brassica,* leafy greens, subgroup 4–16B | 50 |
| Bushberry subgroup 13–07B | 6 |
| Caneberry subgroup 13–07A | 10 |
| Celtuce | 30 |
| * * * * * | |
| Fennel, Florence, fresh leaves and stalk | 30 |
| * * * * * | |
| Fruit, stone, group 12–12 | 4 |
| * * * * * | |
| Kohlrabi | 5 |
| Leaf petiole vegetable subgroup 22B | 30 |
| Leafy greens subgroup 4–16A | 30 |
| * * * * * | |
| Nut, tree, group 14 [1] | 0.06 |
| Nut, tree, group 14–12 | 0.05 |
| * * * * * | |
| Oilseed group 20 | 1.5 |
| * * * * * | |
| Pistachio [1] | 0.06 |
| * * * * * | |
| Vegetable, *brassica,* head and stem, group 5–16 | 5 |
| * * * * * | |

[1] This tolerance expires on December 6, 2019.

* * * * *

[FR Doc. 2019–11676 Filed 6–5–19; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[EPA–R05–RCRA–2018–0228; FRL–9994–75–Region 5]**

## Michigan: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is granting Michigan final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on October 10, 2018, and provided for public comment. No comments were received on the proposed revisions. No further opportunity for comment will be provided.

**DATES:** This final authorization is effective June 6, 2019.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2018–0228. The Docket ID No. was identified as EPA–R05–RCRA–2017–0381 in the proposed rule published in the October 10, 2018, **Federal Register** at 83 FR 50868, but that Docket ID No. was incorrect. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Judith Greenberg, RCRA C and D Section, Land and Chemicals Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, 77 W Jackson Blvd., Chicago, IL 60604, phone number: (312) 886–4179, email: *greenberg.judith@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### A. What changes to Michigan's hazardous waste program is EPA authorizing with this action?

On March 2, 2018, Michigan submitted a complete program revision application seeking authorization of changes to its hazardous waste program in accordance with 40 CFR 271.21. EPA now makes a final decision that Michigan's hazardous waste program revisions that are being authorized are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all the requirements necessary to qualify for final authorization. For a list of State rules being authorized with this final rule, please see the proposed rule published in the October 10, 2018, **Federal Register** at 83 FR 50869.

### B. Which revised state rules are different from the federal rules?

See the October 10, 2018, proposed rule for a description of which state rules are different from the federal rules, with one exception. The proposed rule incorrectly stated that Michigan has proposed additions to its Universal Wastes that will add Antifreeze, Aerosol Cans and Paint Wastes that are not already regulated as hazardous waste. This statement should be disregarded.

### C. What is codification and is EPA codifying the Michigan's hazardous waste program as authorized in this rule?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by adding those citations and references to the authorized state rules in 40 CFR part 272. EPA is not codifying the authorization of Michigan's revisions at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart X for the authorization of Michigan's program changes at a later date.

### D. Statutory and Executive Order Reviews

This final authorization revises Michigan's authorized hazardous waste management program pursuant to Section 3006 of RCRA and imposes no requirements other than those currently imposed by state law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the proposed rule published in the October 10, 2018 **Federal Register** at 83 FR 50869. The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective on June 6, 2019.

### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: May 21, 2019.

**Cheryl L. Newton,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2019–11895 Filed 6–5–19; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Medicare & Medicaid Services

## 42 CFR Part 412

**[CMS–1708–N]**

## Medicare Program; Explanation of Federal Fiscal Year (FY) 2004, 2005, and 2006 Outlier Fixed-Loss Thresholds as Required by Court Rulings

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Clarification.

**SUMMARY:** In accordance with court rulings in cases that challenge the federal fiscal year (FY) 2004, 2005, and 2006 outlier fixed-loss threshold (FLT) rulemakings, this document provides further explanation of certain methodological choices made in the FLT determinations for those years.

**DATES:** June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Don Thompson, (410) 786–6504.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On May 19, 2015, in *District Hospital Partners* v. *Burwell,* 786 F.3d 46 (D.C. Cir. 2015), the Court of Appeals for the District of Columbia Circuit held that the FY 2004 fixed-loss threshold (FLT) was inadequately explained in the federal fiscal year (FY) 2004 hospital inpatient prospective payment systems (IPPS) final rule. The court of appeals ordered the district court to remand to CMS for further explanation of the handling of data pertaining to 123 hospitals the agency had identified as likely to have engaged in ''turbocharging,'' that is, manipulating their charges to obtain greater outlier payments. The United States District Court for the District of Columbia then remanded to the Secretary in accordance with the decision of the Court of Appeals. Order, *Dist. Hosp. Partners, L.P.* v. *Burwell,* Civil Action No. 11–0116 (ESH) (D.D.C. August 13, 2015).

On September 2, 2015, the District Court issued an order in a separate case, *Banner Health* v. *Burwell,* No. 10–1638 (ECF Nos. 149 and 150), 126 F. Supp. 3d 28 (D.D.C. 2015), remanding for additional explanation of the FLT from the FY 2004 final rule consistent with the D.C. Circuit's decision in *District Hospital Partners.* The court stated that the agency should explain further why it did not exclude data from the 123 hospitals from the outlier charge inflation calculation used to produce estimates of future Medicare payments for FY 2004.

In the January 22, 2016 **Federal Register** (81 FR 3727), we published an additional explanation in response to these court orders. In the October 14, 2016 **Federal Register** (81 FR 70980), we published a minor, non-substantive correction to the January 2016 document.

In *Banner Health* v. *Price,* 867 F.3d 1323 (D.C. Cir. 2017), the court of appeals reviewed the January 2016 document and found that the agency still had not adequately explained why the agency, in the FY 2004 rulemaking, did not exclude the charge data from the 123 hospitals it had identified as likely turbochargers when calculating the charge inflation factor used to transform historical charges into future charges for purposes of the agency's projections. The court of appeals also found that the agency had not adequately explained why it did not apply a downward adjustment to hospitals' cost-to-charge ratios when determining the FLTs for FYs 2004, 2005, and 2006, an issue not addressed in the Court of Appeals decision in *District Hospital Partners.* The court in *Banner Health* ordered the district court to remand to CMS to provide additional explanation on these two points. The district court issued a remand order on April 12, 2018. The district court also entered a similar order with respect to the FY 2004 determination in another case, *District Hospital Partners, L.P.* v. *Azar,* 320 F. Supp. 3d 42 (D.D.C. 2018).

We are issuing this document to provide the additional explanation required by these decisions.

### II. Provisions of the Explanation

#### *A. Inclusion of Data Pertaining to 123 Hospitals Identified as Likely Turbochargers in the Calculation of Estimated Charge Inflation for FY 2004*

The first issue pertains to the use of data pertaining to 123 hospitals whom we described in a March 5, 2003 proposed rule (68 FR 10420), as hospitals likely to have engaged in turbocharging. We chose to calculate the FY 2004 charge inflation adjustment using data that incorporated data

pertaining to the 123 hospitals, instead of choosing to omit data pertaining to those hospitals.

As we discussed in our earlier publications, the 123 hospitals were identified through an analysis of Medicare Provider Analysis and Review (MedPAR) file data from FY 1999 to FY 2001. We singled out hospitals whose percentage of outlier payments relative to total diagnosis-related group (DRG) payments increased by at least 5 percentage points over that period, and whose case-mix (the average DRG relative weight value for all of a hospital's Medicare cases) adjusted charges increased at a rate at or above the 95th percentile rate of charge increase for all hospitals over the same period. We note that we conducted this analysis primarily for the purpose of assessing and diagnosing the problem of turbocharging, not for the purpose of making adjustments to our projections for the FY 2004 rulemaking.

We identified the 123 hospitals based on data from the interval from FY 1999 to FY 2001. Our charge inflation calculation for FY 2004 was based on data covering a more recent interval, from FY 2000 to FY 2002. We were attempting to project charge increases over a third period, from FY 2002 to FY 2004.

The hypothesis underlying the suggestion that the 123 hospitals should have been omitted is that charge inflation for those 123 hospitals was likely to begin slowing in FY 2004 in response to the adoption of the June 9, 2003 Outlier final rule (68 FR 34494), while charge inflation for other hospitals would remain in line with historical patterns between FY 2002 and 2004. Consequently, according to this hypothesis, an estimate computed from FY 2000 to 2002 charge data that included the 123 hospitals would likely overstate FY 2004 hospital charges for the entire population of hospitals. But this hypothesis depends on assumptions that, at the time of the FY 2004 rulemaking, we did not find appreciably more credible than the alternative assumptions we ultimately relied upon.

The hypothesis that the 123 hospitals identified in our analysis should have been dropped from the charge inflation computation treats the removal of the 123 hospitals as synonymous with accounting for turbocharging. It presumes that removing the 123 hospitals from the measure of charge inflation would have accounted for the end of turbocharging, without otherwise introducing error or bias, and that, conversely, including the 123 hospitals introduced systematic error. But that assumes both that all of the 123 hospitals were in fact engaged in turbocharging, and that the population of turbocharging hospitals remained for the most part unchanged over all three intervals from FY 1999 through the end of FY 2003—that is, that those 123 hospitals continued to engage in turbocharging after FY 2001, that they did not materially increase their rate of turbocharging during that period, and that no other hospitals started to turbocharge or otherwise increase their rate of charge inflation. We did not feel sufficiently confident that such an assumption would enhance the accuracy of the outlier threshold calculation to incorporate it into our projections for FY 2004.

While our analysis confirmed that turbocharging was a problem, and that rule changes were warranted along the lines of the changes we adopted in June 2003, we did not otherwise have a confident grasp on which hospitals were turbocharging at what times. Our analysis suggested that the 123 hospitals that we identified were likely engaging in turbocharging during the FY 1999 to FY 2001 interval, but it did not tell us whether the population of turbocharging hospitals remained unchanged through the end of FY 2003, with all 123 hospitals continuing to engage in turbocharging and no other hospitals starting to turbocharge.

There was also good reason to question the assumption that the population of turbocharging hospitals and the behavior of turbocharging hospitals did not change between FYs 2001 and 2003. Industry knowledge of turbocharging may have become more widespread late in calendar year (CY) 2002 after publication of an investment analyst report on the subject. As we previously explained in our March 2003 and June 2003 documents (68 FR 10426 and 10427 and 68 FR 34505, respectively), we believed that it was possible that, before the June 2003 final rule took effect, hospitals that had not previously engaged in turbocharging would take advantage of this new knowledge and increase their charges to catch up to the charging practices of their competitors. Likewise, we had reason to believe that turbocharging hospitals, in anticipation of CMS's regulatory action curbing the effects of turbocharging, would accelerate their turbocharging, either so that they could gain as much as they could from the practice before CMS's regulatory changes took effect or because the hospitals now had less reason to keep turbocharging limited to avoid detection. For these reasons, HHS could not necessarily count on the assumption that aggregate charge inflation between FYs 2002 and 2004 would be significantly lower than predicted by the FY 2000 to FY 2002 data.

In sum, in evaluating how to handle the 123 hospitals in estimating charge growth, we were faced with choices among various uncertain assumptions. We understand the intuitive appeal behind the suggestion that we could have imputed the phenomenon of turbocharging strictly and exclusively to those 123 hospitals, and accordingly assumed that dropping those 123 hospitals' charge data from the charge inflation estimate would remove a source of distortion. But that suggestion itself rests on a set of assumptions. Ultimately, we were faced with a choice between those assumptions and the alternative assumption that, by and large, charge inflation between FYs 2000 and 2002 would adequately predict charge inflation between FYs 2002 and 2004 overall. We did not see reason to conclude that those other assumptions were superior.

We note also that there was only a very limited time interval between the finalization of the June 2003 rule and the publication of the FY 2004 final rule on August 1, 2003, so we had very little time to analyze the potential impact of the June 2003 rule, as finally adopted, on our projections. In addition, the June 2003 rule did not take effect upon publication. Instead, some parts of the rule were to take effect August 8, 2003, and the rest were to take effect October 1, 2003. Consequently, at the time of the FY 2004 final rule, we did not yet have any actual data on hospital charging behavior under the June 2003 rule. We did take several measures designed to adapt the FY 2004 estimates in light of the adoption of the final 2003 rule, and those measures resulted in a significantly lower fixed-loss threshold. But the timing of our efforts constrained our ability to explore additional avenues of analysis we might have otherwise explored.

*B. Adjustments to Cost-to-Charge Ratios To Simulate Updates When More Recent Cost Reports Are Tentatively Settled*

The court rulings also call for additional explanation of a second issue with respect to each of the FY 2004, 2005, and 2006 IPPS rulemakings. Specifically, the court questioned why, in simulating future DRG payments and outlier payments, we did not apply a downward adjustment to hospitals' cost-to-charge ratios to account for the possibility that, after a more recent cost report is tentatively settled during the coming fiscal year, a given hospital's outlier payments will be calculated

based on an updated, and possibly lower, cost-to-charge ratio.

1. FY 2004

We acknowledge that, by the time of the FY 2004 rulemaking, we had reason to believe that the posited phenomenon was real. The cost-to-charge ratio used to compute a hospital's outlier payments was likely to change at some point during the year once a new cost report was tentatively settled. Furthermore, we had reason to believe that, by and large, a given hospital's updated cost-to-charge ratio would likely be lower than its earlier cost-to-charge ratio, because we had long observed that hospital charges generally increased faster than costs. We also acknowledge that the methods we employed did not include an adjustment to account for this specific phenomenon, though they did account for other effects associated with the general phenomenon of charges increasing faster than costs and the general pattern of decline in cost-to-charge ratios. Our reasons for not incorporating such an adjustment relate to the uncertainty and complexity associated with the task of devising and implementing such an adjustment.

The problem of projecting changes in cost-to-charge ratios over time is qualitatively different from the problem of estimating charge inflation over time. Hospital charges—like hospital costs—are a simple scalar quantity, reflecting tangible real-world activity and measured in dollar values greater than zero. Measuring and projecting changes in dollar quantities of this kind is a relatively common problem, both in the administration of the Medicare program in particular and in business- and finance-related fields more generally. Calculating projected future figures by calculating an estimated percentage change from aggregate figures, and then applying that estimated percentage change to a past measurement, is a familiar approach to that problem.

With respect to outlier threshold projections specifically, at the time of the FY 2004 rulemaking in 2003, we had a great deal of experience estimating changes in quantities of this kind using inflation factors computed from changes in aggregate costs or charges for all hospitals. From 1993 to 2001 (the IPPS rules for FYs 1994 to 2002), we had incorporated a measure of cost inflation to account for year-to-year changes in hospital costs. In 2002 (67 FR 50124), we began accounting for inflation based on year-to-year changes in charges instead of costs. This was not a drastic leap, given that charges and costs are similar quantities measured in the same units.

A cost-to-charge ratio is different in kind. A cost-to-charge ratio does not correspond to a tangible real-world dollar quantity; instead, it is a unitless measure that represents the proportional relationship between two quantities (costs and charges). Charges and costs are virtually always positive values, and charges virtually always exceed costs. Consequently, cost-to-charge ratios virtually always fall between 0 and 1 (instead of ranging from 0 on up as costs and charges do). Within that range between 0 and 1, there is considerable variation in cost-to-charge ratios among individual hospitals, among different types of hospitals, and among geographic areas. This variation is evident in the data we typically make available in connection with our annual IPPS rulemaking (including the impact files and Tables 8A and 8B published in the **Federal Register**).

As discussed previously, computing an update factor from aggregate figures and applying that estimated percentage change to a dollar figure is a familiar method of projecting future dollar amounts. But it was not evident at the time of the FY 2004 rulemaking that the same approach would translate well to the task of projecting updates to cost-to-charge ratios. If we knew that all hospitals' cost-to-charge ratios were fairly uniform and tended to move in similar ways over time, then we could be fairly confident that applying a uniform update factor based on aggregate changes in costs and aggregate changes in charges would be a satisfactory way to compute projected cost-to-charge ratios. But, as noted previously, we knew there was substantial variation in cost-to-charge ratios across hospitals. We also did not have a solid understanding of whether there was variation across hospitals in how cost-to-charge ratios change over time. Given these factors, at the time of the FY 2004 rulemaking, it was not yet clear to us that it would be appropriate to compute a uniform adjustment factor from aggregate changes in costs and aggregate changes in charges and then apply that same uniform adjustment factor to the cost-to-charge ratios of all hospitals across the board.

At the time of the FY 2004 rulemaking, we also had not yet developed any more complex method that might avoid some of the potential pitfalls of a uniform adjustment factor. A more complex method piling adjustments on top of adjustments could introduce uncertainties of its own, especially when done in the limited time we have to project the annual outlier threshold each year. It is incorrect to assume that adding to the complexity of a simulation method, or increasing the number of factors it purports to take into account, will necessarily improve results.

Even if a clearly sound technique had been available to us for estimating updates to hospitals' historical cost-to-charge ratios, applying such a technique in FY 2004 would have involved an additional complication. As explained in our August 1, 2003 document, (68 FR 45476 through 45477), to account for our change from the use of settled cost reports to the use of tentatively settled cost reports, we elected not to employ actual historical hospital cost-to-charge ratios in estimating FY 2004 payments. Instead, for most hospitals, we used cost and charge data from the most recent cost reporting year to compute estimated cost-to-charge ratios, and we used a different method to calculate estimated cost-to-charge ratios for 50 hospitals identified as likely to have their cost reports reconciled. Thus, even if we had had a method for projecting future cost-to-charge ratios (CCRs) from historical CCRs, we would have had to further modify that method for use with the estimated CCRs we computed for FY 2004.

Perhaps it might have been acceptable to incorporate a cost-to-charge ratio adjustment despite all these uncertainties (and we have done so in more recent years). But at the time of the FY 2004 rulemaking, we did not believe the case for such an adjustment was so compelling as to make such an adjustment essential.

Our decisions are also affected by the limited time we have to devise and implement adjustments to our methods in each year's annual outlier rulemaking. At the time of the FY 2004 rulemaking, we had recently made significant changes to our outlier policies in the June 2003 rule, and we recognized that those changes would have a significant effect on Medicare outlier payments. In making adjustments to our methods, we chose to focus our efforts on those issues we judged most likely to have the most significant relative impact on our projections, while deferring fuller analysis of other issues we judged less likely to have a significant impact, including the effect of updates to CCRs.

We strive to make the best possible estimates, but estimation, by definition, involves approximation, and perfect accuracy is unattainable in our payment projections. Adding additional layers to an estimation technique does not necessarily improve the estimates. And adding complexity to an estimation

method can simply create an illusion of accuracy instead of actual improvements in accuracy.

In light of all these complexities, it was not evident to us in the FY 2004 calculation that any particular adjustment to cost-to-charge ratios would improve our projections. Since we believe we acted appropriately and in accordance with statutory requirements, we are not recalculating the FY 2004 threshold.

2. FY 2005

In our FY 2005 projections, we again chose not to introduce a new adjustment to attempt to account for the updating of cost-to-charge ratios during the year as new tentative cost reports were settled. Most of the factors discussed previously were still present: The fundamental differences in the nature and properties of charges and cost-to-charge ratios; the complexity of simulating the updating of cost-to-charge ratios through either application of a uniform update factor or a more complex adjustment; and our lack of experience with that task.

Also, at the time of the FY 2005 rulemaking, we were still focusing our efforts on the task that we believed had the most significant potential impact on our projections: Monitoring the effects of the June 2003 rule changes and related changes in hospital behavior. We again chose to defer closer examination of the possibility of an adjustment to capture the effect of updates to cost-to-charge ratios.

Also, again, it is important not to overestimate the likely impact of updates to cost-to-charge ratios on the overall robustness of our projections. First, the effect typically comes into play only for part of the year. In our FY 2005 projections, we did not use estimated cost-to-charge ratios as we had done in the FY 2004 rulemaking. Rather, for the FY 2005 final rule, we used CCRs from the March 2004 update of the Provider Specific File, the latest data available (the proposed FY 2005 IPPS rule refers to the same data as the ''April 2004'' update (69 FR 49277)). CCRs are typically in use for 1 year or more, so, for many hospitals, the CCR in the March 2004 update of the Provider Specific File would be the same CCR used for payment at the beginning of FY 2005, which began in October 2004.

Also, the effect of updates to cost-to-charge ratios is just one of many factors—many of them highly unpredictable—that affect our projections. We note that several commenters on the proposed FY 2005 IPPS rule (69 FR 49276 and 49277) advocated for adjustments to account for CCR updates. Three commenters in particular provided us with analyses that purported to include such adjustments. One of these commenters advocated for a FY 2005 threshold of $26,600, another commenter suggested a threshold of $28,455, and a third advocated for a threshold ''no higher than $27,000.'' In other words, each of these three commenters purported to incorporate adjustments designed to account for the effect of updated CCRs, among many other factors, yet each arrived at a fixed-loss threshold estimate considerably higher than the $25,800 level we ultimately set.

Because we believe we acted appropriately and in accordance with statutory requirements, we are not recalculating the FY 2005 threshold.

3. FY 2006

The factors discussed previously were all still present for FY 2006: (1) The fundamental differences in the nature and properties of charges and cost-to-charge ratios; (2) the complexity of simulating the updating of cost-to-charge ratios; and (3) our desire to focus on monitoring the aftermath of the 2003 rule changes.

While we carefully analyzed comments suggesting we make a separate adjustment to the CCRs, we again declined to do so, noting that the CCRs we were using from the March 2005 Provider-Specific File were the most recent available, were the CCRs that in many instances Medicare contractors would be using to make outlier payments in FY 2006, and were approximately 3 percent lower than the CCRs used in the FY 2006 proposed rule (70 FR 47494).

As had been the case in FY 2005, two commenters submitted recommendations based on an analysis that purported to account for updates to CCRs, and those recommendations were in turn endorsed by many other comments. These commenters advocated for a threshold of $24,050, higher than the $23,600 level that we computed. This lent further support to our decision to defer closer study of the effect of updates to cost-to-charge ratios.

Because we believe we acted appropriately and in accordance with statutory requirements, we are not recalculating the FY 2006 threshold.

## III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 14, 2019.

**Seema Verma,**

*Administrator, Centers for Medicare & Medicaid Services.*

Dated: May 28, 2019.

**Alex M. Azar II,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2019–11796 Filed 6–3–19; 11:15 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 27

**[WT Docket No. 12–357; FCC 19–29]**

### Service Rules for Advanced Wireless Services H Block—Implementing Section 6401 of the Middle-Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Notification of order on reconsideration.

**SUMMARY:** The Commission denied in part and dismissed in part the Petition for Reconsideration filed by the Rural Wireless Association, Inc. on September 16, 2013.

**DATES:** June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Paul Malmud at the Wireless Telecommunication Bureau, at (202) 418–0006 or *paul.malmud@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration, FCC 19–29, adopted on April 10, 2019 and released on April 12, 2019. The complete text of this document is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is also available on the Commission's website at *https://www.fcc.gov/edocs.* Alternative formats are available to persons with disabilities by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

## Synopsis

1. In 2013, the Commission released the *H Block Report and Order* 78 FR

50214 (Aug. 16, 2013), which adopted licensing and technical rules as well as a band plan for the 1915–1920 MHz and 1995–2000 MHz bands (the ''H Block'') and procedures for assigning H Block licenses through a system of competitive bidding. The Rural Wireless Association, Inc. (RWA) filed a Petition for Reconsideration later that year asking the Commission to reconsider its decisions to license H Block spectrum using Economic Areas (EAs) and to adopt population-based performance requirements. The Commission disagrees with RWA's contention that the Commission should have: (1) Licensed H Block spectrum using CMAs rather than EAs, and (2) adopted geographic-based, rather than population-based, performance requirements.

2. In this document, the Commission dismisses in part and denies in part RWA's Petition for Reconsideration because the Commission acted well within its discretion, struck a reasonable and well-justified balance among multiple statutory goals. RWA also asked the Commission not to use package bidding, particularly Hierarchical Package Bidding, in the H Block Auction. The Commission dismissed this request as moot because package bidding was rejected in a related proceeding. 28 FCC Rcd 13019. Accordingly, *it is ordered* pursuant to section 4(i), 4(j), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and 309(j), as well as § 1.429 of the Commission's rules, 47 CFR 1.429, that the Petition for Reconsideration filed by the Rural Wireless Association, Inc., on September 16, 2013, *is dismissed* to the extent specified in this Order on Reconsideration and, alternatively and independently, *denied* as specified in the Order on Reconsideration.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–11047 Filed 6–5–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CG Docket Nos. 10–51 and 03–123; FCC 19–39]**

## Improving Video Relay Service and Direct Video Calling

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) takes actions to: Enable direct video calling between sign language users and customer support call centers, by adopting procedures for qualified entities to register customer support telephone numbers in the telecommunications relay service (TRS) Numbering Directory; facilitate per-call validation of video relay service (VRS) user registrations via the TRS Numbering Directory querying system; require VRS providers to register enterprise and public videophones in the TRS user registration database (User Database or Database); prohibit VRS providers from offering or providing non-service related inducements to entice consumers to sign up for or use a VRS provider's service; and make technical corrections to the Commission's TRS rules. These actions will improve VRS and direct video calling for people with disabilities and help protect against waste, fraud, and abuse to the TRS program.

**DATES:** *Effective Date:* These rules are effective July 8, 2019, except for the amendments to §§ 64.611, 64.613, and 64.615, which are delayed. The Commission will publish a document in the **Federal Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418–1264, or email *Michael.Scott@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, document FCC 19–39, adopted on May 9, 2019, released on May 15, 2019, in CG Docket Nos. 10–51 and 03–123. The Commission previously sought comment on these issues in the Further Notice of Proposed Rulemaking (*2017 VRS Improvements FNPRM*), published at 82 FR 17613, April 12, 2017. A Further Notice of Proposed Rulemaking (FNPRM) contained in document FCC 19–39 is published elsewhere in this issue of the **Federal Register**. The full text of document FCC 19–39 will be available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS), and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. 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 and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

### Congressional Review Act

The Commission sent a copy of document FCC 19–39 to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

### Final Paperwork Reduction Act of 1995 Analysis

The Report and Order in document FCC 19–39 contains modified information collection requirements, which are not effective until approval is obtained from OMB. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public to comment on these information collection requirements as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. The Commission will publish a separate document in the **Federal Register** announcing approval of the information collection requirements. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission previously sought comment on how the Commission might ''further reduce the information burden for small business concerns with fewer than 25 employees.'' *2017 VRS Improvements FNPRM.*

Amendments to §§ 64.611, 64.613, and 64.615 of the Commission's rules, which contain modified information collection requirements, shall be effective on the date specified in a document to be published in the **Federal Register** announcing Office of Management and Budget (OMB) approval of the information collection requirements of such rules pursuant to the Paperwork Reduction Act.

### Synopsis

1. VRS is a form of TRS that enables people with hearing or speech disabilities who use sign language to make telephone calls over broadband with a videophone. In addition to enabling communication between ASL users and voice users, the VRS system also enables ASL users to communicate directly with other ASL users via video.

*Direct Video Access to the TRS Numbering Directory*

2. In order to facilitate direct video calling between sign language users and customer support call centers, the Commission allows telephone numbers and routing information for qualifying call centers to be entered in the TRS Numbering Directory (Numbering

Directory or Directory). Entities designated as ''Qualified Direct Video Entities'' may be granted access to the Directory in order to support direct communications between registered VRS users and customer support call centers. As the Commission has previously recognized, point-to-point video supports the purposes of section 225 of the Act more directly than VRS does, because the communication it enables is direct, rather than mediated, and far more efficient. Therefore, the Commission's action provides a major opportunity to enhance the ability of sign language users to engage in more effective, efficient, and private communication with customer support—especially because so much of VRS traffic involves calls placed to the customer support call centers of large businesses and government agencies. For the same reason, enabling such communication makes possible major cost savings for the TRS Fund, by reducing the need for third-party CAs to participate in customer support calls.

3. To implement this change, the Commission first clarifies who can be afforded such Directory access. Because the purpose of this rule is to facilitate the use of telephone numbers to reach direct-video-capable customer support centers, the Commission defines a Qualified Direct Video Entity that may be granted Directory access as an individual or entity that is engaged in direct video customer support and that (1) is the end-user customer that has been assigned the telephone number(s) used for direct video customer support calls or (2) is the designee of such an entity.

4. *Obtaining Numbering Directory Access.* In order to obtain authorization for access to the Directory as a Qualified Direct Video Entity, an interested party must submit an application to the Commission's Consumer and Governmental Affairs Bureau (CGB) that includes: (1) The applicant's name, address, telephone number, and email address; (2) a description of the service to be provided; (3) an acknowledgment that Directory access is conditional on compliance with applicable Commission rules, obligations, and standards; (4) contact information for personnel responsible for such compliance; and (5) certification that the applicant's description of service meets the definition of direct video customer support and that the information provided is accurate and complete. CGB, in consultation with the Commission's Office of the Managing Director, shall approve Directory access if the applicant demonstrates, through its responses to each of the above requests for information and any additional information requested by CGB, that it has a legitimate need for such access and is aware of its regulatory obligations. A Qualified Direct Video Entity may relinquish its Directory access authorization by so notifying the Commission, and such authorization will terminate automatically if one year elapses with no call-routing queries received regarding any of the Entity's numbers. Further, the Commission may terminate such authorization if it determines, after notice to the entity and an opportunity to contest such termination, that the entity is no longer qualified as described in its application, has materially misrepresented information to the Commission, the TRS Numbering Administrator, or the User Database administrator, has failed to provide required information in the format requested, or has violated an applicable Commission rule or order. Following the termination of an authorization, the TRS Numbering administrator shall remove the previously authorized entity's telephone numbers from the TRS Numbering Directory.

5. After receiving Commission approval, a Qualified Direct Video Entity shall enter a telephone number into the Directory by submitting the telephone number, associated call routing information, and registration information in accordance with instructions provided by the TRS Numbering administrator. For each customer support telephone number to be entered into the Directory, unless otherwise instructed by the User Database administrator, a Qualified Direct Video Entity must create an equivalent entry in the Database by providing: The Entity's name; the date that the Entity was approved for Directory access; the name of the end-user customer support call center(s) (if different from the Entity); contact information for the end-user customer support call center(s) that will receive calls placed to the customer support number; and other information reasonably requested by the User Database administrator. Providing such information will enable the User Database administrator and the TRS Numbering administrator to confirm that the Qualified Direct Video Entity has been approved for Directory access and will help ensure that the Directory provides an appropriate response to a VRS provider's per-call validation query regarding the customer support telephone number. A Qualified Direct Video Entity must provide appropriate notification as directed by the User Database administrator and the TRS Numbering Administrator if any of the information provided changes or if a customer support number entered in the Directory is transferred to a different Qualified Direct Video Entity or is no longer being used for a qualified direct video purpose. The User Database administrator shall remove from the User Database each customer support telephone number for a Qualified Direct Video Entity that has had its authorization to access the TRS Numbering Directory terminated.

6. A Qualified Direct Video Entity's Directory access includes (1) adding and deleting customer support telephone numbers and routing information, (2) conducting data queries to obtain routing information for outbound point-to-point video calls originating from such telephone numbers, (3) conducting data queries to enable the transfer of inbound direct video calls to a VRS provider when needed, and (4) performing other necessary administrative functions as determined by the TRS Numbering administrator in consultation with the User Database administrator and the Commission.

7. Qualified Direct Video Entities granted access to the Directory will be held to the same rules and obligations that govern VRS providers' access to the Directory and use of Directory numbers, including complying with the instructions of the TRS Numbering Administrator, and applicable standards pertaining to privacy, security, and reliability. To ensure effective telephone communication, the Commission further require that videophones, software, and transmission protocols used for direct video customer support adhere to the same interoperability standards applicable to VRS providers. Further, Qualified Direct Video Entities may be subject to fees to recover any additional costs incurred by the TRS Numbering Administrator or other TRS administrators. Accordingly, the Commission does not anticipate that any significant regulatory burdens or costs will be imposed on the TRS Fund or VRS providers. Moreover, because participation by video entities is strictly voluntary, the Commission is confident that the benefits of such participation will far exceed the minimal participation costs incurred by those entities choosing to participate.

8. *Customer Support Telephone Numbers for VRS and Direct Video Callers.* The Commission will let the business or government agency involved in customer support services determine whether to make direct video communication available via a dedicated video number or via the

generally advertised customer support number, as long as consumers retain the ability to communicate with customer support centers through VRS.

9. *Outset of a Call—Dedicated Direct Video Customer Support Number.* If the telephone number entered in the Directory is a dedicated direct video line that is *different from* the company's generally advertised telephone number, a consumer will be able to choose between dialing the dedicated direct video number or dialing the generally advertised customer support number and communicating through VRS. If operating a dedicated direct video customer support number, businesses or government agencies may also use interactive response systems that allow the host system to interact with the VRS user through the use of ASL and dual-tone multi-frequency signaling (DTMF). Currently, before setting up a relay call, VRS providers must check the Directory to ensure that the call is not being made to a destination telephone number that can accept video calls directly. If the call center uses a dedicated number for direct video calls, only the dedicated number will be listed in the Directory, and VRS users seeking to communicate via direct video must dial that dedicated number. The generally advertised customer support number *will not be* listed in the Directory; therefore, a VRS user who wishes to initiate a customer support call via VRS can simply dial the general customer support number, instead of the dedicated video number, and a VRS provider will automatically handle the call as a VRS call, in the same manner as when a VRS user dials any voice telephone number.

10. *Outset of a Call—Single Unified Customer Support Number.* Alternatively, the direct video number entered in the directory may be *the same as* the generally advertised telephone number used for voice calls to the customer support call center. In this case, VRS users seeking to communicate with customer support via direct video will simply dial the generally advertised number on their videophone, and—because that generally advertised number *will be* listed in the Directory—the call will be routed directly to the customer support center as a point-to-point video call. The customer support center then will detect the call as a videophone call and connect the caller directly to a representative using sign language, a sign language-enabled Interactive Video Response system, or another appropriate network termination for the sign language user. Sign language users who instead wish to use VRS will be able to bypass the direct video option by first entering their VRS provider's URL (or selecting a menu option on their device's screen to do this) and then directing the VRS CA to place a VRS call to the generally advertised customer support number. Once the CA is on the call, it will be routed as a voice call and detected as such by the customer support center. Any prompts or announcements conveyed to VRS users regarding calls to direct-video-equipped call centers must be neutral and must not be worded so as to ''steer'' the user toward requesting that a customer support call be handled as a VRS call rather than as a direct video call.

11. The Commission directs the TRS Numbering Administrator to implement a method for identifying single unified customer support numbers (*e.g.,* by adding an appropriate field to the format for routing query responses). The Commission also directs the TRS Fund administrator to provide a method for reporting VRS calls involving unified customer support numbers and verifying the compensability of such calls. The Commission directs the Disability Rights Office to announce the effective date for the rules governing single unified customer support numbers once these steps have been taken.

12. *Converting Direct Video Calls to VRS.* Under either of the above alternatives, authorizations for TRS Numbering Directory access are conditional on the customer support center being able to initiate a call transfer that converts a point-to-point video call into a VRS call, in the event that a VRS user communicating with a direct video customer agent needs to be transferred to a hearing person, such as a supervisor or specialist within the customer support center, while the call is in progress. Although the Commission does not mandate how this is to be done, it notes that existing protocols, such as the Session internet Protocol (SIP) transfer procedure, provide a framework for call transfers, whereby the caller's default VRS provider could re-connect the call to a VRS CA, who would then complete the call between the VRS user and the hearing customer support agent via VRS. As there is at least one commonly deployed mechanism for dynamically, seamlessly upgrading a direct video call to a VRS call that is a common part of the SIP standard, the Commission believes there will be little cost to this integration, and that such costs will be exceeded by the benefits of enabling videophone users to easily access VRS providers when CA services are necessary. Further, the VRS provider's obligation to implement such a call transfer on request is consistent with a VRS provider's obligations to route and deliver a user's inbound and outbound calls, ensure interoperability, and provide functionally equivalent service. To expedite this process, the Commission encourages VRS providers and Qualified Direct Video Entities to work cooperatively to implement the necessary technical changes for such call transfers that minimize the burden to VRS users to communicate with the appropriate party on a call. No later than six months after the effective date of the amendments to this section, each VRS provider shall be capable of activating an effective call transfer procedure within 60 days after receiving a request to do so from a Qualified Direct Video Entity. Finally, to the extent that call transfers of this kind are prohibited by the VRS Provider Interoperability Profile technical standard, the Commission exempts such call transfers from such prohibition. The Commission directs the TRS Fund administrator to revise its filing instructions to provide appropriate and timely guidance to VRS providers on the format to be used and the information to be provided when claiming compensation for VRS calls that are involved in such call transfers.

*TRS User Registration Database*

13. *Facilitating Call Validation through the TRS Numbering Directory.* The Commission's rules require VRS providers to validate the eligibility of the party on the video side of each VRS call by querying the User Registration Database. The Commission amends its rules to allow for implementation of a querying method that makes use of the existing TRS Numbering Directory querying system by requiring VRS providers to direct call validation queries to the appropriate system of records (either the Numbering Directory or the User Database) that is identified in the relevant instructions, which will be issued by the Commission, the TRS Fund administrator, or the TRS Numbering Administrator. The Commission takes this action to provide greater flexibility for administration of the VRS program and enable the operation of TRS data systems in the most effective and efficient way.

14. With the adoption of this rule change, as well as the requirement for registration of enterprise and public videophones, discussed below, the stage is set for activation of the per-call query function. A compliance date for the per-call validation requirement will be set by public notice, which will be issued by CGB no earlier than 90 days after the expiration of the 120-day window for

submission of enterprise and public videophone registration data to the Database. This will allow a period of parallel operation once all of the data is submitted to the Database, but before providers are required to rely on the per-call validation queries.

15. *Registering Enterprise and Public Videophones in the Database.* The Commission amends its rules to require VRS providers to submit registration information to the User Registration Database administrator for public and enterprise videophones. Such registration is necessary to assist the Fund administrator in reviewing compensation requests involving such videophones and auditing how such videophones are used, and thereby to help prevent waste, fraud, and abuse in the VRS program. A VRS provider must submit registration information for any enterprise or public videophone for which it assigns or receives a port of a NANP telephone number (*i.e.,* for which it is the default VRS provider). As with individual user registrations, once an enterprise or public videophone has been registered in the User Registration Database, the videophone's telephone number will be transmitted to the TRS Numbering Directory to enable per-call validation queries.

16. The Commission does not address at this time the proposal to require default VRS providers to implement log-in procedures for individuals using enterprise and public videophones for VRS calls. Pending Commission action on the log-in proposal, VRS providers will be paid for compensable calls that are completed to and from such videophones in compliance with rules in effect at the time of the call.

17. *Definitions.* The Commission defines an ''enterprise videophone'' as a videophone maintained by a business, organization, government agency, or other entity and designated for use by its employees or other individuals in private or restricted areas. Videophones provided by enterprises may be situated in a variety of locations, including private or shared offices, conference rooms, other common rooms, or hospital rooms, and therefore may be intended for use by individuals other than ''employees''—while still not fitting the definition of a ''public'' videophone. The Commission defines a ''public videophone'' as a videophone maintained by a business, organization, government agency, or other entity, and made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building. As adopted, both definitions make clear that the covered devices may be used for point-to-point calls by people who may not know ASL. Because the TRS Fund does not compensate for point-to-point calls, there is no reason to require ASL as opposed to any other form of sign language during such calls.

18. *Registration and Certification Requirements.* The Commission requires each VRS provider to submit the following registration information for enterprise and public videophones for which it assigns or receives a port of a NANP telephone number: The name of the default VRS provider; the videophone's NANP telephone number; The name and physical address of the organization, business, or agency where the enterprise or public videophone is located; the date that the default VRS provider initiated service to the videophone; the name of the individual associated with the organization, business, or agency who is responsible for the videophone; and confirmation that the provider has obtained a signed certification from that individual stating that such person understands the function of the videophone and that the cost of VRS calls made on the videophone is financed by the federally regulated Interstate TRS Fund.

19. For enterprise videophones, the signed certification must also include a statement from the responsible individual that the organization, business, or agency will make reasonable efforts to ensure that only persons with a hearing or speech disability are permitted to use the phone for VRS. The VRS provider must also state whether the device is assigned to a hearing individual who knows sign language and identify the specific type of location where the videophone is placed within the organization, business, or agency, to enable the administrator to conduct studies of how these phones are used and to identify unusual calling patterns that might signal waste, fraud, or abuse.

20. The Commission does not require VRS providers to submit the tax identification (ID) number of a registering enterprise because other information is available to verify the identity and location of an enterprise. The Commission requires VRS providers to maintain the confidentiality of any registration and certification information they obtain for enterprise and public videophones.

21. *Timeframe for Compliance.* The Commission will release a public notice announcing a 120-day period within which VRS providers must submit registration information to the Database administrator for all enterprise and public videophones then in service. For VRS calls placed *on or before* the data submission deadline (*i.e.,* the last day of this 120-day period) to and from phone numbers identified by TRS providers as associated with enterprise and public videophones, compensation will be paid if such calls are determined to be compensable in accordance with the procedures in place as of the date of the call. For calls placed *after* the data submission deadline, if registration data for the enterprise or public videophone was submitted to the Database *on or before* the data submission deadline, and the verification check is not completed as of that deadline, compensation will be paid or withheld in accordance with the guidance provided in the *TRS–URD Registration Extension Order,* document DA 18–196. If a public or enterprise videophone is activated after the data submission deadline, or if registration information for an existing phone is not submitted until after the deadline, VRS calls to or from the videophone are compensable only if made after the registration data has been submitted *and verified.*

22. *Terminations and Usage Monitoring.* In the Report and Order, the Commission requires VRS providers to monitor enterprise and public videophone usage and to report any unusual activity to the TRS Fund administrator. In addition, the Commission requires VRS providers to notify the TRS Fund administrator within one business day after a registered enterprise or public videophone is removed or permanently disconnected from VRS. The collection of this information is necessary to prevent waste, fraud, and abuse, given that enterprise and public videophones are available for use by multiple individuals.

*Prohibiting Non-Service Related Inducements*

23. In the Report and Order, the Commission prohibits VRS providers from offering or providing non-service related inducements that are intended to entice consumers to sign up for or use a VRS provider's service. Specifically, the Commission adopts a new rule prohibiting VRS providers from offering or providing, to any individual or entity, any form of direct or indirect incentives, financial or otherwise, whether express or implied, for the purpose of encouraging individuals to register for or use a VRS provider's service.

24. The rule amendment addresses sign-up incentives aimed primarily at inducing current VRS users to switch (or refrain from switching) providers, rather than recruiting entirely new users. Such incentives undermine the achievement of statutory objectives,

albeit in a more indirect fashion. Competition among providers to offer sign-up inducements tends to increase VRS costs without improving the quality of service, impairing providers' ability and incentive to compete on service quality. Further, to the extent that inducements to choose a particular provider are offered selectively to relatively high volume users (or to consumers perceived as such), they are likely to increase the cost burden on the TRS Fund, by generating a perverse incentive for users to make calls that otherwise would not be made. In the context of a service supported by the TRS Fund, the record does not disclose any benefit from non-service-related incentives that could conceivably offset the harms described above.

25. The inducements the Commission prohibits are not limited to loyalty programs, user appreciation awards, charitable donations and other incentives to increase VRS usage, but also include non-service-related give-aways, such as video game systems, that reward or entice users to register for or use a particular provider's VRS. The prohibition covers inducements to continue using a particular provider as well as inducements to change one's default provider or to dial-around to a particular provider. The Commission does not prohibit *de minimis* give-aways, such as pens and T-shirts, as such items do not rise to the level of an inducement sufficient to entice a consumer to sign up for or use a particular provider's service. The Commission concludes that this approach builds upon the Commission's earlier financial incentives rulings in ways that account for the particular harms to statutory goals and TRS policies arising from these types of incentives. Where a consumer device is given out to induce users to switch default providers, or stay with their current provider, and is not the type of device ordinarily needed or used to place a VRS call, it should be prohibited. In determining whether a free give-away constitutes a non-service related inducement, the Commission will consider, among other things, the extent to which the equipment is designed, marketed, and used for relay communication. Providers that are uncertain about the permissibility of giving away a particular device may seek guidance from the Commission prior to engaging in such activity.

26. Although this new rule does not cover providing VRS-related items, such as videophones and video monitors, at no or minimal charge, the Commission's existing rule prohibiting VRS provider practices that improperly stimulate VRS usage necessarily encompasses the practice of providing VRS-related equipment at no or minimal charge to select users based on their actual or expected volume of VRS minutes. The Commission reminds VRS providers that, absent a clear justification, *e.g.,* based on the nature of a particular person's disability, or the launching of a limited-duration opt-in product testing program with clear instruction on participation requirements, the provision of equipment at no or minimal charge to select individuals, whether or not service-related, may be deemed evidence that a provider has violated the rule against practices that cause or encourage the making of VRS calls that would not otherwise be made.

*Technical Corrections to the TRS Rules*

27. The Commission amends § 64.604(c) of its rules to correct erroneous cross-references and an incorrect paragraph number. Specifically, the cross-references in the current text of § 64.604(c)(5)(iii)(D) of its rules, citing provisions of paragraph (c)(5)(iii)(C), are corrected to cite the corresponding provisions of paragraph (c)(5)(iii)(D). In addition, § 64.604(c)(12) of its rules, which includes two paragraphs (c)(12)(ii), is corrected to change the numbering of the second paragraph from (c)(12)(ii) to (c)(12)(iii).

**Final Regulatory Flexibility Analysis**

28. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) into *2017 VRS Improvements FNPRM.* The Commission sought written public comment on the proposals in the *2017 VRS Improvements FNPRM,* including comment on the IRFA. No comments were received in response to the IRFA.

*Need For, and Objectives of, the Rules*

29. With regard to enterprise and public videophones, the Report and Order adopts requirements for VRS providers to: (1) Submit registration information to the User Database administrator for each enterprise or public videophone after notice from the Commission that the Database is ready to accept such information; (2) notify the TRS Fund administrator in the event a registered enterprise or public videophone is removed from service or permanently disconnected from VRS, within one business day of such termination; and (3) monitor videophone usage and report any unusual activity to the TRS Fund administrator.

30. The Report and Order also (1) adopts a requirement for VRS providers, when validating the eligibility of the party on the video side of each VRS call, to query either the User Database or the TRS Numbering Directory, as directed by the Commission, the TRS Fund administrator, or the TRS Numbering Administrator; (2) allows qualified entities to access the TRS Numbering Directory in order to enable direct video calling (direct video) by registered VRS users to customer support call centers; and (3) prohibits VRS providers from offering or providing any form of direct or indirect incentives for the purpose of encouraging consumers to register for or use VRS.

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

31. No comments were filed in response to the IRFA.

*Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

32. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments in response to the proposed rules in this proceeding.

*Small Entities Impacted*

33. The rules adopted in the Report and Order will affect obligations of VRS providers and providers of direct video services. These services can be included within the broad economic category of All Other Telecommunications.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

34. The rule prohibiting VRS providers from offering or providing incentives to register for or use VRS does not create direct reporting and recordkeeping requirements, but does impose compliance requirements on VRS providers. Specifically, this rule requires VRS providers to refrain from offering or providing incentives to encourage consumers to register for or use VRS.

35. The rules affecting enterprise and public videophones will require VRS providers to collect and retain identifying information for the videophones for which they are the default VRS provider and to provide that information to the User Database administrator, including the name of the default VRS provider, the name and physical address of the organization, business, or agency where the videophone is located, the date that service to the videophone is initiated, the name of the individual associated with the organization, business, or agency who is responsible for

maintaining the videophone, and confirmation that the provider has obtained a signed certification from that individual stating that such person understands the function of the videophones and that the cost of VRS calls is financed by the federally regulated Interstate TRS Fund, and for enterprise phones that the person certifying will make reasonable efforts to ensure that only eligible users make use of the videophones. VRS providers are also required to monitor usage of enterprise and public videophones and report unusual activity to the TRS Fund administrator.

36. The rules require VRS providers, when validating the eligibility of the party on the video side of each VRS call, to query either the User Database or the TRS Numbering Directory, as directed by the Commission, the TRS Fund administrator or the TRS Numbering Administrator, rather than requiring that only the User Database may be queried.

37. Qualified Direct Video Entities seeking access to the TRS Numbering database are required to submit an application that includes: (1) The applicant's name, address, telephone number, and email address; (2) a description of the service to be provided; (3) an acknowledgment that the authorization granted under this paragraph is subject to compliance with applicable Commission rules; (4) contact information for personnel responsible for addressing issues relating to such compliance; and (5) certification that the applicant possesses the financial, managerial, and technical expertise to provide reliable service. To enter a telephone number into the TRS Numbering Directory, Qualified Direct Video Entities will be required to submit the telephone number, associated call routing information, and registration information in accordance with instructions provided by the User Database administrator. The Qualified Direct Video Entity must provide to the User Database administrator the Qualified Direct Video Entity's name; the date that the Qualified Direct Video Entity was approved for numbering access; the name of the end-user customer support center (if different from the Qualified Direct Video Entity); the physical address of the customer support center or centers that will receive calls placed to the direct video number and other information reasonably requested by the User Database administrator.

*Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

38. The provision of VRS to enterprise and public videophones is optional for VRS providers. The registration requirements for such videophones apply equally to all VRS providers and users, and are necessary to prevent waste, fraud, and abuse of the TRS Fund by making it possible for the TRS Fund administrator to monitor call data records for unusual call patterns. The registration requirements for enterprise and public videophones are no more burdensome than the registration requirements for individual videophones. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

39. The rule requiring VRS providers, when validating the eligibility of the party on the video side of each VRS call, to query either the User Database or the TRS Numbering Directory, as directed by the Commission, the TRS Fund administrator, or the TRS Numbering Administrator, rather than requiring that only the User Database may be queried, as the rules are currently written, is not burdensome. This change does not alter the basic requirement to query a database; its only effect is to possibly change the database that providers must query.

40. Permitting Qualified Direct Video Entities to access the TRS Numbering Directory is necessary for the purpose of routing calls to and from such customer support call centers. Granting access will subject Qualified Direct Video Entities to call-routing, application, and registration rules that are similar to and no more burdensome than those currently applicable to VRS providers. The application and registration requirements apply only to those entities that seek to place numbers in the TRS Numbering Directory and are necessary to ensure that such entities are aware of and capable of meeting their regulatory obligations and have a legitimate need to access the TRS Numbering database.

41. Prohibiting VRS providers from offering or providing direct or indirect inducements to register for or use VRS will help ensure that VRS is available to the extent possible and in the most efficient manner while helping to limit waste, fraud, and abuse by preventing VRS providers from encouraging users to make calls that the users might otherwise not make. Adopting this prohibition may benefit small VRS providers by removing competitive costs associated with offering inducements unrelated to providing service and focusing competition on service quality.

**Ordering Clauses**

42. Pursuant to sections 1, 2, 225, and 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225, 251, document FCC 19–39 is adopted and part 64 of title 47 is amended.

**List of Subjects in 47 CFR Part 64**

Individuals with disabilities, Telecommunications, Telecommunications relay services. Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

## PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, and 1401–1473, unless otherwise noted.

■ 2. Amend § 64.601 by redesignating paragraphs (a)(13) through (27) and (28) through (47) as paragraphs (a)(15) through (29) and (32) through (51) and adding new paragraphs (a)(13) and (14) and (30) and (31) to read as follows:

**§ 64.601 Definitions and provisions of general applicability.**

(a) * * *

(13) *Direct video customer support.* A telephone customer support operation that enables callers with hearing or speech disabilities to engage in real-time direct video communication in ASL with ASL speakers in a call center operation.

(14) *Enterprise videophone.* A videophone maintained by a business, organization, government agency, or other entity, and designated for use by its employees or other individuals in private or restricted areas.

* * * * *

(30) *Public videophone.* A videophone maintained by a business, organization, government agency, or other entity, and made available for use by the public in a public space, such as a public area of a business, school, hospital, library, airport, or government building.

(31) *Qualified direct video entity.* An individual or entity that is approved by the Commission for access to the TRS

Numbering Directory that is engaged in direct video customer support and that is the end-user customer that has been assigned a telephone number used for direct video customer support calls or is the designee of such entity.

* * * * *

■ 3. Amend § 64.604 by revising paragraphs (c)(5)(iii)(D)(*2*) introductory text, (c)(5)(iii)(D)(*3*), (c)(5)(iii)(D)(*4*) introductory text, (c)(5)(iii)(D)(*4*)(*i*), (c)(8) heading, and (c)(8)(v), adding paragraph (c)(8)(vi), and redesignating the second paragraph (c)(12)(ii) as paragraph (c)(12)(iii) to read as follows:

**§ 64.604 Mandatory minimum standards.**

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(D) * * *

(*2*) *Call data required from all TRS providers.* In addition to the data requested by paragraph (c)(5)(iii)(D)(*1*) of this section, TRS providers seeking compensation from the TRS Fund shall submit the following specific data associated with each TRS call for which compensation is sought:

* * * * *

(*3*) *Additional call data required from internet-based Relay Providers.* In addition to the data required by paragraph (c)(5)(iii)(D)(*2*) of this section, internet-based Relay Providers seeking compensation from the Fund shall submit speed of answer compliance data.

(*4*) *Call record and speed of answer data.* Providers submitting call record and speed of answer data in compliance with paragraphs (c)(5)(iii)(D)(*2*) and (*3*) of this section shall:

(*i*) Employ an automated record keeping system to capture such data required pursuant to paragraph (c)(5)(iii)(D)(*2*) of this section for each TRS call for which minutes are submitted to the fund administrator for compensation; and

* * * * *

(8) *Incentives for use of IP CTS and VRS.* * * *

(v) A VRS provider shall not offer or provide to any person or entity any form of direct or indirect incentives, financial or otherwise, for the purpose of encouraging individuals to register for or use the VRS provider's service.

(vi) Any IP CTS or VRS provider that does not comply with this paragraph (c)(8) shall be ineligible for compensation for such service from the TRS Fund.

* * * * *

■ 4. Amend § 64. 611 by adding paragraph (a)(6) and revising paragraphs (c)(1)(i), (c)(2)(i), and (c)(2)(ii)(B) to read as follows:

**§ 64.611 internet-based TRS registration.**

(a) * * *

(6) *Enterprise and public videophones*—(i) *Definition.* For purposes of this section, a default VRS provider for an enterprise or public videophone is the VRS provider that assigns a North American Numbering Plan (NANP) telephone number to such videophone or receives a port of such number.

(ii) *Enterprise and public videophone certification.* (A) *Written certification.* A default VRS provider for an enterprise or public videophone shall obtain a written certification from the individual responsible for the videophone, attesting that the individual understands the functions of the videophone and that the cost of VRS calls made on the videophone is financed by the federally regulated Interstate TRS Fund, and for enterprise videophones, that the organization, business, or agency will make reasonable efforts to ensure that only persons with a hearing or speech disability are permitted to use the phone for VRS.

(B) *Electronic signatures.* The certification required by paragraph (a)(6)(ii)(A) of this section must be made on a form separate from any other agreement or form, and must include a separate signature specific to the certification. For the purposes of this paragraph (a)(6)(ii)(B), an electronic signature, defined by the Electronic Signatures in Global and National Commerce Act as an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record, has the same legal effect as a written signature. For the purposes of this paragraph (a)(6)(ii)(B), an electronic record, defined by the Electronic Signatures in Global and National Commerce Act as a contract or other record created, generated, sent, communicated, received, or stored by electronic means, constitutes a record.

(C) *Consent for transmission and confidentiality of enterprise and public videophone registration.* A default VRS provider for an enterprise or public videophone must obtain consent from the individual responsible for the videophone to transmit the information required by this section to the TRS User Registration Database. Before obtaining such consent, a VRS provider must describe to such individual, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in denial of service to the videophone. A VRS provider must obtain and keep a record of affirmative acknowledgment of such consent for every enterprise and public videophone. A VRS provider shall maintain the confidentiality of any registration and certification information obtained by the provider, and may not disclose such registration and certification information, or the content of such registration and certification information, except as required by law or regulation.

(iii) *Enterprise and public videophone registration.* A default VRS provider for an enterprise or public videophone shall transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each enterprise or public videophone for which it assigns (or receives a port of) a North American Numbering Plan telephone number or for which it is the default VRS provider:

(A) The default VRS provider's name;

(B) The NANP telephone number assigned to the videophone;

(C) The name and physical address of the organization, business, or agency where the enterprise or public videophone is located, and the Registered Location of the phone if that is different from the physical address;

(D) Whether the videophone is a public or enterprise videophone, and for enterprise videophones, the type of location where the videophone is located within the organization, business, agency, or other entity, such as, but not limited to, a reception desk or other work area, a private workspace, a private room in a long-term care facility, or another restricted area;

(E) The date of initiation of service to the videophone by the default VRS provider;

(F) The name of the individual responsible for the videophone, confirmation that the provider has obtained the certification required by paragraph (a)(6)(ii) of this section, and the date the certification was obtained by the provider; and

(G) Whether the device is assigned to a hearing individual who knows sign language.

(iv) *Transmission of data to the TRS User Registration Database.* Default VRS providers shall transmit the information required by paragraph (a)(6)(iii) of this section for existing enterprise and public videophones within 120 days after notice from the Commission that

the TRS User Registration Database is ready to accept such information. For videophones placed in service more than 120 days after such notice, the default VRS provider shall submit the required information and certification before initiating service. VRS calls placed to or from enterprise or public videophones more than 120 days after such notice shall not be compensable if the required registration information was not received by the TRS User Registration Database before placement of the call.

(v) *Notice of removal or disconnection of enterprise and public videophones.* VRS providers shall notify the TRS Fund administrator within one business day in the event that a registered enterprise or public videophone is removed or permanently disconnected from VRS.

* * * * *

(c) * * *

(1) * * *

(i) Obtain current routing information from their Registered internet-based TRS Users, registered enterprise and public videophones, and hearing point-to-point video users;

* * * * *

(2) * * *

(i) Take such steps as are necessary to cease acquiring routing information from any VRS, IP Relay, or hearing point-to-point video user, or any individual responsible for maintaining an enterprise or public videophone, that ports a NANP telephone number to another VRS or IP Relay provider or otherwise selects a new default provider; and

(ii) * * *

(B) VRS and IP Relay providers other than the default provider are aware that they must query the TRS Numbering Directory in order to obtain accurate routing information for a particular user of VRS or IP Relay, or for an enterprise or public videophone.

* * * * *

■ 5. Amend § 64.613 by revising paragraphs (a)(1), (2), and (4) and adding paragraphs (a)(5) and (c) to read as follows:

**§ 64.613 Numbering directory for internet-based TRS users.**

(a) *TRS Numbering Directory.* (1) The TRS Numbering Directory shall contain records mapping the geographically appropriate NANP telephone number of each Registered internet-based TRS User, registered enterprise videophone, registered public videophone, direct video customer support center, and hearing point-to-point video user to a unique Uniform Resource Identifier (URI).

(2) For each record associated with a geographically appropriate NANP telephone number for a registered VRS user, enterprise videophone, public videophone, direct video customer support center, or hearing point-to-point video user, the URI shall contain a server domain name or the IP address of the user's device. For each record associated with an IP Relay user's geographically appropriate NANP telephone number, the URI shall contain the user's user name and domain name that can be subsequently resolved to reach the user.

* * * * *

(4) Only the TRS Numbering Administrator, internet-based TRS providers, and Qualified Direct Video Entities may access the TRS Numbering Directory.

(5) VRS providers shall route all calls placed to NANP numbers entered in the TRS Numbering Directory in accordance with the associated routing information, except that a call placed by a registered VRS user to a NANP number that is capable of receiving either voice or video calls may be handled and routed as a VRS call if the caller affirmatively so requests.

* * * * *

(c) *Direct video customer support*—(1) *Registration.* Any person seeking to access the TRS Numbering Directory as a Qualified Direct Video Entity shall submit an application to the Commission addressed to the Federal Communications Commission, Chief, Consumer and Governmental Affairs Bureau and captioned ''Direct Video Numbering Directory Access Application.'' The application shall include:

(i) The applicant's name, address, telephone number, and email address;

(ii) A description of the service to be provided;

(iii) An acknowledgment that the authorization granted under this paragraph (c) is subject to compliance with applicable Commission rules;

(iv) Contact information for personnel responsible for addressing issues relating to such compliance; and

(v) Certification that the applicant's description of service meets the definition of direct video customer support and that the information provided is accurate and complete.

(2) *Commission authorization.* The Commission shall approve an application for a Qualified Direct Video Entity to have access to the TRS Numbering Directory if the applicant demonstrates, through its responses to each of the requests for information in paragraph (c)(1) of this section and any additional information requested by the Commission, that the applicant has a legitimate need for such access and is aware of its regulatory obligations.

(3) *Termination of authorization.* Authorization to access the TRS Numbering Directory shall terminate:

(i) If a Qualified Direct Video Entity relinquishes its authorization by notifying the Commission;

(ii) Automatically if one year elapses with no call-routing queries received regarding any of the Qualified Direct Video Entity's NANP telephone numbers; or

(iii) If the Commission determines, after notice to the entity and an opportunity for the entity to contest the proposed termination, that the entity is no longer qualified as described in its application, has materially misrepresented information to the Commission, the TRS Numbering administrator, or the TRS User Registration Database administrator, has failed to provide required information in the format requested, or has violated an applicable Commission rule or order or a requirement imposed by authority of the TRS Numbering administrator or the TRS User Registration Database administrator. Following the termination of an authorization, the TRS Numbering administrator shall remove the previously authorized entity's telephone numbers from the TRS Numbering Directory.

(4) *Notification of material change.* A Qualified Direct Video Entity that is granted access to the TRS Numbering Directory shall notify the Commission within 60 days of any material changes to information provided in its application.

(5) *Qualified Direct Video Entities' obligations.* A Qualified Direct Video Entity shall comply with all relevant rules and obligations applicable to VRS providers' access to the TRS Numbering Directory and the use of numbers provisioned in the TRS Numbering Directory, including, but not limited to:

(i) Provisioning and maintaining current routing information in the TRS Numbering Directory for each NANP telephone number that it enters in such directory;

(ii) Being able to make point-to-point calls and receive point-to-point or VRS calls from any VRS user in accordance with all interoperability standards applicable to VRS providers, including, but not limited to, the relevant technical standards specified in § 64.621(b);

(iii) Protecting customer proprietary network information of any VRS user obtained in accordance with §§ 64.5101 through 64.5111 (TRS Customer Proprietary Network Information);

(iv) Following TRS Numbering Directory access procedures and performing related administrative functions as directed by the TRS Numbering administrator in consultation with the Managing Director and the Chief, Consumer and Governmental Affairs Bureau; and

(v) Adhering to all other applicable standards pertaining to privacy, security, and reliability.

(6) *Call transfer capability.* A Qualified Direct Video Entity shall ensure that each customer support center is able to initiate a call transfer that converts a point-to-point video call into a VRS call, in the event that a VRS user communicating with a direct video customer agent needs to be transferred to a hearing person while the call is in progress. No later than December 6, 2019, each VRS provider shall be capable of activating an effective call transfer procedure within 60 days after receiving a request to do so from a Qualified Direct Video Entity.

(7) *TRS User Registration Database.* For each direct video number to be entered into the TRS Numbering Directory, unless otherwise instructed by the TRS User Registration Database administrator, a Qualified Direct Video Entity must create an equivalent entry in the TRS User Registration Database by providing:

(i) The Qualified Direct Video Entity's name;

(ii) The date that the Qualified Direct Video Entity was approved for TRS Numbering Directory access;

(iii) The name of the end-user customer support center (if different from the Qualified Direct Video Entity);

(iv) Contact information for the end-user customer support call center(s); and

(v) Other information reasonably requested by the TRS User Registration Database administrator.

■ 6. Amend § 64.615 by revising paragraph (a)(1) introductory text, redesignating paragraphs (a)(2) through (5) as paragraphs (a)(3) through (6), adding new paragraph (a)(2), and revising newly redesignated paragraph (a)(6) to read as follows:

**§ 64.615 TRS User Registration Database and administrator.**

(a) * * *

(1) *VRS users call validation.* VRS providers shall validate the eligibility of the party on the video side of each call by querying the TRS User Registration Database or the TRS Numbering Directory, as directed by the Commission, the TRS Fund administrator, or the TRS Numbering Administrator, on a per-call basis. Emergency 911 calls are excepted from the requirement in this paragraph (a)(1).

* * * * *

(2) *Enterprise and public videophone call validation.* (i) VRS providers shall validate the registration of an enterprise or public videophone used for a VRS call by querying the designated database in accordance with paragraph (a)(1) of this section.

(ii) [Reserved]

(iii) VRS providers shall require their CAs to terminate any call which does not include a registered enterprise or public videophone or, pursuant to the provider's policies, the call does not appear to be a legitimate VRS call, and VRS providers may not seek compensation for such calls from the TRS Fund.

(iv) Emergency 911 calls from enterprise and public videophones shall be exempt from the videophone validation requirements of paragraph (a)(2)(i) of this section.

* * * * *

(6) *User verification.* (i) The TRS User Registration Database shall have the capability of performing an identification verification check when a VRS provider, IP CTS provider, or other party submits a query to the database about an existing or potential user or an enterprise or public videophone.

(ii) VRS and IP CTS providers shall not register individuals or enterprise or public videophones that do not pass the identification verification check conducted through the TRS User Registration Database.

(iii) VRS providers shall not seek compensation for calls placed by individuals or for calls placed to or from enterprise or public videophones that do not pass the identification verification check conducted through the TRS User Registration Database.

(iv) IP CTS providers shall not seek compensation for calls placed to or from individuals that do not pass the identification verification check conducted through the TRS User Registration Database.

* * * * *

[FR Doc. 2019–11213 Filed 6–5–19; 8:45 am]

**BILLING CODE 6712–01–P**

# Proposed Rules

Federal Register
Vol. 84, No. 109
Thursday, June 6, 2019

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 TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2019–0404; Product Identifier 2019–NM–007–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to supersede Airworthiness Directive (AD) 2018–26–07, which applies to all Airbus SAS Model A350–941 and –1041 airplanes. AD 2018–26–07 requires repetitive greasing of the thrust reverser actuators (TRAs), dispatch restrictions, and maintenance procedure revisions. Since we issued AD 2018–26–07, we are now proposing to add a requirement to replace the TRAs, which AD 2018–26–07 specified was not required at the time to provide the opportunity for the public to comment on the merits of that action. This proposed AD would require actions specified in an European Aviation Safety Agency (EASA) AD, which will be incorporated by reference. We are proposing this AD to address the unsafe condition on these products.

**DATES:** We must receive comments on this proposed AD by July 22, 2019.

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

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

For the material identified in this NPRM that will be incorporated by reference (IBR), contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *http://www.regulations.gov.*

### Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0404; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2019–0404; Product Identifier 2019–NM–007–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

### Discussion

We issued AD 2018–26–07, Amendment 39–19538 (83 FR 67677, December 31, 2018) (''AD 2018–26–07''), for all Airbus SAS Model A350–941 and –1041 airplanes. AD 2018–26–07 requires repetitive greasing of the TRAs, dispatch restrictions, and maintenance procedure revisions. AD 2018–26–07 resulted from reports of the TRAs jamming. We issued AD 2018–26–07 to address jamming of the TRAs, which could lead to an inadvertent thrust reverser sleeve deployment, possibly resulting in reduced control or performance of the airplane.

### Actions Since AD 2018–26–07 Was Issued

The preamble to AD 2018–26–07 specifies that we consider the requirements ''interim action'' and that we were considering requiring a one-time replacement of affected (all part numbers) TRAs. That AD explains that the planned compliance time for the installation of the TRAs would allow enough time to provide notice and opportunity for prior public comment on the merits of the replacement, and this proposed AD follows from that determination.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0234R1, dated November 13, 2018 (''EASA AD 2018–0234R1'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states:

> Operators of A350 aeroplanes have reported some occurrences of TRA jamming. Further investigation results indicated that the ball bearings inside the TRA are suffering from corrosion due to lack of grease and are degrading with time.
>
> This condition, if not corrected, could lead to an inadvertent thrust reverser sleeve deployment, possibly resulting in reduced control or performance of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued the AOT [Alert Operators Transmission A78P001–18 Revision 01] to provide instructions for repetitive TRA

greasing to prevent actuator ball bearings degradation, and the MER [Major Event Revision] that incorporates temporary restrictions of the MMEL [Master Minimum Equipment List] items related to thrust reverser actuation system. The AOT also provides instructions to replace certain affected TRA, depending on condition and previously applied greasing.

For the reasons described above, this [EASA] AD requires implementation of certain dispatch restrictions. This [EASA] AD also requires repetitive greasing of each affected TRA and a one-time replacement of certain affected TRA, depending on condition.

* * * * *

This [EASA] AD is still considered to be an interim action and further AD action may follow.

**Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2018–26–07, this proposed AD would retain all of the requirements of AD 2018–26–07. Those requirements are referenced in EASA AD 2018–0234R1, which, in turn, is referenced in paragraph (g) of this proposed AD.

**Related IBR Material Under 1 CFR Part 51**

This proposed AD would continue to require EASA AD 2018–0234R1, which the Director of the Federal Register approved for incorporation by reference as of January 15, 2019 (83 FR 67677, December 31, 2018). This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination and Requirements of This Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Proposed Requirements of This NPRM**

This proposed AD would require accomplishing the actions specified in EASA AD 2018–0234R1 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the MCAI/Service Information.''

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. As a result, EASA AD 2018–0234R1 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with the provisions specified in EASA AD 2018–0234R1, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in EASA AD 2018–0234R1 that is required for compliance with EASA AD 2018–0234R1 will be available on the internet *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0404 after the FAA final rule is published.

**Differences Between This Proposed AD and the MCAI/Service Information**

The MCAI specifies to revise the EASA/Airbus MMEL to change certain MMEL items. This proposed AD refers to the operator's minimum equipment list (MEL) instead of the FAA MMEL. It is unnecessary to reference the MMEL, as operators are required in 14 CFR part 91 to have an MEL to operate with inoperable equipment and provisions for relief cannot be in an MEL without first being part of the MMEL. The intent of the provision has not changed.

In addition, there are differences between the EASA/Airbus MMEL and the FAA MMEL. The FAA MMEL is more restrictive because relief is provided for only one engine reverser, whereas the EASA/Airbus MMEL provides relief for both. Therefore, this proposed AD would require incorporating the information specified in Figure 1 to paragraph (h)(4) of this proposed AD into the operator's MEL.

**Costs of Compliance**

We estimate that this proposed AD affects 11 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2018-26-07 | 10 work-hours × $85 per hour = $850 | $0 | $850 | $9,350 |
| New proposed actions | 12 work-hours × $85 per hour = $1,020 | * | * | * |

* We have received no definitive data that would enable us to provide parts cost estimates for the replacement specified in this proposed AD.

**Authority for This Rulemaking**

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

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

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

**Regulatory Findings**

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a

substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2018–26–07, Amendment 39–19538 (83 FR 67677, December 31, 2018), and adding the following new AD:

**Airbus SAS:** Docket No. FAA–2019–0404; Product Identifier 2019–NM–007–AD.

**(a) Comments Due Date**

We must receive comments by July 22, 2019.

**(b) Affected ADs**

This AD replaces AD 2018–26–07, Amendment 39–19538 (83 FR 67677, December 31, 2018) (''AD 2018–26–07'').

**(c) Applicability**

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

**(d) Subject**

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

**(e) Reason**

This AD was prompted by reports of thrust reverser actuators (TRAs) jamming and the determination that a one-time replacement of affected TRAs (all part numbers) is necessary. We are issuing this AD to address jamming of the TRAs, which could lead to an inadvertent thrust reverser sleeve deployment, possibly resulting in reduced control or performance of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Aviation Safety Agency (EASA) AD 2018–0234R1, dated November 13, 2018 (''EASA AD 2018–0234R1'').

**(h) Exceptions to EASA AD 2018–0234R1**

(1) For purposes of determining compliance with the inspection requirements of this AD: Where EASA AD 2018–0234R1 refers to its effective date, this AD requires using January 15, 2019 (the effective date of AD 2018–26–07).

(2) For purposes of determining compliance with the TRA replacement requirements of this AD: Where EASA AD 2018–0234R1 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where EASA AD 2018–0234R1 refers to the master minimum equipment list (MMEL), instead refer to the operator's minimum equipment list (MEL).

(4) Where EASA AD 2018–0234R1 refers to the flight operations transmission (FOT) for certain changes, for this AD, do not incorporate the information specified in EASA MMEL item 78–09–01B, ''ENG 1(2) REVERSER MINOR FAULT message—Associated reverser considered inoperative,'' and instead, incorporate the information specified in Figure 1 to paragraph (h)(4) of this AD into the operator's MEL.

**Figure 1 to paragraph (h)(4) –** *Item 78-09-01B, ''ENG 1(2) REVERSER MINOR FAULT message*

78-09-01B Associated reverser considered inoperative

| Repair interval | Nbr installed | Nbr required | Placard |
|---|---|---|---|
| **C** | **N/A** | **N/A** | **No** |

One may be displayed on the DISPATCH page provided that the associated thrust reverser is considered inoperative.

Refer to Item 78-30-01 Engine 1 Reverser, or Refer to Item 78-30-02 Engine 2 Reverser.

(5) The ''Remarks'' section of EASA AD 2018–0234R1 does not apply to this AD.

(6) Where EASA AD 2018–0234R1 refers to the ''the MER,'' that document is not required by this AD, and it is not applicable to U.S. operators.

**(i) No Reporting Requirement**

Although the service information referenced in EASA AD 2018–0234R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this

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

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

(3) *Required for Compliance (RC*): For any service information referenced in EASA AD 2018–0234R1 that contains RC procedures and tests: Except as specified by paragraph (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(k) Related Information**

(1) For information about EASA AD 2018–0234R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this EASA AD at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. EASA AD 2018–0234R1 may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2019–0404.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3218.

Issued in Des Moines, Washington, on May 28, 2019.

**Michael Kaszycki,**

*Acting Director, System Oversight Division, Aircraft Certification Service.*

[FR Doc. 2019–11785 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2019–0355; Airspace Docket No. 19–AGL–15]**

**RIN 2120–AA66**

## Proposed Amendment of Class E Airspace; Marion, OH

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend the Class E airspace extending upward from 700 feet above the surface at Marion Municipal Airport, Marion, OH. The FAA is proposing this action as the result of an airspace review caused by the decommissioning of the Marion localizer/distance measuring equipment (LOC/DME) navigation aid, which provided navigation information for 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:** Comments must be received on or before July 22, 2019.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2019–0355; Airspace Docket No. 19–AGL–15, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, 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 7400.11C at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

**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 would amend the Class E airspace extending upward from 700 feet above the surface at Marion Municipal Airport, Marion, OH, to support IFR operations at this airport.

### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2019–0355; Airspace Docket No. 19–AGL–15.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action

on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

**Availability and Summary of Documents for Incorporation by Reference**

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Proposal**

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace extending upward from 700 feet above the surface to within a 6.5-mile radius (reduced from a 7-mile radius) of Marion Municipal Airport, Marion, OH; adding an extension 9.6 miles north and 6 miles south of the 081° radial from the Buckeye VOR extending from the 6.5-mile radius to 7 miles from the Buckeye VOR; and removing the exclusion verbiage as it is no longer required.

This action is necessary due to an airspace review caused by the decommissioning of the Marion LOC/DME VOR, which provided navigation information for the instrument procedures at this airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**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 will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, 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 Marion, OH [Amended]**

Marion Municipal Airport, OH
(Lat. 40°36′59″ N, long. 83°03′49″ W)
Buckeye VOR
(Lat. 40°37′00″ N, long. 83°03′50″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Marion Municipal Airport, and within 9.6 miles north and 6 miles south of the 081° radial from the Buckeye VOR extending from the 6.5-mile radius to 7 miles east of the Buckeye VOR.

Issued in Fort Worth, Texas, on May 29, 2019.

**John Witucki,**

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

[FR Doc. 2019–11776 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2019–0358; Airspace Docket No. 19–AEA–7]**

**RIN 2120–AA66**

## Proposed Establishment of Class E Airspace; Minersville, PA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Primrose Heliport, Minersville, PA, to accommodate new area navigation (RNAV) global positioning system (GPS) standard instrument approach procedures serving this heliport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at this heliport.

**DATES:** Comments must be received on or before July 22, 2019.

**ADDRESSES:** Send comments on this proposed rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Bldg. Ground Floor Rm W12–140, Washington, DC 20590; Telephone: 1–800–647–5527, or (202)-366–9826. You must identify the Docket No. FAA–2019–0358; Airspace Docket No. 19–

AEA–7, at the beginning of your comments. You may also submit and review received comments through the internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11C, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line 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 7400.11C at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364..

**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 proposed 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 would establish Class E airspace extending upward from 700 feet above the surface at Primrose Heliport, Minersville, PA, to support standard instrument approach procedures for IFR operations at this heliport.

**Comments Invited**

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers and be submitted in triplicate to the address listed above. You may also submit comments through the internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2019–0358; Airspace Docket No. 19–AEA–7.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this document may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

**Availability and Summary of Documents for Incorporation by Reference**

This document proposes to amend FAA Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018. FAA Order 7400.11C is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11C lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Proposal**

The FAA is considering an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace extending upward from 700 feet above the surface within a 6-mile radius of Primrose Heliport, Minersville, PA, providing the controlled airspace required to support the new RNAV (GPS) standard instrument approach procedures for IFR operations at the heliport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.11C, dated August 13, 2018, and effective September 15, 2018, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

**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 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 proposed 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**

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 Federal Aviation Administration Order 7400.11C, Airspace Designations and Reporting Points, dated August 13, 2018, and effective September 15, 2018, is amended as follows:

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

* * * * *

**AEA PA E5 Minersville, PA [New]**

Primrose Heliport, PA
(Lat. 40°41′21″ N, long. 76°16′47″ W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Primrose Heliport.

Issued in College Park, Georgia, on May 23, 2019,

**Geoff Lelliott,**

*Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.*

[FR Doc. 2019–11778 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2018–0811; FRL–9994–07–Region 6]**

### Air Plan Approval; Texas; Control of Air Pollution From Motor Vehicles

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act, the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality. The revisions remove rules from the Texas SIP that address vehicle anti-tampering requirements and the Low Income Repair Assistance Program for certain participating counties.

**DATES:** Written comments should be received on or before July 8, 2019.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2018–0811, at *https://www.regulations.gov* or via email to *paige.carrie@epa.gov.* For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Paige, 214–665–6521, *paige.carrie@epa.gov.*

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, the EPA is approving the Texas SIP submittal as a direct rule without prior proposal because the EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

For additional information, see the direct final rule that is located in the rules section of this **Federal Register**.

Dated: May 28, 2019.

**David Gray,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2019–11761 Filed 6–5–19; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

**[CG Docket Nos. 10–51 and 03–123; FCC 19–39]**

### Improving Video Relay Service and Direct Video Calling

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (FCC or Commission) proposes to: permit communications assistants (CAs) to handle video relay service (VRS) calls at home on a permanent basis; allow VRS providers to provide service to new and porting VRS users for up to two weeks while the telecommunications relay service (TRS) user registration database (User Database or Database) administrator is verifying the user's registration information, with compensation paid only after the user's identity is verified; and implement log-in procedures to authenticate users prior to their use of enterprise and public videophones for VRS calls. By these proposals, the Commission seeks to improve VRS while safeguarding the program against waste, fraud, and abuse.

**DATES:** Comments are due August 5, 2019. Reply comments are due September 4, 2019.

**ADDRESSES:** You may submit comments, identified by CG Docket Nos. 10–51 and 03–123, by either of the following methods:

- *Federal Communications Commission's website: https://www.fcc.gov/ecfs/filings.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (888) 835–5322.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* document FCC 19–39 at: *https://docs.fcc.gov/public/attachments/FCC-19-39A1.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418–1264, or email *Michael.Scott@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking

(*FNPRM*), document FCC 19–39, adopted on May 9, 2019, released on May 15, 2019, in CG Docket Nos. 10–51 and 03–123. The Report and Order in document FCC 19–39 is published elsewhere in this issue of the **Federal Register**. The full text of document FCC 19–39 is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS), and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. 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 and Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq*. 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 presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

**Initial Paperwork Reduction Act of 1995 Analysis**

The *FNPRM* in document FCC 19–39 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

**Synopsis**

1. VRS is a form of TRS that enables people with hearing or speech disabilities who use sign language to make telephone calls over broadband with a videophone. In addition to enabling communication between American Sign Language (ASL) users and voice users, the VRS system also enables ASL users to communicate directly with other ASL users via video.

*Permitting At-Home Interpreting on a Permanent Basis*

2. The Commission proposes to convert the Commission's pilot VRS at-home call-handling program, which allows VRS providers to have their CAs handle some VRS calls from at-home workstations, to a permanent program that will be subject to safeguards designed to maintain service quality, protect call confidentiality, and prevent waste, fraud, and abuse. The Commission believes that taking this action is likely to expand the available pool of qualified sign-language interpreters who can work as VRS interpreters (*i.e.,* CAs) and improve VRS reliability, which will advance the Commission's goal of ensuring a high quality, functionally equivalent VRS program in furtherance of the objectives of section 225 of the Communications Act.

3. The Commission believes that the benefits anticipated in the pilot at-home call-handling program are being realized. Specifically, the VRS provider reports required under the pilot program indicate that allowing CAs to work at home: has enabled providers to attract and retain qualified CAs for whom working at the companies' call centers is not a practical option; has improved working conditions and productivity of CAs working at home; can improve network reliability and redundancy; and has the potential to help providers better respond to calls in accordance with the Commission's speed-of-answer rules when unforeseen circumstances occur. The Commission seeks comment on whether this depiction of these benefits is accurate, and whether other benefits have been realized during the pilot program or are likely to be realized if the program is authorized on a permanent basis. Are there any disadvantages to making this program permanent?

4. The Commission also seeks comment on whether, and to what extent, a rule change permitting at-home interpreting is likely to reduce or increase the total costs of the VRS program. Current program participants anticipate a significant net savings in VRS costs if permanent authorization allows the scale of the program to be expanded. The Commission seeks comment on how this would be achieved, and any additional information about costs incurred by participating providers. For example, costs could include training and supervising CAs, installing facilities and software to serve home workstations, troubleshooting and maintaining security at home workstations, ensuring compliance, and preparing required reports.

5. The Commission believes that the various safeguards established as conditions for participation in the pilot program generally have been effective in preventing waste, fraud, and abuse, meeting the TRS mandatory minimum standards, and ensuring the confidentiality, reliability, and quality of at-home interpreting. The Commission seeks comment on the extent to which the pilot program's safeguards generally have been effective. The Commission lists below each of the safeguards and seeks comment on the extent to which each should be retained, modified, eliminated, or supplemented if the Commission makes this program permanent. When responding, the Commission urges commenters, especially participating providers, to provide detailed information, including quantitative data to the extent available, in support of their views on whether and how these governing rules should be modified, as well as the costs and benefits of incorporating each into the

permanent program. Further, the Commission seeks comment on any differences in call quality between traditional call centers and CAs working from home.

6. *Personnel Safeguards.* The pilot program requires CAs working from their homes to have a minimum of three years of VRS experience. In addition, before allowing a CA to work at home, a VRS provider must:

- Ensure that the CA has sufficient experience, skills, and knowledge to effectively interpret from at-home workstations, including a thorough understanding of the Commission's mandatory minimum standards;
- Provide additional training to CAs to ensure that they understand and follow the provider's protocols for at-home call handling;
- Establish, and provide to the CA in writing, the grounds and process for dismissal from the at-home program if the CA fails to adhere to the Commission's TRS rules, including the specific requirements for at-home call handling; and
- Obtain a written certification from each CA as to their understanding of and commitment to complying with the Commission's TRS rules, and their understanding of the grounds and process for dismissal from the at-home program.

While CAs are working from home, the VRS provider must:

- Provide support equivalent to that provided CAs in call centers, including, where appropriate, the opportunity to team interpret; and
- Ensure that supervisors are readily available to resolve problems that may arise during a relay call.

Are these requirements effective in ensuring that CAs working at home can effectively handle VRS calls or should they be modified in any way? What, if any, screening, training, and disciplinary issues have been encountered in the pilot program and how have these been addressed? How should any such issues be dealt with in the Commission's rules?

7. *Technical and Environmental Safeguards.* Under the pilot program, VRS providers are required to ensure that at-home workstations enable the provision of confidential and uninterrupted service to the same extent as the provider's call center, and that calls handled by at-home CAs are seamlessly integrated into the provider's call routing, distribution, tracking, and support systems. Specifically, the provider must:

- Require that home workstations be placed in a separate location within the home, with restricted access and effective means to minimize the impact of outside noise and prevent eavesdropping;
- Configure at-home workstations to enable the CA to use all call-handling technology to the same extent as other CAs, including the ability to transition a non-emergency call to an emergency call, engage in virtual teaming with another CA, and allow supervisors to communicate with and oversee calls;
- Ensure that each at-home workstation is capable of supporting VRS in compliance with the Commission's mandatory minimum standards, including the provision of system redundancy and other safeguards to the same degree as at call centers, and including the ability to route VRS calls around individual CA workstations in the event they experience a network outage or other service interruption; and
- Connect workstations to the provider's network over a secure connection to ensure caller privacy.

8. Are these safeguards sufficient to ensure that CAs working from at-home workstations can provide high-quality, confidential, and uninterrupted service, and if not, what modifications to these requirements are necessary? What technical and environmental issues have been encountered in the pilot program, how have they affected the integration of calls handled by at-home CAs into the call routing, distribution, tracking and support systems, and how have any such technical challenges been addressed? How should any such issues be dealt with in the Commission's rules? Are some of the current safeguards—*e.g.,* the requirement for system redundancy at each workstation, disproportionately burdensome in relation to their value for the stated purpose(s)?

9. *Monitoring and Oversight Requirements.* To ensure that providers appropriately monitor and oversee the at-home call handling pilot program, they have been required to:

- Inspect and approve each at-home workstation before activating a CA's workstation for use;
- Equip each at-home workstation with monitoring technology sufficient to ensure that off-site supervision approximates the level of supervision at the provider's call center, including the ability to monitor both ends of a call, *i.e.,* video and audio, to the same extent as is possible in a call center, and regularly analyze any data collected to proactively address possible waste, fraud, and abuse;
- Conduct random, unannounced inspections of at least five percent (5%) of all at-home workstations per year; and
- Keep all records pertaining to at-home workstations, including the data produced by any at-home workstation monitoring technology, except for any data that records the content of an interpreted conversation, for a minimum of three years.

10. Do these monitoring and oversight requirements enable VRS providers to appropriately supervise the CAs working at home? What monitoring and oversight issues have been encountered in the pilot program and how have they been addressed? Which requirements were found to be most useful to ensure effective supervision of CAs? Under a permanent program, the number of at-home workstations is likely to increase. To what extent is this likely to increase the risk that individual CA workstations may fall short of full compliance with technical, environmental, and privacy safeguards? To ensure that providers detect and promptly address any such compliance issues, should the Commission increase the required annual percentage of at-home workstations that must be subject to random, unannounced provider inspections—for example to 10 or 15% of a provider's at-home workstations each year? What are the costs and benefits of adopting this requirement?

11. In addition to compliance with the above safeguards, during the pilot program, at-home workstations and workstation records must be available for review, audit, and unannounced inspections by the Commission and the TRS Fund administrator to the same extent as VRS call centers. The Commission proposes that, if made permanent, at-home workstations and records continue to be subject to such inspections to the same extent as regular call centers. The Commission seeks comment on this proposal.

12. *Authorization to Participate in the At-Home Call Handling Program.* To participate in the pilot program, each VRS provider was required to submit a detailed plan to demonstrate its ability to achieve full compliance with the above safeguards and the Commission's mandatory minimum TRS standards, including:

- A description of the provider's at-home CA screening and training process, the protocols and expectations established for CAs working at home, and the grounds and process for dismissing a CA from the at-home program;
- All steps that the provider would take to install a workstation in a CA's home, including an evaluation to ensure the workstation was sufficiently secure

and equipped to prevent eavesdropping and outside interruptions;

- A description of the monitoring technology to be used to ensure that off-site supervision approximated the level of supervision at the provider's call center;
- An explanation of how the provider's workstations would connect to the provider's network, including how these would be integrated into the call center routing, distribution, tracking, and support systems, and how the provider would ensure system redundancy in the event of service disruptions in at-home workstations;
- A signed certification by an officer of the provider affirming that the provider would conduct random and unannounced inspections of at least five percent (5%) of all at-home workstations during the year; and
- A commitment to comply with all other at-home call-handling safeguards and TRS rules.

13. To what extent should providers be required to provide the same level of detailed information, certification, and commitment, if at-home call handling is permitted on a permanent basis? Is any of the required information no longer necessary or disproportionately burdensome to its value in ensuring high-quality call handling and preventing fraud, waste, and abuse? What, if any, additional information should be collected to help the Commission maintain call quality and prevent fraud, waste, and abuse?

14. Under the pilot program, Commission approval for participation can be canceled at any time if the provider fails to maintain compliance. The Commission proposes that the Commission retain such option and seeks comment on this approach.

15. *Data Collection Requirements.* For calls handled at home workstations, the pilot program rules have required VRS providers to submit the following data in their monthly requests for compensation, in addition to the data otherwise required to receive payment for handling calls:

- A unique call center identification number (ID), street address, and CA ID for each CA working at home; and
- The location and call center IDs of call centers providing supervision for at-home workstations, and the names of persons at such call centers responsible for oversight of these workstations.

16. In addition, providers had to submit a six-month implementation report that includes:

- A description of the screening process used to select CAs who may work from home;
- Copies of training materials and written protocols for at-home CAs;
- The total number of CAs who have worked at home during the reporting period;
- The total number of 911 calls handled during the reporting period;
- A description and copies of any survey results or self-evaluations concerning CAs' experience handling calls at home;
- The total number of CAs terminated from the program;
- The total number of complaints, if any, submitted to the provider regarding its at-home call-handling program or calls handled by at-home CAs; and
- The total number of on-site inspections of at-home workstations conducted, along with the dates and locations of such inspections.

17. To what extent is the information required in monthly reports sufficient to support compensation requests and protect against waste, fraud, and abuse? Should the Commission continue to require VRS providers to submit such information as well as implementation reports at six-month intervals? If so, should these information reporting requirements be retained, modified, eliminated, or supplemented in any manner? Should any reported information be made available to the public? For example, if a VRS provider takes a survey of its CAs concerning their participation in the at-home VRS call handling program, could the aggregated responses be made public, as long as identifying information for CAs and respondents is redacted?

18. *Limitation on Service.* The Commission proposes to increase or remove the pilot program's 30 percent limit on a provider's at-home call-handling minutes. Increasing the limit would allow each provider greater scope to make its own determination on the extent to which it can efficiently make use of at-home call handling while remaining in compliance with our minimum TRS standards. The Commission seeks comment on the costs and benefits of this proposal and on whether the limit should be retained at a higher level, *e.g.,* 50 percent, or removed entirely. For example, could the limit be completely removed without significantly increasing the risk of fraud or abuse, in reliance on the safeguards described above?

*Providing Service to New and Porting Users Pending Database Verification*

19. To eliminate unnecessary inconvenience to VRS registrants, without a significant increase in the risk of waste, fraud, and abuse, and in response to a petition by the five currently certified VRS providers, the Commission proposes to allow VRS providers to provide service to new and porting users for up to two weeks pending the completion of identity verification. The Commission believes this change would be helpful to ensure that service to new and porting VRS users can be commenced efficiently and without undue delay or disruption of service, in order to facilitate competition and ensure the functional equivalence of this service. Compensation for calls placed or received by the user during this period would be paid only if the user's identity is ultimately verified.

20. For most users, identity verification is completed within hours of data submission to the User Database, but for some users, verification can take longer, *e.g.,* due to technical problems or because the user's identity cannot be verified without the submission of additional information. Under the proposed rule change, a consumer would not be subjected to a delay in commencement of service as a result of verification issues that are often beyond the consumer's control.

21. Under this proposal, VRS providers could assign a telephone number and begin service to a new or porting user immediately after registration. This telephone number would be entered in the TRS Numbering Directory on a temporary basis so that VRS calls (as well as point-to-point calls) may be placed to and from the number, either through the default provider or on a dial-around basis. In the event that the user's identity is not verified within the two-week period, the number would be removed from the Numbering Directory. The Commission believes that any resulting risk of waste, fraud, or abuse is minimal because, under the Commission's proposal, no compensation may be requested or paid until the user's identity has been verified. The Commission seeks comment on the costs and benefits of this proposal.

*Requiring Enterprise and Public Videophone Log-In Procedures*

22. The Commission seeks further comment on the Commission's proposal in the *2017 VRS Improvements FNPRM,* 82 FR 17613, to require default VRS providers to implement log-in procedures for individuals using enterprise and public videophones for VRS calls. The Commission believes that a log-in procedure is needed to safeguard the TRS program from waste, fraud, and abuse because there is no record identifying the actual user of an enterprise or public videophone. As the

success of fraudulent activity often depends on the perpetrators remaining anonymous, we believe user log-in is needed to ensure that enterprise and public videophones are actually used only by registered VRS users.

23. The Commission clarifies that, under the proposed log-in rule, VRS calls made to or from an enterprise or public videophone will be compensable only if: (1) The individual using the videophone is a registered VRS user; (2) before placing or receiving the call, the user provides a log-in code, consisting of the user's North American Numbering Plan (NANP) telephone number and a personal identification number (PIN) or password, which the VRS provider then validates through a prescribed procedure; and (3) the VRS provider includes the user's telephone number, as well as other information reasonably requested by the TRS Fund administrator, in the call detail records (CDRs) submitted to the TRS Fund administrator with the provider's request for compensation. The user can request a PIN or password from his or her default VRS provider at the time of registration or any time thereafter. The necessary log-in information and format will be determined by the TRS Numbering Administrator, in consultation with the User Database administrator and the Commission. Individuals who have not previously registered for VRS must do so before they can make VRS calls at enterprise or public videophones. The Commission seeks further comment on this proposal, including the proposed log-in procedure detailed below.

24. Because the proposed log-in procedure will limit access to enterprise and public videophones to registered VRS users, the Commission seeks comment on whether to revise the certification requirement for enterprise videophones adopted in the Report and Order of document FCC 19–39, so as to be consistent with the restriction to registered users. Should the Commission require VRS providers to submit to the User Database a certification by the responsible individual for an enterprise videophone that the organization, business, or agency will make reasonable efforts to ensure that only registered VRS users are permitted to use the phone for VRS?

25. Because total usage of enterprise and public videophones averages more than one million minutes per month, the Commission believes this degree of usage is sufficient to justify imposing a log-in requirement to help prevent the recurrence of significant VRS fraud. The Commission seeks comment on its assumptions and its estimate of enterprise and public videophone usage. The Commission also does not believe that the log-in procedure is a ''solution to a problem that does not exist,'' as claimed by Sorenson Communications, LLC (Sorenson). Nonetheless, the Commission seeks comment on the assumptions underlying its proposals in this regard.

26. Some commenters argue that a log-in requirement would conflict with functional equivalency, burden consumers, and hinder effective communication, noting that some public videophone users are not registered, while others may have difficulty remembering a PIN. However, the Commission believes that any burden imposed on users by the log-in requirement would be minor compared to its substantial benefit in preventing the misuse of enterprise and public videophones. Individuals use log-ins regularly to access smartphones, voicemail, and email, as well as work, school, and personal computers, and commercial, retail, and financial accounts. To use such devices and services, consumers routinely need to remember (or store in a retrievable location) usernames, passwords, and PINs. Further, consumers would not need to remember separate telephone numbers and PINs for each VRS provider, as once a user obtains a telephone number and PIN from one provider, that log-in information may be used to place a VRS call from any enterprise or public videophone. The Commission seeks comment on these assumptions. The Commission also seek comment on the cost to the VRS providers of having to provide a PIN reset service if this proposal is adopted.

27. *Neustar's Log-In Procedure Proposal.* Neustar, the TRS Numbering Administrator, explains that online log-in systems are common and suggests that providers could use the widely relied-upon OAuth standard to implement log-in functionality. OAuth allows one party (in this case the default VRS provider for an enterprise or public videophone) to request another party (in this case the default VRS provider for the individual using the videophone) to authenticate a person's authorization for them, without the first party learning the identity or credentials of that person. Providers could develop a standard using the OAuth 2.0 protocol or utilize an existing standard, such as OpenID Connect, which is an interoperable authentication protocol based on the OAuth family of specifications. OAuth might be applied as follows: when a VRS user enters a telephone number and PIN at an enterprise or public videophone, the default VRS provider serving the videophone checks the TRS Numbering Directory to determine the user's default VRS provider for that number, and sends the telephone number and PIN to that provider; if authentication is positive, the user's default VRS provider transmits a token that allows the user to place or receive a VRS call at the videophone.

28. Neustar asserts that the cost and effort to develop an OAuth-based log-in feature would be reasonable and that development could be completed within six months. Neustar explains that many providers already utilize a username/password capability that could be extended to OAuth, and that even for providers who currently lack such a capability, the availability of open source code means that the cost of implementing OAuth servers and username/password capability will be modest. The Commission therefore tentatively concludes that the benefits of adopting a login requirement would far exceed the minimal costs of implementing it.

29. If the VRS industry implements OAuth, the Commission believes that would enable enterprise OAuth integrations which would allow for an enterprise user to provide the VRS telephone number and log in with the user's enterprise credentials, and the enterprise would attest to the VRS provider that an authorized user has logged in. The Commission seeks comment on the costs and feasibility of Neustar's proposal and on the Commission's tentative conclusion that these costs will be minimal. What are the estimated costs of implementing an OAuth based log-in solution, including the streamlined version proposed by Neustar, and how would those costs vary by provider? While Sorenson estimates a cost of ''over $1 million'' for ''creating, testing, and deploying an OAuth authorization server and modifying and testing videophone software,'' it fails to support this claim. The Commission therefore seeks cost information regarding this estimate and any updated estimate. How much of the estimated cost is attributable to an OAuth server and how much is attributable to necessary videophone software modification? What kinds of videophone software would need to be modified, and why? What costs would be incurred by other providers? Are there significant differences in software modification costs for public and enterprise videophones, respectively?

30. It appears that total implementation costs could be reduced if the Commission exempted certain kinds of videophones from the log-in

requirement. For example, Sorenson claims that that its ntouch videophones were not designed to have an internet browser and therefore cannot be modified to support a log-in mechanism. How many unmodifiable ntouch public and enterprise videophones are currently in use, and how much usage is there for such videophones? How much of the total estimated implementation cost would be saved by exempting them? Are there other videophones currently used in public and enterprise locations that do not have, and cannot be modified to support, an internet browser? How many such videophones are there and how much of the total estimated implementation cost would be saved by exempting them? How much usage is there of unmodifiable public and enterprise videophones, and would the implementation costs saved justify the increased risk of fraud from continuing to allow unidentified use of such phones? Would it be more cost effective to implement a log-in solution through VRS software used on third-party equipment, such as a personal computer or wireless device? To what extent is such third-party equipment with VRS software deployed or deployable for use as enterprise and public videophones? If the Commission exempts existing videophones that cannot support browser functionality, should it require that, before registering new enterprise and public videophones, the default VRS provider must confirm that such phones have browser functionality and support OAuth log-in capability? The Commission also seeks comment from manufacturers, vendors, and owners of enterprise telephone systems and other non-provider equipment and software used for enterprise and public videophones, regarding the ability of such systems to support log-in capability.

31. OAuth 2.0 enables devices without browsers or an ability to securely enter passcodes, such as legacy devices in public areas, where people can see what characters a user is typing on a screen, to still have secure authentication. However, the OAuth 2.0 solution to this problem requires the user to have access to the internet with a browser. Is it likely that a user who wants to use a public or semi-public legacy device will have access to the internet, perhaps on a personal mobile phone; personal or communal tablet; or personal or public workstation or laptop? If the users who have smartphones, tablets, or laptops can use them to communicate via VRS, are these users making use of public and enterprise videophones? If not, who is making use of public and enterprise videophones? In the case of public phones, are the users generally individuals without smartphones, tablets, or laptops? In the case of enterprise phones, are the users generally using the enterprise phones to ensure that their videocalls are made over the communications facilities managed by the enterprise?

32. Sorenson also claims that there are ''significant security vulnerabilities'' in OAuth and other third-party authentication applications. According to the studies cited by Sorenson, however, such vulnerabilities are not caused by OAuth 2.0 itself but by ''home-brewed adaptations'' in which ''the implicit security assumptions and operational requirements . . . are often not clearly documented or well-understood by the 3rd-party mobile app developers.'' What specific security issues would providers face in implementing an OAuth-based log-in solution, and what safeguards are available to address such concerns? Are there alternative log-in solutions that would not raise similar security vulnerability concerns?

33. To date only Neustar has proposed a log-in solution. Are there other log-in solutions the Commission should consider? The OAuth specification is designed for use with HTTP. Would a session initiation protocol (SIP)-based standard, such as RADIUS or Diameter provide a more cost-effective or secure standard for implementing a log-in solution? The Commission also proposes to establish a common protocol for the log-in procedure to ensure that user log-ins can be quickly authenticated regardless of the user's default provider. Neustar indicates that in its role as the TRS Numbering administrator it could act as a proxy and direct the OAuth authentication process to the correct VRS provider without revealing the provider's identity to the provider of the enterprise or public videophone. The Commission seeks comment on this approach. Alternatively, should the Commission allow each provider to develop its own log-in protocol rather than require providers to implement a common protocol? What are the costs and benefits of each alternative approach? To what extent do providers already use log-in procedures for users to access VRS? Could such existing log-in procedures be incorporated into a log-in procedure for enterprise and public videophones?

34. *Exemptions.* The Commission proposes to exempt point-to-point calls from the log-in requirement, because such calls are not billed to the TRS Fund. How would exempting point-to-point calls affect the implementation of a log-in procedure? At what point in the call process should a user be prompted to log-in to complete a VRS call on an enterprise or public videophone?

35. Where an enterprise videophone is located within a private workspace or a private room within a long-term health care facility, the Commission proposes to allow the VRS provider to permit one registered VRS user to log in a single time and thereafter to continue using the videophone without repeated log-ins, so long as that user continues to be eligible and registered for VRS. In addition, the Commission proposes to broaden this proposed log-in exemption to allow relatively convenient access to shared enterprise devices, while limiting usage of the device to registered VRS users. For enterprise videophones at reception desks or other work areas in places of employment, the Commission proposes to allow up to five registered users to be simultaneously logged in to a videophone, provided that the phone is configured so that each user must select his or her user profile before placing or answering a VRS call. To limit misuse of this exemption, the Commission proposes to require VRS providers to keep records of users that are pre-authorized under each of these exceptions and to discontinue permission for such automatic use by any individual that the provider knows or has reason to believe no longer needs access to the device. What are the associated costs, benefits, and technical concerns?

36. The Commission also proposes to exempt 911 calls from the log-in requirement, so that providers may complete emergency calls from enterprise and public videophones at any time and without delay. The Commission seek comments on this proposal. Are there technical concerns with implementing a log-in exemption for calls to 911?

37. Finally, the Commission proposes to exempt from the log-in requirement otherwise eligible VRS calls made from public videophones located in emergency shelters and domestic abuse shelters, so long as the registration data provided to the User Database in advance of such use identifies the phone as an emergency or domestic shelter videophone. The Commission believes there may be situations where individuals fleeing their homes may not have made log-in arrangements in advance of an emergency or domestic abuse incident, or may forget to retrieve such information when rushing to a

shelter. Providing individuals the ability to establish telephone communications could be vital to their health and safety in crisis situations. The Commission seeks comment on this proposal. Are there other locations where the Commission should adopt an emergency situation exemption to the log-in requirement for enterprise and public phones? How should the Commission define the scope of exempt locations for this purpose?

38. *Alternatives to a Log-In Requirement.* The Commission also asks for comment on alternatives to a log-in requirement. For example, Sorenson argues that, once enterprise and public videophones are registered in the User Database, it should be sufficient for a VRS user to enter the user's VRS telephone number (without a PIN) before completing a call, noting that the TRS Fund administrator would have the ability to monitor usage trends at these phones to identify anomalous call patterns that may require further investigation. Sorenson also states that it requires all users who place a VRS call from a public phone to digitally sign to indicate that they have a hearing or speech disability and need VRS to communicate. Sorenson's certification states:

By clicking the ''Accept,'' you certify that you have a hearing or speech disability and that you need VRS to be able to communicate with other people. You further certify that you understand that the cost of VRS calls is paid for by contributions from other telecommunications users to the interstate Telecommunications Relay Service Fund.

39. Sorenson also proposes that the person responsible for compliant use of the enterprise or public videophone self-certify their status as the responsible person on a quarterly basis. The Commission seeks comment on Sorenson's proposals and invites commenters to propose other alternatives. The Commission asks commenters to address the costs and benefits of each alternative, including the extent to which such alternatives will protect the TRS Fund from waste, fraud, and abuse.

*Technical Correction of the Data Collection Rule*

40. The Commission proposes a technical correction of 47 CFR 64.604(c)(5)(iii)(D), which addresses requirements imposed on TRS providers generally regarding data collection and audits. When the Commission amended this provision (then designated as § 64.604(c)(5)(iii)(C)) in 2011, it appears that a portion of the text of paragraph (*1*) was inadvertently deleted. Accordingly, the Commission proposes to amend paragraph (*1*) to restore the missing text, to read as follows (with the restored text in bold, underlined type):

TRS providers seeking compensation from the TRS Fund shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested to determine the TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: Total TRS minutes of use, total interstate TRS minutes of use, **total operating expenses and** total TRS investment in general in accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements.

41. The Commissions seeks comment on this proposed amendment, which the Commission does not anticipate will have any effect on the current practices of the TRS Fund administrator or TRS providers.

**Initial Regulatory Flexibility Analysis**

42. As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in document FCC 19–39. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments specified in the **DATES** section. The Commission will send a copy of document FCC 19–39 to the Chief Counsel for Advocacy of the Small Business Administration.

*Need for, and Objectives of, the Proposed Rules*

43. In document FCC 19–39, the Commission proposes to (1) permit communications assistants (CAs) to handle video relay service (VRS) calls at home on a permanent basis; (2) allow VRS providers to provide service to new and ported users at their own risk for up to two weeks while the telecommunications relay service (TRS) user registration database (Database) administrator is verifying the user's registration information; and (3) implement log-in procedures to authenticate users prior to their use of enterprise and public videophones. If adopted, these proposals would improve video communications for people with disabilities, while safeguarding the VRS program against waste, fraud, and abuse by ensuring that only eligible individuals use enterprise and public videophones to place VRS calls.

*Legal Basis*

44. The authority for this proposed rulemaking is contained in 47 U.S.C. 151, 225.

*Small Entities Impacted*

45. The rules proposed in document FCC 19–39 will affect obligations of VRS providers. These services can be included within the broad economic category of All Other Telecommunications.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

46. The proposals to permit CAs to handle VRS calls at home on a permanent basis and to allow VRS providers to provide service to new and ported users for up to two weeks while the Database administrator is verifying the user's registration information do not create any new reporting, recordkeeping, or other compliance requirements on VRS providers beyond what is already required. The rules requiring users to log in when using enterprise and public videophones will require VRS providers to collect and retain log-in information from users.

*Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered*

47. The proposal to permit CAs to handle VRS calls at home would make the current pilot program permanent, and participation in the program would continue to be optional for VRS providers. The Commission is not proposing any new requirements that would increase regulatory requirements beyond those that are already required as part of the pilot program. The existing and proposed requirements would apply equally to all VRS providers and are necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that CAs are subject to proper supervision and accountability. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

48. The proposal to allow VRS providers to provide service to new and ported users for up to two weeks while the Database administrator is verifying the user's registration information would simply provide a new option for VRS providers. The Commission is not proposing any new requirements that would increase regulatory requirements

beyond those that are already required. The existing and proposed requirements would apply equally to all VRS providers and are necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that providers are not compensated for service provided to users who do not satisfy the verification requirements. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

49. The provision of VRS to enterprise and public videophones is optional for VRS providers. The proposed user log-in requirements for such videophones would apply equally to all VRS providers and users, and are necessary to prevent waste, fraud, and abuse of the TRS Fund by ensuring that only registered users can use such phones for VRS calls. The log-in requirements for enterprise and public videophones would be no more burdensome than user authentication procedures for pay phones and for any type of commercial activity such as on-line banking and bill paying and use of various other internet services. To the extent there are differences in operating costs resulting from economies of scale, those costs are reflected in the different rate structures applicable to large and small VRS providers.

50. The Commission seeks comment from all interested parties. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in document FCC 19–39. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to document FCC 19–39, in reaching its final conclusions and taking action in this proceeding.

*Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals*

51. None.

**List of Subjects in 47 CFR Part 64**

Individuals with disabilities, Telecommunications, Telephones.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 part 64 as follows:

## PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 47 U.S.C. 154, 201, 202, 217 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, and 1401–1473, unless otherwise noted.

■ 2. Amend § 64.604 by revising paragraph (c)(5)(iii)(D)(*1*) to read as follows:

**§ 64.604 Mandatory minimum standards.**

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(D) * * *

(*1*) TRS providers seeking compensation from the TRS Fund shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested to determine the TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total operating expenses and total TRS investment in general in accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements.

* * * * *

■ 3. Amend § 64.611 by revising paragraphs (a)(4) and (a)(6)(ii)(A) and by adding paragraphs (a)(6)(vi) through (viii) to read as follows:

**§ 64.611 internet-based TRS registration.**

(a) * * *

(4) *TRS User Registration Database information for VRS.*

(i) *Registration information.* Prior to requesting compensation from the TRS Fund for service provided to a consumer, a VRS provider shall obtain the consumer's:

(A) Full name;

(B) Date of birth;

(C) Full residential address;

(D) Telephone number; and

(E) Last four digits of the consumer's Social Security number or Tribal identification number.

(ii) *Registration submission.* Each VRS provider shall collect and transmit to the TRS User Registration Database, in a format prescribed by the administrator of the TRS User Registration Database, the following information for each of its new and existing registered internet-based TRS users: Full name; full residential address; ten-digit telephone number assigned in the TRS numbering directory; last four digits of the social security number or Tribal Identification number, if the registered internet-based TRS user is a member of a Tribal nation and does not have a social security number; date of birth; Registered Location; VRS provider name and dates of service initiation and termination; a digital copy of the user's self-certification of eligibility for VRS and the date obtained by the provider; the date on which the user's identification was verified; and (for existing users only) the date on which the registered internet-based TRS user last placed a point-to-point or relay call.

(iii) Each VRS provider must obtain, from each new and existing registered internet-based TRS user, consent to transmit the registered internet-based TRS user's information to the TRS User Registration Database. Prior to obtaining consent, the VRS provider must describe to the registered internet-based TRS user, using clear, easily understood language, the specific information being transmitted, that the information is being transmitted to the TRS User Registration Database to ensure proper administration of the TRS program, and that failure to provide consent will result in the registered internet-based TRS user being denied service. VRS providers must obtain and keep a record of affirmative acknowledgment by every registered internet-based TRS user of such consent.

(iv) VRS providers must, for existing registered internet-based TRS users, submit the information in paragraph (a)(3) of this section to the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information. Calls from or to existing registered internet-based TRS users that have not had their information populated in the TRS User Registration Database within 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information shall not be compensable.

(v) VRS providers must submit the information in paragraph (a)(4) of this section upon initiation of service for users registered after 60 days of notice from the Commission that the TRS User Registration Database is ready to accept such information.

* * * * *

(6) * * *

(ii) * * *

(A) A default VRS provider for an enterprise or public videophone shall obtain a written certification from the individual responsible for the videophone, attesting that the

individual understands the functions of the videophone and that the cost of VRS calls made on the videophone is financed by the federally regulated Interstate TRS Fund, and for enterprise videophones, that the organization, business, or agency will make reasonable efforts to ensure that registered VRS users are permitted to use the phone for VRS.

* * * * *

(vi) Beginning 180 days after notice from the Commission that the TRS User Registration Database and TRS Numbering Directory are ready to process log-in information from enterprise and public videophones, VRS calls at such videophones shall not be compensable from the TRS Fund unless the videophone has been registered in accordance with this section, the videophone user is a registered VRS user, and the videophone user has logged into the videophone.

(vii) Only one user may be logged into an enterprise or public videophone at any time, except that, for an enterprise videophone located at a reception desk or other work area, up to five users may be logged in simultaneously, provided that the phone is configured so that each user must select his or her individual user profile before answering or placing a call. Providers shall keep records of users that are pre-authorized under this paragraph and shall discontinue permission for such automatic use by any individual that the provider knows or has reason to believe no longer needs access to the device.

(viii) Emergency 911 calls from enterprise and public videophones and calls from public videophones installed in emergency shelters shall be exempt from the videophone user log in requirements of paragraph (a)(6)(vi) of this section.

* * * * *

■ 4. Amend § 64.615 by revising paragraphs (a)(2)(i) through (v) to read as follows:

**§ 64.615 TRS User Registration Database and administrator.**

(a) * * *

(2) * * *

(i) VRS providers shall validate the eligibility of a party using an enterprise or public videophone by querying the designated database in accordance with paragraph (a)(1) of this section.

(ii) VRS providers shall transmit with such queries any log-in information specified in the database administrator's instructions for validating such calls.

(iii) VRS providers shall require their CAs to terminate any call which does not include an individual eligible to use VRS or, pursuant to the provider's policies, the call does not appear to be a legitimate VRS call, and VRS providers may not seek compensation for such calls from the TRS Fund.

(iv) Emergency 911 calls from enterprise and public videophones shall be exempt from the videophone validation requirements of paragraph (a)(2)(i) of this section.

(v) Emergency 911 calls from enterprise and public videophones and calls from public videophones installed in emergency shelters shall be exempt from the videophone user log-in requirements of paragraph (a)(2) of this section.

* * * * *

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## SURFACE TRANSPORTATION BOARD

### 49 CFR Part 1152

**[Docket No. EP 749 (Sub-No. 1); Docket No. EP 753]**

### Limiting Extensions of Trail Use Negotiating Periods; Rails-to-Trails Conservancy—Petition for Rulemaking

**AGENCY:** Surface Transportation Board.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The Surface Transportation Board (Board) grants in part a petition filed by the Rails-to-Trails Conservancy (RTC) in Docket No. EP 753 and amends its prior proposal in Docket No. EP 749 (Sub-No. 1) to revise certain regulations related to the National Trails System Act. Specifically, the Board proposes to modify, through this supplemental notice of proposed rulemaking (*SNPR*), its regulations to establish a new one-year period for any initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

**DATES:** Comments are due by July 8, 2019; replies are due by July 26, 2019.

**ADDRESSES:** Comments and replies may be submitted either via the Board's e-filing format or in paper format. Any person using e-filing should attach a document and otherwise comply with the instructions found on the Board's website at *www.stb.gov* at the E-filing link. Any person submitting a filing in paper format should send an original to: Surface Transportation Board, Attn: Docket No. EP 749 (Sub-No. 1) et al., 395 E Street SW, Washington, DC 20423–0001.

**FOR FURTHER INFORMATION CONTACT:** Sarah Fancher, (202) 245–0355. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** On June 14, 2018, the National Association of Reversionary Property Owners (NARPO), filed a petition requesting that the Board consider issuing three rules related to 16 U.S.C. 1247(d), the codification of section 8(d) of the National Trails System Act (Trails Act), Public Law 90–543, section 8, 82 Stat. 919, 925 (1968) (codified, as amended, at 16 U.S.C. 1241–1251). After considering NARPO's petition for rulemaking and the comments received, the Board granted the petition in part as it pertained to its first proposed rule and instituted a rulemaking proceeding in *Limiting Extensions of Trail Use Negotiating Periods* (*NPR*), EP 749 (Sub-No. 1) (STB served Oct. 2, 2018) (83 FR 50,326), to propose modifications to 49 CFR 1152.29 that would limit the number of 180-day extensions of the interim trail use negotiating period to a maximum of six extensions, absent extraordinary circumstances. *See* discussion *infra* Extensions of the Interim Trail Use Negotiating Period section (Discussing the Board's *NPR*). The Board, however, denied NARPO's petition with regard to its other two proposed rules.[1]

On March 22, 2019, after the comment period closed in Docket No. EP 749 (Sub-No. 1), RTC petitioned the Board to institute a rulemaking proceeding to further revise section 1152.29 to establish a one-year period for any initial interim trail use negotiating period and codify the Board's authority to grant extensions of the negotiating period for good cause shown. RTC acknowledges that its petition overlaps to some extent with the *NPR* (RTC Pet. 4–5); both RTC's petition and the Board's NPR pertain to the same regulation, section 1152.29. As explained below, the Board will consolidate that proceeding, *Rails-to-Trails Conservancy—Petition for Rulemaking,* Docket No. EP 753, with *Limiting Extensions of Trail Use*

[1] In its petition, NARPO also requested that the Board require a railroad or trail sponsor negotiating an interim trail use agreement to send notice of the issuance of a Certificate of Interim Trail Use (CITU) or Notice of Interim Trail Use (NITU) to landowners adjacent to the right-of-way covered by the CITU/NITU; and require all entities, including government entities, filing a request for a CITU/NITU, or extension thereof, to pay a filing fee.

*Negotiating Periods,* Docket No. EP 749 (Sub-No. 1).[2]

In response to both the *NPR* and RTC's petition for rulemaking, the Board received a significant number of comments.[3] The principal issues raised in the comments, to the extent relevant here, are addressed below. Even if not specifically discussed, the Board has carefully reviewed all the comments on the *NPR* and the RTC petition and taken each comment into account in proposing the revised rule.[4]

**Background**

As explained in the *NPR,* EP 749 (Sub-No. 1), slip op. at 2–4, under the Trails Act, the Board must ''preserve established railroad rights-of-way for future reactivation of rail service'' by prohibiting abandonment where a trail sponsor agrees to assume full managerial responsibility and tax and legal liability for the right-of-way for use in the interim as a trail. 16 U.S.C. 1247(d); *Nat'l Wildlife Fed'n* v. *ICC,* 850 F.2d 694, 699–702 (D.C. Cir. 1988). The statute expressly provides that ''if such interim use is subject to restoration or reconstruction for railroad purposes, such interim use shall not be treated, for [any] purposes . . . as an abandonment . . . .'' section 1247(d). Instead, the right-of-way is ''railbanked,'' [5] which means that the railroad is relieved of the current obligation to provide service over the line but that the railroad (or any other approved rail service provider,[6] in appropriate circumstances) may reassert control over the right-of-way to restore service on the line in the future. *See Birt,* 90 F.3d at 583; *Iowa Power—Const. Exemption—Council Bluffs, Iowa,* 8 I.C.C.2d 858, 866–67 (1990); 49 CFR 1152.29.[7]

The Trails Act is invoked when a prospective trail sponsor files a request with the Board to railbank a line that a rail carrier has proposed to abandon. The trail sponsor's request must include a statement of willingness to assume responsibility for management of, legal liability for, and payment of taxes on, the right-of-way and an acknowledgement that interim trail use is subject to possible future reconstruction and reactivation of rail service at any time. 49 CFR 1152.29(a). If the railroad indicates its willingness to negotiate a railbanking/interim trail use agreement for the line,[8] the Board will issue for the line a CITU (in an abandonment application proceeding) or NITU (in an abandonment exemption proceeding). 49 CFR 1152.29(c)(1), (d)(1). The CITU/NITU grants parties a 180-day period (which can be extended by Board order) to negotiate a railbanking agreement. 49 CFR 1152.29(c)(1), (d)(1); *Birt,* 90 F.3d at 583, 588–90 (affirming the agency's authority to grant ''reasonable'' extensions of the Trails Act negotiating period). *See also Grantwood Vill.* v. *Missouri Pac. R.R.,* 95 F.3d 654, 659 (8th Cir. 1996) (stating that the ICC ''was free to extend [the 180-day CITU/NITU] time period for an agreement'').

If parties reach an agreement during the interim trail use negotiating period, the CITU/NITU automatically authorizes railbanking/interim trail use. *Preseault,* 494 U.S. at 7 n.5. If no railbanking/interim trail use agreement is reached by the expiration of the CITU/NITU 180-day negotiation period (and any extension thereof), the CITU/NITU authorizes the railroad to ''exercise its option to fully abandon'' the line by consummating the abandonment, without further action by the agency, 49 CFR 1152.29(c)(1), (d)(1), provided that there are no legal or regulatory barriers to consummation. *Birt,* 90 F.3d at 583; *see also Consummation of Rail Line Abans. That Are Subject to Historic Pres. & Other Envtl. Conditions,* EP 678, slip op. at 3–4 (STB served Apr. 23, 2008).[9]

**Preliminary Matter**

Following the Board's issuance of the *NPR* and receipt of comments on that proposal, RTC petitioned the Board in Docket No. EP 753 to institute a rulemaking proceeding to revise the same regulation the Board proposed to revise in the *NPR,* section 1152.29. According to RTC, its comments submitted in opposition to the *NPR* noted that RTC's data and analysis of railbanking orders supported the need for an ''entirely different regulatory change: The establishment of a one-year period for any initial interim trail use negotiating period and codification of the [Board's] current regulatory practice of granting extensions of the railbanking negotiating period for good cause shown.'' (RTC Pet. 4.) Unlike the *NPR,* RTC's proposal would not limit the number of extensions permitted. (*See id.* at 4.) RTC states that it proposed changes in its comments responding to the *NPR,* but that, to the extent that the Board may view RTC's proposal as outside the scope of the *NPR,* RTC submits an alternative petition for rulemaking so that the Board may consider its proposed changes. (*Id.* at 4–5.)

The Board has broad discretion to consolidate proceedings under appropriate circumstances. In deciding whether to consolidate proceedings, the Board considers whether the applicable proceedings involve common facts, issues, and parties; whether consolidation would promote efficiency; and whether consolidation would unduly delay the proceedings or prejudice any party. *See, e.g., Honey Creek R.R.—Pet. for Declaratory Order,* FD 34869, slip op. at 3 (STB served June 4, 2008).

The Board's decision as to whether to consolidate two proceedings in any particular situation is dependent on the facts and circumstances of the case. Both proceedings here concern procedures for the extension of interim trail use negotiation periods, and RTC and NARPO, among others, are parties to both proceedings. The consolidation of the proceedings would also aid the Board in efficiently addressing the issues raised here, while causing no undue delay to the proceedings or prejudice to any parties. Accordingly, the Board will exercise its discretion to consolidate the proceedings.

[2] In the interest of a complete record, the Board will accept all late-filed submissions to date in both dockets.

[3] The Board received comments from over 200 parties in response to the *NPR;* additionally, nearly 50 parties commented on RTC's petition.

[4] The Board notes that comments not directly related to the Board's revised proposal in this decision will be considered in furtherance of a final decision.

[5] If a line is railbanked and designated for trail use, any reversionary interests that adjoining landowners might have under state law upon abandonment are not activated. *Preseault* v. *ICC,* 494 U.S. 1, 8 (1990); *Birt* v. *STB,* 90 F.3d 580, 583 (D.C. Cir. 1996).

[6] *See King Cty., Wash.—Acquis. Exemption—BNSF Ry.,* FD 35148, slip op. at 3–4 (STB served Sept. 18, 2009).

[7] The Board and its predecessor, the Interstate Commerce Commission (ICC), have promulgated, modified, and clarified rules to implement the Trails Act a number of times. *See, e.g., Nat'l Trails System Act & R.R. Rights-of-Way,* EP 702 (STB served Apr. 30, 2012); *Aban. & Discontinuance of Rail Lines & Rail Transp. Under 49 U.S.C. 10903,* 1 S.T.B. 894 (1996); *Policy Statement on Rails to Trails Conversions,* EP 272 (Sub-No. 13B) (ICC served Jan. 29, 1990); *Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures,* 4 I.C.C.2d 152 (1987); *Rail Abans.—Use of Rights-of-Way as Trails,* 2 I.C.C.2d 591 (1986).

[8] The Board uses the terms ''railbanking'' and ''interim trail use'' interchangeably when discussing a CITU or NITU.

[9] The Board retains jurisdiction over a rail line throughout the interim trail use negotiating period, any period of railbanking/interim trail use, and any period during which rail service is restored. The Board's jurisdiction is terminated once the CITU/NITU is no longer in effect and the railroad has lawfully consummated its abandonment authority by filing a notice of consummation under 49 CFR 1152.29(e)(2). *See* section 1247(d); *Hayfield N. R.R.* v. *Chi. & N. W. Transp. Co.,* 467 U.S. 622, 633 (1984). Upon such occurrence, the right-of-way will revert to any reversionary landowner. *Preseault,* 494 U.S. at 5, 8.

*Duration of Initial Interim Trail Use Negotiating Period*

In its petition for rulemaking, RTC proposes that the Board establish a one-year period for any initial interim trail use negotiations to replace the current 180-day initial negotiation period.[10] (RTC Pet. 1.) RTC indicates that it maintains a detailed database of railbanked corridors. (*Id.* at 2.) RTC states that, since 1987, it has tracked all abandonment filings by the Board-assigned docket number and filing and decision dates, and has included in its database, among other things, information on whether the Board issued a CITU/NITU to allow interim trail use/railbanking negotiations between a potential trail sponsor and a railroad. (*Id.*) In instances where the Board issues a CITU/NITU, RTC states that it documents: (1) Information about the CITU/NITU filer; (2) whether the railroad agrees to negotiate; (3) the negotiation start and end dates; (4) the success or failure of the negotiations; and (5) the names of any trails opened on the corridor, or any trails intended to be opened in the future. (*Id.*)

RTC asserts that, as of November 2018, its database contains records for 718 issued CITUs/NITUs dating from 1987. (*Id.* at 6.) According to RTC, of the 718 CITUs/NITUs, at least 393 corridors—representing 5,895.53 miles—were successfully railbanked and remain railbanked today. (*Id.* at 7.) RTC further asserts that, of the 370 railbanked corridors for which its database indicates the length of negotiations,[11] 289 railbanking agreements (78.1%) required more than 180 days to negotiate, while approximately half (183 of the 370 corridors) were negotiated within one year. (*Id.*) RTC argues that its data supports the conclusion that an initial railbanking negotiating period of one year, rather than 180 days, would more closely reflect the actual length of time required to complete railbanking negotiations. (*Id.*) RTC notes that establishing a one-year initial interim trail use negotiating period would promote greater administrative efficiency and reduce burdens on trail use proponents and railroads to file extension requests, and on the Board to review and approve such requests. (*Id.* at 8–9.)

In response to RTC's petition, the Board received comments from nearly 50 parties, including rail carriers, landowners, trail interest groups, and government entities. The overwhelming majority of commenters support RTC's proposal to establish a one-year duration for any initial interim trail use negotiating period.[12] One commenter, however, opposes RTC's proposal, arguing that the proposal fails to consider the rights of property owners located adjacent to rights-of-way authorized to be abandoned. (Lyons Comments 1, Apr. 3, 2019, EP 753.) NARPO filed comments stating that it does not oppose the establishment of a one-year period for any initial interim trail use negotiating period. (NARPO Comments 2, Apr. 2, 2019, EP 753.) As discussed further below, however, NARPO reiterates its request, discussed in the *NPR,* that any CITU/NITU extension be limited to three years and notes its opposition to the codification of any rule that would extend the CITU/NITU negotiating period for ''good cause shown.'' (*Id.* at 1.)

After considering RTC's petition and the responsive comments filed, the Board will revise its October 2, 2018 proposed rule and now propose a rule establishing a one-year initial period for interim trail use negotiations. Numerous commenters argue that the time required to negotiate an interim trail use agreement frequently exceeds the 180-day period currently set forth at 49 CFR 1152.29(c)(1) and (d)(1), (*see, e.g.,* Milwaukee Cty. Parks Comments 1, Apr. 4, 2019, EP 753; City of Chi. Comments, Apr. 11, 2019, EP 753). That conclusion is also supported by RTC's comments that, according to its database, approximately three-quarters of the interim trail use/rail banking agreements reached since 1987 required more than 180 days to negotiate, while approximately half were negotiated within one year. Establishing a one-year interim trail use negotiating period would reduce burdens on trail use proponents and railroads related to the filing of extension requests, would reduce the number of filings requiring Board action (and conserve Board resources), and would more closely reflect the actual time needed to complete railbanking negotiations. Regarding the suggestion that RTC's proposal ignores the rights of landowners, (*see* Lyons Comments 1, Apr. 3, 2019, EP 753), the record suggests that adopting a one-year period for initial interim trail use negotiations would not unduly prejudice landowners, as this proposal merely reflects more closely the actual length of time in which many railbanking negotiations are completed.

*Extensions of the Interim Trail Use Negotiating Period*

In the *NPR,* EP 749 (Sub-No. 1), slip op. at 1, the Board sought comment on whether it should limit the number of 180-day extensions of an interim trail use negotiating period to six, unless the requesting party could demonstrate that extraordinary circumstances justified the grant of a further extension. The Board received comments from over 200 parties on that issue, including comments from a rail carrier, landowners, trail interest groups, and local and state agencies.

Landowners and related groups express support for limiting the number of 180-day extensions of an interim trail use negotiating period to six. One commenter argues that the original intent of railbanking has been misused by trail and cycling advocates, thereby preventing property owners from reclaiming their property when a railroad has legitimately abandoned a rail line. (Falcsik Comments 1, Oct. 31, 2018, EP 749 (Sub-No. 1).) Others comment that the Board's use of ''unlimited'' extensions has been excessive and unfair to landowners. (*E.g.,* Gorgas Comments 1, Oct. 15, 2018, EP 749 (Sub-No. 1).) NARPO states that the way in which the Board currently handles NITU extensions does not allow certainty, finality, and stability in the land titles of the property owners abutting the proposed rail trails. (NARPO Reply 5, Nov. 20, 2018, EP 749 (Sub-No. 1).) NARPO argues that the Board's proposal in the *NPR* is a reasonable compromise that allows some measure of finality and certainty to abutting property owners. (*Id.* at 6–7.)

Numerous trail supporters, including government entities, individuals, and interest groups, filed comments in opposition to the *NPR.* Most emphasize the benefits of trails, and some provide specific examples of how particular railbanking processes took more than three years to negotiate.[13] (*E.g.,* Alabama Trails Commission Comments 1, Oct. 31, 2018, EP 749 (Sub-No. 1).) Many

[10] As noted above, RTC also makes this proposal in its comments on the *NPR.* (RTC Comments 17–18.)

[11] RTC states that its database lacks information on the length of railbanking negotiations for 23 railbanked corridors. (RTC Pet., Declaration Griffen 2.)

[12] (*E.g.,* Milwaukee Cty. Parks Comments 1, Apr. 4, 2019, EP 753; Parks & Trails N.Y. Comments 1, Apr. 4, 2019, EP 753; Midwest Bikeshare, Inc. Comments 1, Apr. 2, 2019, EP 753; Hunter Area Trail Coalition Comments 1, Apr. 9, 2019, EP 753; Consol. Rail Corp. Comments 1, Apr. 8, 2019, EP 753; Mo. Cent. R.R. Comments 1, Apr. 11, 2019, EP 753.)

[13] Some commenters further argue that limiting negotiating periods to ten years would be more appropriate. (*E.g.,* Goodman Comments 1, Oct. 30, 2018, EP 749 (Sub-No. 1); Perricelli Comments 1, Oct. 30, 2018, EP 749 (Sub-No. 1).)

commenters describe the complexity of interim trail use negotiations and argue that the rule proposed in the *NPR* would undermine the Trails Act. (*E.g.,* City of Boston, City of Chicago, City of Houston Department of Public Works, City of New York, City of Sacramento, and the United States Conference of Mayors Comments 1, Nov 1, 2018, EP 749 (Sub-No. 1).)

RTC also opposes the Board's *NPR* proposal, arguing that that there is no evidence that the Board's current practices have caused administrative burdens and that the proposed rule would impede administrative efficiency rather than advancing it. (RTC Comments 8–10, Nov. 1, 2018, EP 749 (Sub-No. 1).) RTC asserts that the Board's proposal is unsupported, arguing that RTC's data shows that protracted railbanking negotiations are the exception rather than the rule. (*Id.* at 12.) According to RTC, of the 370 railbanked corridors for which RTC has information on the length of negotiations, 305 agreements were reached before six 180-day negotiating periods concluded, and, of the remaining 65 agreements, most (53) were completed within six years. (*Id.*) RTC argues that the *NPR* appears to focus improperly on the minority of CITU/NITU negotiations requiring more than six extensions to support requiring a stricter approach to extensions. (*Id.*) RTC further alleges that there is little precedent in the Board's regulations or regulatory practices that would support adoption of a standard of review that strongly disfavors extensions, regardless of ''any good cause for the requests.'' (*Id.* at 11.) RTC therefore argues that instead of the changes proposed in the *NPR,* the Board should adopt a rule allowing one-year extensions of the initial negotiating period for good cause shown.[14] (*Id.* at 3, 19.)

NARPO and others oppose any rule that would extend the interim trail use negotiating period for ''good cause shown.'' (NARPO Comments 1, Apr. 2, 2019, EP 753.) According to NARPO, a good cause standard would interfere with reversionary property owners' property rights to the underlying land of railroad rights-of-way authorized for abandonment. (*Id.*)

The Board acknowledges the concerns raised by parties who question whether a maximum of six CITU/NITU extensions, with a limited opportunity for additional extensions in ''extraordinary circumstances,'' strikes an appropriate balance between reasonably limiting the Trails Act negotiating period and permitting parties enough time to finalize their negotiations. After considering the comments received by the Board following issuance of the *NPR,* however, the Board concludes that reasonably limiting the number of extensions of the interim trail use negotiating period would foster administrative efficiency, clarity, and finality. *See NPR,* slip op. at 5.

Nevertheless, after considering all the comments submitted in response to the *NPR,* the Board proposes that a ''good cause'' standard of review for additional extensions (beyond three) would be more appropriate than the ''extraordinary circumstances'' standard proposed in the *NPR.* Congress established interim trail use/rail banking ''in furtherance of the national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use.'' 49 U.S.C. 1247(d). To accomplish those goals, the interest in concluding the Trails Act process within a reasonable amount of time must be balanced against the need to allow parties enough time to complete their negotiations and finalize a Trails Act agreement—and applying a good cause standard of review beginning at the fourth extension request would appropriately effectuate this goal.[15] Applying such a good cause standard should provide sufficient time to allow trail projects that have a reasonable prospect of success to be completed while at the same time taking into account situations where negotiations may extend for many years without any likely or achievable resolution. A good cause standard for extensions that exceed three years in total would provide the Board with more flexibility than an extraordinary circumstances standard but would still require a meaningful case-specific showing of need for any such extensions.

The Board understands NARPO's argument that a good cause standard may create additional uncertainty for some property owners because the revised standard may allow a greater number of extensions to be granted than under an extraordinary circumstances standard. Therefore, such additional one-year extensions would not be favored. However, because RTC's evidence, (*see* RTC Pet., Declaration Griffen 2), indicates that 327 out of 370 negotiated agreements (approximately 88%) have been reached within four years—that is, before the ''good cause'' requirement for extensions would apply under the rule proposed here—the Board believes that its proposed rule balances the interests of all affected parties.

For these reasons and those discussed in the *NPR,* EP 749 (Sub-No. 1), slip op. at 5, and because the Board proposes to establish a one-year period for any initial interim trail use negotiating period (as suggested by RTC), the Board now proposes to limit the number of extensions of an interim trail use negotiating period to three one-year extensions, unless good cause for additional extension(s) is shown.

Given that the Board is revising its proposal based on the comments on the *NPR* and RTC's new rulemaking proposal, the Board will deny as moot RTC's request that the Board institute a separate rulemaking to address the standard for granting extensions.

**Revised Proposed Rule**

For the reasons discussed above, and as set forth below, the Board proposes to establish a one-year duration for any initial interim trail use negotiating period. Additionally, the Board proposes to modify its Trails Act rules to permit up to three one-year extensions if the trail sponsor and railroad agree and to clarify that requests for additional extensions are not favored but may be granted if the trail sponsor and railroad agree and good cause is shown.[16]

The Board proposes to make the new rule establishing a one-year period for any initial interim trail use negotiating period applicable to any new CITU/NITU requested on or after the effective date of the rule. Parties in negotiations

[14] RTC makes a similar proposal for a good cause standard in its petition for rulemaking. (RTC Pet. 4.) According to RTC, pursuant to 49 CFR 1152.29(b)(3), the Board accepts late-filed railbanking requests ''supported by a statement showing good cause.'' (*Id.* at 12.) RTC further argues that, in other contexts, the Board's regulations specifically provide that requests for extensions will be granted based on a showing of ''good cause.'' (*Id.* at 12–13 (citing 49 CFR 1152.29(e)(2) (allowing a railroad to request extensions of the time for filing an abandonment consummation notice for good cause shown); 49 CFR 1152.25(d)(5) (requiring good cause for late pleadings); 49 CFR 1113.7(c) (late intervention petitions accepted for good cause shown)).) Thus, RTC argues that ''good cause'' is the established regulatory standard that governs extensions and waivers under the Board's rules. (RTC Pet. 12.)

[15] The Board notes that under the revised proposal, as compared to the *NPR,* parties would have a one-year period for any initial interim trail use negotiating period, and may request up to three one-year extensions if both the trail sponsor and railroad agree—thereby allowing parties to negotiate interim trail use for a four-year period before the new standard for further extensions applies, versus the three and a half years initially proposed by the Board.

[16] The proposed rule also includes other non-substantive changes to the rules in section 1152.29, such as adding paragraph headings.

under existing CITUs/NITUs would be permitted to request one-year extensions (rather than continuing with 180-day extensions). The proposal to limit the number of one-year extensions of an interim trail use negotiating period to three, however, would apply both to new CITUs/NITUs requested on or after the rule's effective date and to cases where a CITU/NITU was requested before the rule takes effect. In the latter instance, a showing of good cause would be required for any request that would extend the interim trail use negotiating period to a date after the four-year anniversary of its issuance (including cases where the existing CITU/NITU already extends beyond that anniversary).[17]

Interested persons may comment on the proposed rule by July 8, 2019; replies are due by July 26, 2019.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, generally requires a description and analysis of new rules that would have a significant economic impact on a substantial number of small entities. In drafting a rule, an agency is required to: (1) Assess the effect that its regulation will have on small entities; (2) analyze effective alternatives that may minimize a regulation's impact; and (3) make the analysis available for public comment. Sections 601–604. In its notice of proposed rulemaking, the agency must either include an initial regulatory flexibility analysis, section 603(a), or certify that the proposed rule would not have a ''significant impact on a substantial number of small entities,'' section 605(b). Because the goal of the RFA is to reduce the cost to small entities of complying with federal regulations, the RFA requires an agency to perform a regulatory flexibility analysis of small entity impacts only when a rule directly regulates those entities. In other words, the impact must be a direct impact on small entities ''whose conduct is circumscribed or mandated'' by the proposed rule. *White Eagle Coop.* v. *Conner,* 553 F.3d 467, 480 (7th Cir. 2009).

The Board's proposed changes to its regulations here are intended to improve and expedite its trail use procedures and do not mandate the conduct of small entities.[18] The changes proposed here are largely procedural and would not have a significant economic impact on Class III rail carriers or trail sponsors (whether as small businesses, not-for-profits, or small governmental jurisdictions) to which the RFA applies. The proposed rules, if promulgated, would lengthen, from 180 days to one year, the duration of the initial voluntary interim trail use negotiating period and the current typical extension, reducing the frequency with which trail sponsors and railroads would need to file extension requests and replies. The Board, therefore, expects the impact of the proposed rule would be a reduction in the paperwork burden for small entities. Further, the Board asserts that the economic impact of the reduction in paperwork, if any, would be minimal and entirely beneficial to small entities as such entities would have reduced filing burdens associated with negotiating an interim trail use agreement. Therefore, the Board certifies under 5 U.S.C. 605(b) that these proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. This decision will be served upon the Chief Counsel for Advocacy, Offices of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

*Paperwork Reduction Act*

Pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3521, Office of Management and Budget (OMB) regulations at 5 CFR 1320.8(d)(3), and in the Appendix, the Board seeks comments about the revisions in the proposed rules to the currently approved collection of Preservation of Rail Service (OMB Control No. 2140–0022) regarding: (1) Whether the collection of information, as modified in the proposed rule below, is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility; (2) the accuracy of the Board's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate.

Because the proposed rule allows for (a) a one-year period for any initial interim trail use negotiating period instead of the existing 180-day period, (b) three one-year extensions of the initial period (if the trail sponsor and the railroad agree) instead of an unlimited number of 180-day extensions, and (c) additional one-year extensions (if the trail sponsor and the railroad agree and good cause is shown), the Board estimates the proposed rules would reduce the total annual hourly burden by 168 hours under the PRA.[19] The Board welcomes comment on the estimates of actual time and costs of compliance with the proposed rules, as detailed below and in the Appendix. Information pertinent to these issues is included in the Appendix. The proposed rules will be submitted to OMB for review as required under 44 U.S.C. 3507(d) and 5 CFR 1320.11(b). Once the comment period ends, comments received by the Board regarding the information collection will also be forwarded to OMB for its review.

*It is ordered:*

1. These proceedings are consolidated for concurrent handling in the manner discussed in this decision.

2. RTC's petition is granted in part and denied in part, as discussed above.

3. The Board proposes to amend its rules as set forth in this decision. Notice of the proposed rules will be published in the **Federal Register**.

4. The procedural schedule is established as follows: Comments regarding the proposed rules are due by July 8, 2019; replies are due by July 26, 2019.

5. A copy of this decision will be served upon the Chief Counsel for Advocacy, Office of Advocacy, U.S. Small Business Administration, Washington, DC 20416.

[17] Although the proposed rule would apply to new extension requests in proceedings where a current CITU/NITU may be expiring, there would be no retroactivity concern because parties have no vested right to a newly requested extension of the negotiating period. *See Empresa Cubana Exportadora de Alimentos y Productos Varios* v. *U.S. Dept. of Treasury,* 638 F.3d 794, 798–800 (D.C. Cir. 2011). Each extension request is considered on its own merits.

[18] Effective June 30, 2016, for the purpose of RFA analysis for rail carriers subject to Board jurisdiction, the Board defines a ''small business'' as only including those rail carriers classified as Class III rail carriers under 49 CFR 1201.1–1. *See Small Entity Size Standards Under the Regulatory Flexibility Act,* EP 719 (STB served June 30, 2016) (with Board Member Begeman dissenting). Class III carriers have annual operating revenues of $20 million or less in 1991 dollars or $37,108,875 or less when adjusted for inflation using 2017 data. Class II rail carriers have annual operating revenues of less than $250 million or $463,860,933 when adjusted for inflation using 2017 data. The Board calculates the revenue deflator factor annually and publishes the railroad revenue thresholds on its website. 49 CFR 1201.1–1.

[19] The 168-hour reduction in the hourly burden is derived from the assumption that, if the length of each extension is doubled, then the number of extensions will be reduced by half. In 2018, the Board used a three-year average to estimate that 84 interim trail use request extensions would be filed annually through 2020. Due to the doubling of the length of these extensions, the Board now estimates that there will only be 42 interim trail use request extensions. With the estimated hourly burden for each extension remaining at four hours, the reduction of the annual hourly burden is 168 hours (42 extensions × 4 hours).

6. This decision is effective on its service date.

**List of Subjects in 49 CFR Part 1152**

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, Uniform System of Accounts.

Decided: May 31, 2019.

By the Board, Board Members Begeman, Fuchs, and Oberman.

**Jeffrey Herzig,**

*Clearance Clerk.*

For the reasons set forth in the preamble, the Surface Transportation Board proposes to amend part 1152 of title 49, chapter X, of the Code of Federal Regulations as follows:

## PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

■ 1. The authority citation for part 1152 continues to read as follows:

**Authority:** 11 U.S.C. 1170; 16 U.S.C. 1247(d) and 1248; 45 U.S.C. 744; and 49 U.S.C. 1301, 1321(a), 10502, 10903–10905, and 11161.

■ 2. Amend § 1152.29 by:
■ a. In paragraph (a), adding a paragraph heading;
■ b. In paragraph (b), adding a paragraph heading;
■ c. In paragraph (b)(1)(ii), removing the words ''§ 1152.29(a)'' and adding in its place the words ''paragraph (a) of this section'';
■ d. In paragraph (c), revising the paragraph heading;
■ e. Revising paragraph (c)(1);
■ f. In paragraph (c)(3), removing the words ''49 CFR part 1150'' and adding in its place the words ''part 1150 of this title'';
■ g. In paragraphs (d) revise the paragraph heading and (d)(1);
■ h. In paragraph (d)(3), removing ''49 CFR part 1150'' and adding in its place the words ''part 1150 of this title'';
■ i. In paragraph (e), adding a paragraph heading;
■ j. In paragraph (f), adding a paragraph heading;
■ k. In paragraph (g), adding a paragraph heading and removing the words ''180 days'' and adding in its place the words ''one year'';
■ l. In paragraph (h), adding a paragraph heading.

The revisions and additions read as follows:

**§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.**

(a) *Contents of request for interim trail use.* * * *

(b) *When to file.* * * *

(c) *Abandonment application proceedings.*

(1) In abandonment application proceedings, if continued rail service does not occur pursuant to 49 U.S.C. 10904 and § 1152.27 and a railroad agrees to negotiate an interim trail use/rail banking agreement, then the Board will issue a CITU to the railroad and to the interim trail sponsor for that portion of the right-of-way as to which both parties are willing to negotiate.

(i) The CITU will: Permit the railroad to discontinue service, cancel any applicable tariffs, and salvage track and material consistent with interim trail use and rail banking, as long as such actions are consistent with any other Board order, 30 days after the date the CITU is issued; and permit the railroad to fully abandon the line if no interim trail use agreement is reached within one year from the date on which the CITU is issued, subject to appropriate conditions, including labor protection and environmental matters.

(ii) Parties may request a Board order to extend, for one-year periods, the interim trail use negotiation period. Up to three one-year extensions of the initial period may be granted if the trail sponsor and the railroad agree; additional one-year extensions, beyond three extensions of the initial period, are not favored but may be granted if the trail sponsor and the railroad agree and good cause is shown.

* * *

(d) *Abandonment exemption proceedings.*

(1) In abandonment exemption proceedings, if continued rail service does not occur under 49 U.S.C. 10904 and § 1152.27 and a railroad agrees to negotiate an interim trail use/rail banking agreement, then the Board will issue a Notice of Interim Trail Use or Abandonment (NITU) to the railroad and to the interim trail sponsor for the portion of the right-of-way as to which both parties are willing to negotiate.

(i) The NITU will: Permit the railroad to discontinue service, cancel any applicable tariffs, and salvage track and materials, consistent with interim trail use and rail banking, as long as such actions are consistent with any other Board order, 30 days after the date the NITU is issued; and permit the railroad to fully abandon the line if no interim trail use agreement is reached within one year from the date on which the NITU is issued, subject to appropriate conditions, including labor protection and environmental matters.

(ii) Parties may request a Board order to extend, for one-year periods, the interim trail use negotiation period. Up to three one-year extensions of the initial period may be granted if the trail sponsor and railroad agree; additional one-year extensions, beyond three extensions of the initial period, are not favored but may be granted if the trail sponsor and railroad agree and good cause is shown.

* * *

(e) *Late-filed requests; notices of consummation.* * * *

(f) *Substitution of trail user.* * * *

(g) *Consent after Board decision or notice.* * * *

(h) *Notice of interim trail use agreement reached.* * * * * *

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

## Appendix

**Information Collection**

*Title:* Preservation of Rail Service.
*OMB Control Number:* 2140–0022.
*STB Form Number:* None.
*Type of Review:* Extension with change.
*Summary:* As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, the Surface Transportation Board (STB or Board) gives notice that it is requesting from OMB approval for the revision of the currently approved information collection, Preservation of Rail Service, OMB Control No. 2140–0022, as further described below. The requested revision to the currently approved collection is necessitated by this SNPR.
*Respondents:* Affected shippers, communities, or other interested persons seeking to preserve rail service over rail lines that are proposed or identified for abandonment, and railroads that are required to provide information to the offeror or applicant: Approximately 40.
*Frequency:* On occasion, as follows:

TABLE—NUMBER OF YEARLY RESPONSES

| Type of filing | Number of filings (current) | Number of filings (2018) |
|---|---|---|
| Offer of Financial Assistance | 1 | 1 |
| OFA—Railroad Reply to Request for Information | 1 | 1 |

TABLE—NUMBER OF YEARLY RESPONSES—Continued

| Type of filing | Number of filings (current) | Number of filings (2018) |
|---|---|---|
| OFA—Request to Set Terms and Conditions | 1 | 1 |
| Request for Public Use Condition | 1 | 1 |
| Feeder Line Application | 5 | 5 |
| Trail Use Request | 23 | 23 |
| Trail Use Request Extension | 42 | 84 |

*Total Burden Hours* (annually including all respondents): 658 hours (sum total of estimated hours per response X number of responses for each type of filing). This is an estimated reduction of 168 hours total burden hours from the Board's 2018 information collection request. This results from the reduction in the estimated number of interim trail use request extensions from 84 (which was based on a three-year average from 2015–2017) to 42 interim trail use request extensions, due to doubling the length of interim trail use request extensions. The estimated number of interim trail use requests (also based on a three-year average from 2015–2017) is not changed.

TABLE—ESTIMATED HOURS PER RESPONSE

| Type of filing | Number of hours per response |
|---|---|
| Offer of Financial Assistance (OFA) | 32 |
| OFA—Railroad Reply to Request for Information | 10 |
| OFA—Request to Set Terms and Conditions | 4 |
| Request for Public Use Condition | 2 |
| Feeder Line Application | 70 |
| Trail Use Request | 4 |
| Trail Use Request Extension | 4 |

*Total ''Non-Hour Burden'' Cost (such as start-up costs and mailing costs):* There are no non-hourly burden costs for this collection. The annual certifications may be submitted electronically.

*Needs and Uses:* The STB is, by statute, responsible for the economic regulation of common carrier freight railroads and certain other carriers operating in the United States. Under the Interstate Commerce Act, *amended by* the ICC Termination Act of 1995, Public Law No. 104–88, 109 Stat. 803 (1995), *amended by* the Surface Transportation Board Reauthorization Act of 2015, Public Law 114–110 (2015), and Section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d) and 49 CFR 1152.29 (Trails Act), persons seeking to preserve rail service may file pleadings before the Board to acquire or subsidize a rail line for continued service, or to impose a trail use or public use condition.

When a line is proposed for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board: An OFA to subsidize or purchase a rail line for which a railroad is seeking abandonment (49 U.S.C. 10904), including a request for the Board to set terms and conditions of the financial assistance; a request for a public use condition (§ 10905); or a trail use request (16 U.S.C. 1247(d)). Similarly, when a line is placed on a system diagram map identifying it as an anticipated or potential candidate for abandonment, affected shippers, communities, or other interested persons may seek to preserve rail service by filing with the Board a feeder line application to purchase the identified rail line (§ 10907). Additionally, the railroad owning the rail line subject to abandonment must, in some circumstances, provide information to the applicant or offeror.

As to trail use, the STB will issue a CITU or NITU to a prospective trail sponsor who seeks an interim trail use agreement with the rail carrier of the rail line that is being abandoned. The CITU/NITU permits parties to negotiate for an interim trail use agreement. The parties may also agree to an extension of the negotiating period. If parties reach an agreement, then they must jointly notify the Board of that fact and of any modification or vacancy of the agreement. As specific to the SNPR, the Board proposes a one-year period for any initial interim trail use negotiating period, instead of the existing 180-day initial negotiating period; to permit up to three one-year extensions of the initial period if the trail sponsor and the railroad agree; and to permit additional one-year extensions if the trail sponsor and the railroad agree and good cause is shown.

The modification of this collection by the Board will decrease the burden on respondents because it lengthens both (a) the initial interim trail use negotiating period from 180 days to one year and (b) interim trail use negotiating period extensions from 180 days to one year. The modification is expected to promote greater administrative efficiency and reduce burdens on trail use proponents and railroads to file extension requests, and on the Board to review and approve such requests.

[FR Doc. 2019–11883 Filed 6–5–19; 8:45 am]

BILLING CODE 4915–01–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**[Docket No. FWS–HQ–ES–2018–0097; FXES11130900000C2–189–FF09E32000]**

**RIN 1018–BD60**

## Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (Canis lupus) From the List of Endangered and Threatened Wildlife

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; announcement of a public open house and public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), recently published a proposal to remove the gray wolf from the List of Endangered and Threatened Wildlife, and we announced the opening of a 60-day public comment period on the proposed action, ending May 14, 2019. We then extended the comment period by 60 days, ending July, 15, 2019, to allow all interested parties additional time to comment on the proposed rule. We now announce a public information open house and public hearing on our proposed rule. We also notify the public of the availability of the final peer review report containing the individual peer reviews

of our proposal and information on the peer review process.

**DATES:** *Public information open house and public hearing:* We will hold a public open house followed by a public hearing on our proposed rule on June 25, 2019. The public open house will be held from 5:00 p.m. to 6:30 p.m., and the public hearing from 6:30 p.m. to 9:00 p.m.

*Availability of documents:* The peer review report is available beginning June 3, 2019.

**ADDRESSES:** *Public open house and hearing:* A public open house followed by a public hearing will be held at Franklin Arts Center Auditorium, 1001 Kingwood Street, Brainerd, Minnesota 56401. See Public Information Open House and Public Hearing, below, for more information.

*Availability of documents:* You may obtain copies of our proposed rule to remove the gray wolf from the List of Endangered and Threatened Wildlife and supporting documents, including the final peer review report and the peer review plan, on the internet at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2018–0097. The final peer review report is also available on our website at *https://www.fws.gov/endangered/improving_esa/peer_review_process.html.* Additional information on the nature of the peer review can be found in the peer review plan, which is also available at: *https://www.fws.gov/endangered/esa-library/pdf/Gray-Wolf-Peer-Review-Plan.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Don Morgan, Chief, Branch of Delisting and Foreign Species, Ecological Services; U.S. Fish and Wildlife Service, Headquarters Office, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Background

Under the authority of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), the List of Endangered and Threatened Wildlife (List) in title 50 of the Code of Federal Regulations (50 CFR 17.11(h)) currently includes the gray wolf (*Canis lupus*). On March 15, 2019, the Service proposed to remove gray wolves in the lower 48 United States and Mexico from the List and opened a 60-day public comment period on the proposed action (84 FR 9648). On May 14, 2019, we extended the public comment period 60 days, to July 15, 2019 (84 FR 21312). The Service now announces a public open house and hearing as specified above in **DATES**.

## Public Information Open House and Public Hearing

We are holding a public information open house followed by a public hearing on the date listed in **DATES** at the location listed in **ADDRESSES**. We are holding the public hearing to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or hand-deliver their written comments regarding the March 15, 2019 (84 FR 9648), proposal to remove the gray wolf from the List. The public information open house will provide an opportunity for dialogue with the Service. The public hearing portion is a forum for accepting formal verbal testimony and does not provide an opportunity for such dialogue with the Service. In the event there is a large attendance, the time allotted for oral statements may be limited. Therefore, anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a prepared written copy of their statement to us at the hearing. Speakers can sign up at the hearing if they desire to make an oral statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities needing reasonable accommodations to participate in the public hearing should contact the Headquarters Office (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be requested as soon as possible to help ensure availability.

## Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), the Service submitted the March 15, 2019, proposal for independent expert peer review. The purpose of seeking independent peer review is to ensure use of the best scientific and commercial information available and to ensure and maximize the quality, objectivity, utility, and integrity of the information upon which the proposal is based, as well as to ensure that reviews by qualified experts are incorporated into the rulemaking process. For information on accessing the final peer review report and the peer review plan, see **ADDRESSES**.

## Authors

The primary authors of this notice are the Ecological Services staff of the Headquarters Office, U.S. Fish and Wildlife Service.

## Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 31, 2019

**Margaret E. Everson,**

*Principal Deputy Director, Exercising the Authority of the Director for the U.S. Fish and Wildlife Service.*

[FR Doc. 2019–11908 Filed 6–5–19; 8:45 am]

**BILLING CODE 4333–15–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 665

**[Docket No. 190325272–9470–01]**

**RIN 0648–XG925**

## Pacific Island Pelagic Fisheries; 2019 U.S. Territorial Longline Bigeye Tuna Catch Limits

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

**ACTION:** Proposed specifications; request for comments.

**SUMMARY:** NMFS proposes a 2019 limit of 2,000 metric tons (t) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)). NMFS would allow each territory to allocate up to 1,000 t each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. The proposed catch limits and accountability measures would support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

**DATES:** NMFS must receive comments by June 21, 2019.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2019–0028, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0028,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional

Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

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

**FOR FURTHER INFORMATION CONTACT:** Rebecca Walker, NMFS PIRO Sustainable Fisheries, 808–725–5184.

**SUPPLEMENTARY INFORMATION:** NMFS proposes to specify a 2019 catch limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also authorize each U.S. Pacific territory to allocate up to 1,000 t of its 2,000 t bigeye tuna limit to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Those vessels must be identified in a specified fishing agreement with the applicable territory. The Western Pacific Fishery Management Council recommended these specifications. The proposed catch and allocation limits and accountability measures are identical to those NMFS specified for U.S. territories in each year since 2014 (for the most recent example, see 83 FR 53399, October 23, 2018).

NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each U.S Pacific territory, including catches made by U.S. longline vessels operating under specified fishing agreements. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, will follow the procedures in 50 CFR 665.819. When NMFS projects that a territorial catch or allocation limit will be reached, NMFS would, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or vessels in a specified fishing agreement (if the allocation limit is projected to be reached).

NMFS will consider public comments on the proposed action and draft environmental assessment, and will announce the final specifications in the **Federal Register**. On March 20, 2017, in *Territory of American Samoa* v. *NMFS, et al.* (16–cv–95, D. Haw), a federal judge set aside a NMFS rule that amended the American Samoa Large Vessel Prohibited Area (LVPA) for eligible longliners on the grounds that NMFS did not consider under the Deeds of Cession the protection of cultural fishing in American Samoa. NMFS has appealed this decision, which is pending before the Ninth Circuit Court of Appeals. NMFS also invites public comments that address the impact of this proposed rule on cultural fishing in American Samoa.

NMFS must receive any comments on this rule by the date provided in the DATES heading. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. Regardless of the final specifications, all other existing management measures will continue to apply in the longline fishery.

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

### *Certification of Finding of No Significant Impact on Substantial Number of Small Entities*

The Chief Counsel for Regulation for the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed action would specify a 2019 limit of 2,000 (t) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the CNMI). NMFS would also allow each territory to allocate up to 1,000 t of its 2,000 t limit to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria set forth in 50 CFR 665.819. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna by vessels in the applicable U.S. territory (if the territorial catch limit is projected to be reached), or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached). Payments under the specified fishing agreements support fisheries development in the U.S. Pacific territories and the long-term sustainability of fishery resources of the U.S. Pacific Islands.

This proposed action would directly apply to longline vessels federally permitted under the FEP, specifically Hawaii, American Samoa, and Western Pacific longline permit holders. As of March 2019, 144 vessels had Hawaii permits and 46 had American Samoa permits. There are no active Western Pacific general longline permitted vessels.

Based on dealer data collected by the State of Hawaii, Hawaii longline vessels landed approximately 32.75 million pounds of pelagic fish valued at $101.6 million in 2017. With 145 vessels making either a deep- or shallow-set trip in 2017, the ex-vessel value of pelagic fish caught by Hawaii-based longline fisheries averaged almost $701,000 per vessel. In 2017, American Samoa-based longline vessels landed approximately 4.8 million pounds of pelagic fish valued at $4.7 million, where albacore made up the largest proportion of pelagic longline commercial landings at 3.04 million pounds. With 15 active longline vessels in 2017, the ex-vessel value of pelagic fish caught by American Samoa fishery averaged about $313,333 per vessel.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels permitted federally under the FEP are small entities, *i.e.,* they are engaged in the business of fish harvesting (NAICS 114111), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. Even though this proposed action would apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impact to individual vessels. The proposed action would potentially benefit the Hawaii longline fishermen by allowing them to fish under specified fishing agreements with a territory, which could extend fishing effort for

bigeye tuna in the western Pacific and provide more bigeye tuna for markets in Hawaii and elsewhere.

In accordance with Federal regulations at 50 CFR part 300, subpart O, vessels that possess both an American Samoa and Hawaii longline permit are not subject to the U.S bigeye tuna limit. Therefore, these vessels may retain bigeye tuna and land fish in Hawaii after the date NMFS projects the fishery would reach that limit. Further, catches of bigeye tuna made by such vessels are attributed to American Samoa, provided the fish was not caught in the U.S. exclusive economic zone around Hawaii. In 2018, all dual American Samoa/Hawaii longline permitted vessels were included in the fishing agreement with the CNMI and American Samoa. Therefore, NMFS attributed bigeye catches by those vessels to the two territories.

The 2019 U.S. bigeye tuna catch limit is 3,554 t, which is the same limit in place for 2018. NMFS established this limit through a separate action (83 FR 33851, July 18, 2018). Based on preliminary logbook data, NMFS expects the fishery to reach this limit by October 20, 2019.

Through this action, Hawaii-based longline vessels could potentially enter into one or more fishing agreements with participating territories. This would enhance the ability of these vessels to extend fishing effort in the western and central Pacific Ocean after reaching the 2019 U.S. limit and provide more bigeye tuna for markets in Hawaii. Providing opportunity to land bigeye tuna in Hawaii in the last quarter of the year when market demand is high will result in positive economic benefits for fishery participants and net benefits to the nation. Allowing participating territories to enter into specified fishing agreements under this action is consistent with Western and Central Pacific Fishery Commission's (WCPFC) conservation and management objectives for bigeye tuna in Conservation and Management Measure 2018–01, and benefits the territories by providing funds for territorial fisheries development projects. Establishing a 2,000 t longline limit for bigeye tuna where territories are not subject to Western and Central Pacific Fisheries Commission longline limits is not expected to adversely affect vessels based in the territories.

Historical catch of bigeye tuna by the American Samoa longline fleet has been less than 2,000 t, even including the catch of vessels based in American Samoa, catch by dual permitted vessels that land their catch in Hawaii, and catch attributed to American Samoa from U.S. vessels under specified fishing agreements. With regard to Guam and the CNMI, no longline fishing has occurred since 2011.

Under the proposed action, longline fisheries managed under the FEP are not expected to expand substantially nor change the manner in which they are currently conducted, (*i.e.,* area fished, number of vessels longline fishing, number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear), due to existing operational constraints in the fleet, the limited entry permit programs, and protected species mitigation requirements. The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed rule based on gear type, or relative vessel size. The proposed rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under E.O. 12866.

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

Dated: June 3, 2019.

**Samuel D. Rauch, III,**

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

[FR Doc. 2019–11853 Filed 6–5–19; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 84, No. 109
Thursday, June 6, 2019

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 3, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 8, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

**Rural Business Cooperative Service**

*Title:* Socially-Disadvantaged Groups Grant Program.

*OMB Control Number:* 0570–0052.

*Summary of Collection:* Formerly known as the ''Small Socially-Disadvantaged Producer Grant Program,'' the program has changed its name to ''The Socially-Disadvantaged Groups Grant Program.'' It was authorized by section 2744 of the Federal Agriculture Improvement and Reform Act of 2006, Public Law 109–97. The Act provides for the Secretary of Agriculture to make grants to cooperatives or associations of cooperative whose primary focus is to provide assistance to small, socially-disadvantaged producers and whose governing board and/or membership are comprised of at least 75 percent socially-disadvantaged.

*Need and Use of the Information:* Rural Business Service needs to receive the information contained in this collection of information to make prudent decisions regarding eligibility of applicants and selection priority among competing applicants, to ensure compliance with applicable laws and regulations and to evaluate the projects it believes will provide the most long-term economic benefit to rural areas.

*Description of Respondents:* Not-for-profit institutions.

*Number of Respondents:* 36.

*Frequency of Responses:* Recordkeeping; Reporting: Semi-Annually; Annually.

*Total Burden Hours:* 620.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–11885 Filed 6–5–19; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 3, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 5, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

**Rural Utilities Service**

*Title:* RUS Form 444, ''Wholesale Power Contracts.''

*OMB Control Number:* 0572–0089.

*Summary of Collection:* The Rural Electrification Act of 1936 (RE Act) as amended (7 U.S.C. 901 *et seq.*), authorizes the Rural Utilities Service (RUS) to make and guarantee loans in the States and Territories of the United States that will enable rural consumers to obtain electric power. Rural

consumers formed non-profit electric distribution cooperatives, groups of these distribution cooperatives banded together to form Generation and Transmission cooperatives (G&T's) that generate or purchase power and transmit the power to the distribution systems. All RUS and G&T borrowers will enter into a Wholesale Power Contract with their distribution members by using RUS Form 444, as adapted to meet the needs of the borrower.

*Need and Use of the Information:* To fulfill the purposes of the RE Act RUS will collect information to improve the credit quality and credit worthiness of loans and loan guarantees to G&T borrowers. RUS works closely with lending institutions that provide supplemental loan funds to borrowers. If the information were not collected, RUS could not determine whether Federal security interest would be adequately protected.

*Description of Respondents:* Not-for profit institutions; Business or other for-profit.

*Number of Respondents:* 10.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 60.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–11887 Filed 6–5–19; 8:45 am]

**BILLING CODE 3410–15–P**

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

June 3, 2019.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 8, 2019 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

**Rural Housing Service**

*Title:* 7 CFR 1924–F, Complaints and Compensation Defects.

*OMB Control Number:* 0575–0082.

*Summary of Collection:* Section 509C of Title V of the Housing Act of 1949, as amended, authorizes the Rural Housing Service (RHS) to pay the costs for correcting defects or compensate borrowers of Section 502 Direct loan funds for expenses arising out of defects with respect to newly constructed dwellings and new manufactured housing units with authorized funds. This regulation provides instruction to all RHS personnel to enable them to implement a procedure to accept and process complaints from borrowers/owners against builders and dealers/contractors, to resolve the complaint informally. When the complaint involves structural defects which cannot be resolved by the cooperation of the builder or dealer/contractor, it authorizes expenditure to resolve the defect with grant funds. Resolution could involve expenditure for (1) repairing defects; (2) reimbursing for emergency repairs; (3) pay temporary living expenses or (4) convey dwelling to RHS with release of liability for the RHS loan.

*Need and Use of the Information:* The information is collected from agency borrowers and the local agency office serving the county in which the dwelling is located. This information is used by Rural Housing Staff to evaluate the request and assist the borrower in identifying possible causes and corrective actions. The information is collected on a case-by-case basis when initiated by the borrower. Without this information, RHS would be unable to assure that eligible borrowers would receive compensation to repair defects to their newly constructed dwellings.

*Description of Respondents:* Business or for-profit.

*Number of Respondents:* 100.

*Frequency of Responses:* Reporting: On occasion.

*Total Burden Hours:* 40.

**Kimble Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2019–11888 Filed 6–5–19; 8:45 am]

**BILLING CODE 3410–XV–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collection; Appeal of Decisions Relating to Occupancy or Use of National Forest System Lands and Resources

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; requests for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments on the renewal of a currently approved information collection.

**DATES:** Comments must be received in writing by August 5, 2019 to be considered.

**ADDRESSES:** Comments concerning this notice should be addressed to USDA Forest Service, Nancy Rusho, Administrative Review Specialist, Ecosystem Management Coordination staff, 202–731–9196 or by email to *nancy.rusho@usda.gov.*

The public may inspect comments received at the Office of Ecosystem Management Coordination, USDA Forest Service, 201 14th Street SW, Mail Stop 1104, Washington, DC 20024–1101, during normal business hours. Visitors are encouraged to call ahead at 202–731–9196 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Nancy Rusho, Administrative Review Specialist, Ecosystem Management Coordination staff, 202–731–9196. Individuals who use telecommunication devices for the deaf may call the Federal Relay Service at 800 877–8339 twenty four hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* Appeal of Decisions Relating to Occupancy or Use of National Forest System Lands and Resources.

*OMB Number:* 0596–0231.

*Expiration Date of Approval:* October 31, 2019.

*Type of Request:* Renewal of a currently approved information collection.

*Abstract:* This appeal process has been in use since June 5, 2013. It is the appeal process for decisions related to occupancy or use of National Forest System lands and resources for the administrative appeal process per 36 CFR 214. The information collected will be used by the Forest Service to determine if the decision that was appealed should be affirmed or reversed in whole or in part. These appeal procedures are limited to holders, operators, and solicited applicants who therefore are the only individuals or entities subject to the information collection requirement.

*Estimate of Annual Burden:* 8 hours per application.

*Type of Respondents:* People Appealing Decisions to Occupancy or Use of National Forest System Lands and Resources decisions.

*Estimated Annual Number of Respondents:* 25.

*Estimated Annual Number of Responses per Respondent:* One.

*Estimated Total Annual Burden on Respondents:* 200 hours.

*Public Comment:* Public comment is invited on (1) whether this information collection is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Dated: May 15, 2019.

**Frank Beum,**

*Acting Associate Deputy Chief, National Forest System.*

[FR Doc. 2019–11846 Filed 6–5–19; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Arizona Advisory Committee

**AGENCY:** U.S. 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 the meeting of the Arizona Advisory Committee (Committee) to the Commission will be held at 12:00 p.m. (Arizona Time) Friday, June 21, 2019. The purpose of the meeting is for the Committee to discuss its study of subminimum wages for disabled persons.

**DATES:** The meeting will be held on Friday June 21, 2019 at 12:00 p.m. Arizona Time.

*Public Call Information:* Dial: 855–719–5012, Conference ID: 1286057.

**FOR FURTHER INFORMATION CONTACT:** Alejandro Ventura (DFO) at *aventura@usccr.gov* or (213) 894–3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 855–719–5012, conference ID number: 1286057. Any interested member of the public may call this number and listen to the meeting. 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 telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894–0508, or emailed Alejandro Ventura at *aventura@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (213) 894–3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meetings at *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzl2AAA.*

Please click on the ''Committee Meetings'' tab. Records generated from these meetings may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meetings. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

I. Welcome and Roll Call
II. Approval of Minutes From May 1, 2019 meeting
III. Discussion of Study of Subminimum Wages for Disabled Persons
IV. Next Steps
V. Public Comment
VI. Adjournment

Dated: June 3, 2019.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2019–11880 Filed 6–5–19; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**[Docket No. 190509440–9440–01]**

**RIN 0694–XC054**

### Reporting for Calendar Year 2018 on Offsets Agreements Related to Sales of Defense Articles or Defense Services to Foreign Countries or Foreign Firms

**AGENCY:** Bureau of Industry and Security, Department of Commerce.

**ACTION:** Notice; Annual Reporting Requirements.

**SUMMARY:** This notice is to remind the public that U.S. firms are required to report annually to the Department of Commerce (Commerce) information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually to Commerce information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative. This year, such reports must include

relevant information from calendar year 2018 and must be submitted to Commerce no later than June 15, 2019.

**ADDRESSES:** Submit reports in both hard copy and electronically. Address the hard copy to ''Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Industry and Security (BIS), Room 3878, Washington, DC 20230''. Submit electronic copies to *OffsetReport@bis.doc.gov*.

**FOR FURTHER INFORMATION CONTACT:** Ronald DeMarines, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: 202–482–3755; fax: 202–482–5650; email: *ronald.demarines@bis.doc.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 723(a)(1) of the Defense Production Act of 1950, as amended (DPA) (50 U.S.C. 4568 (2018)) requires the President to submit an annual report to Congress on the impact of offsets on the U.S. defense industrial base. Section 723(a)(2) directs the Secretary of Commerce (Secretary) to prepare the President's report and to develop and administer the regulations necessary to collect offsets data from U.S. defense exporters.

The authorities of the Secretary regarding offsets have been delegated to the Under Secretary of Commerce for Industry and Security. The regulations associated with offsets reporting are set forth in part 701 of title 15 of the Code of Federal Regulations (Offsets Regulation). Offsets are compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services, as defined by the Arms Export Control Act (22 U.S.C. 2778) and the International Traffic in Arms Regulations (22 CFR 120–130). Offsets are also applicable to certain items controlled on the Commerce Control list (CCL) and with an Export Control Classification Number (ECCN) including the numeral ''6'' as its third character. The CCL is found in Supplement No. 1 to part 774 of the Export Administration Regulations.

An example of an offset is as follows: a company that is selling a fleet of military aircraft to a foreign government may agree to offset the cost of the aircraft by providing training assistance to plant managers in the purchasing country. Although this distorts the true price of the aircraft, the foreign government may require this sort of extra compensation as a condition of awarding the contract to purchase the aircraft. As described in the Offsets Regulation, U.S. firms are required to report information on contracts for the sale of defense articles or defense services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually information on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative.

Commerce's annual report to Congress includes an aggregated summary of the data reported by industry in accordance with the Offsets Regulation and the DPA (50 U.S.C. 4568 (2018)). As provided by section 723(c) of the DPA, BIS will not publicly disclose individual firm information it receives through offsets reporting unless the firm furnishing the information specifically authorizes public disclosure. The information collected is sorted and organized into an aggregate report of national offsets data, and therefore does not identify company-specific information.

To enable BIS to prepare the next annual offset report reflecting calendar year 2018 data, affected U.S. firms must submit required information on offsets agreements and offsets transactions from calendar year 2018 to BIS no later than June 15, 2019.

Dated: May 28, 2019.

**Richard E. Ashooh,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2019–11902 Filed 6–5–19; 8:45 am]

**BILLING CODE 3510–JT–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–922, A–583–842]**

### Raw Flexible Magnets From the People's Republic of China and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

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

**SUMMARY:** As a result of these second sunset reviews, the Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) orders on raw flexible magnets from the People's Republic of China (China) and Taiwan would be likely to lead to continuation or recurrence of dumping at the level indicated in the ''Final Results of Sunset Reviews'' section of this notice.

**DATES:** Applicable June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Joshua Poole or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1293 or (202) 482–1690, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On September 17, 2008, Commerce published in the **Federal Register** the AD orders on raw flexible magnets from China and Taiwan.[1] On February 5, 2019, Commerce initiated the second sunset reviews of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

On February 8, 2019, Commerce received notice of intent to participate from Magnum Magnetics Corporation (Magnum), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Magnum, a domestic producer of the subject merchandise, claimed interested party status under section 771(9)(C) of the Act.[4]

On March 7, 2019, Commerce received adequate substantive responses from Magnum within the 30-day period specified in 19 CFR 351.218(d)(3)(i).[5] We received no substantive responses from any respondent interested parties. On March 20, 2019, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.[6] 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 expedited (120-day) sunset reviews of the *Orders.*

[1] *See Antidumping Duty Order; Raw Flexible Magnets from the People's Republic of China,* 73 FR 53847 (September 17, 2008); *Antidumping Duty Order: Raw Flexible Magnets from Taiwan,* 73 FR 53848 (September 17, 2008) (collectively, *Orders*).

[2] *See Initiation of Five-Year (''Sunset'') Review,* 84 FR 1705 (February 5, 2019).

[3] *See* Letter from Magnum, ''Five-Year Review of Raw Flexible Magnets from China and Taiwan: Notice of Intent to Participate,'' dated February 8, 2019.

[4] *Id.* at 2.

[5] *See* Letter from Magnum, ''Five-Year (''Sunset'') Review of the Antidumping Duty Orders on Raw Flexible Magnets from China and Taiwan: Domestic Industry Substantive Response,'' dated March 7, 2019.

[6] *See* Letter from Commerce to ITC, ''*Sunset Review Initiated on February 5, 2019 Applicable to January 2019,*'' dated March 20, 2019.

**Scope of the Orders**

The products covered by this order are certain flexible magnets regardless of shape,[7] color, or packaging.[8] Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of this order are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: A trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.,* ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this order. The products subject to the order are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[9]

**Analysis of Comments Received**

All issues raised in this sunset review, specifically the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the *Orders* were to be revoked, are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.*

**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 raw flexible magnets from China and Taiwan would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the margin of dumping likely to prevail if the AD *Orders* are revoked would be up to the following percentages: [10]

| Country | Weighted-average margin (percent) |
|---|---|
| China | 185.28 |
| Taiwan | 38.03 |

**Notification Regarding Administrative Protective Order**

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the 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.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: May 31, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2019–11864 Filed 6–5–19; 8:45 am]

**BILLING CODE 3510–DS–P**

[7] The term ''shape'' includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

[8] Packaging includes retail or specialty packaging such as digital printer cartridges.

[9] *See* Memorandum regarding ''Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of Raw Flexible Magnets from the People's Republic of China,'' dated concurrently with and adopted by this notice (Issues and Decision Memorandum).

[10] *Id.*

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–580–809]**

## Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2016–2017

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

**SUMMARY:** The Department of Commerce (Commerce) determines that Husteel Co., Ltd. (Husteel) and Hyundai Steel Company (Hyundai), producers/exporters of circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea), sold subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) November 1, 2016, through October 31, 2017.

**DATES:** Applicable June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Dana Mermelstein and Nicholas Czajkowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–1391 and (202) 482–1395, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 3, 2018, Commerce published the *Preliminary Results* of the administrative review.[1] We invited

[1] *See Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2016–*

Continued

interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs from interested parties.[2] At the request of Husteel and Hyundai, Commerce held a public hearing on the *Preliminary Results* on February 26, 2019.[3]

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.[4] On May 13, 2019, we extended the deadline for the final results.[5] The revised deadline for the final results is now May 30, 2019.

These final results cover 25 companies. Based on an analysis of the comments received, we have made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the ''Final Results of Review'' section, below. Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

## Scope of the Order

The merchandise subject to the order is circular welded non-alloy steel pipe and tube. Imports of the product are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[6]

## Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. The issues are identified at the 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 (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

## Changes Since the Preliminary Results

Based on our analysis of comments received, we made certain changes to the margin calculations for Husteel and Hyundai. For a discussion of these changes, see the ''Margin Calculations'' section of the Issues and Decision Memorandum.

## Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual review in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

For these final results, we calculated a weighted-average dumping margin that is not zero, *de minimis,* or determined entirely on the basis of facts available for Husteel and Hyundai. Accordingly, Commerce has assigned to the companies not individually examined the average of Husteel and Hyundai's calculated weighted-average dumping margins for these final results.[7]

## Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the period November 1, 2016, through October 31, 2017.

| Producer/exporter | Weighted-average dumping margin (percent) |
|---|---|
| Aju Besteel | 9.53 |
| Bookook Steel | 9.53 |
| Chang Won Bending | 9.53 |
| Dae Ryung | 9.53 |
| Daewoo Shipbuilding & Marine Engineering (Dsme) | 9.53 |
| Daiduck Piping | 9.53 |
| Dong Yang Steel Pipe | 9.53 |
| Dongbu Steel | 9.53 |
| Eew Korea Company | 9.53 |
| Histeel | 9.53 |
| Husteel | 10.91 |
| Hyundai Rb | 9.53 |
| Hyundai Steel (Pipe Divison) | 9.53 |
| Hyundai Steel Company | 8.14 |
| Kiduck Industries | 9.53 |
| Kum Kang Kind | 9.53 |
| Kumsoo Connecting | 9.53 |
| Miju Steel Mfg | 9.53 |
| Nexteel | 9.53 |
| Samkang M&T | 9.53 |
| Seah Fs | 9.53 |
| Seah Steel | 9.53 |
| Steel Flower | 9.53 |
| Vesta Co., Ltd | 9.53 |
| Ycp Co | 9.53 |

## Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the

*2017*, 83 FR 63619 (December 11, 2018) (*Preliminary Results*).

[2] *See* Letter from Husteel, ''Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 11/1/2016–12/31/2017 Administrative Review, Case No. A–580–809: Case Brief,'' dated February 19, 2019; Letter from Hyundai, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case Brief,'' dated February 19, 2019; Letter from SeAH, ''Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe from Korea—Case Brief of SeAH Steel Corporation,'' dated February 19, 2019; Letter from Wheatland Tube, ''Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Rebuttal Brief of Wheatland Tube Company,'' dated February 25, 2019.

[3] *See* Letter from Commerce, ''Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Hearing Schedule,'' dated February 22, 2019, regarding hearing schedule; *see also* Hearing Transcript, dated March 19, 2019.

[4] *See* Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Partial Shutdown of the Federal Government,'' dated January 28, 2019. All deadlines in this segment of the proceeding affected by the partial federal government closure have been extended by 40 days.

[5] *See* Memorandum, ''Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Deadline for Final Results of 2016–2017 Antidumping Duty Administrative Review,'' dated May 13, 2019.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2016–2017 Administrative Review of the Antidumping Order on Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[7] *See* Memorandum, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Calculation of the Final Margin for Respondents Not Selected for Individual Examination,'' dated concurrently with and hereby adopted by this notice.

**Federal Register**, in accordance with 19 CFR 351.224(b).

**Assessment Rates**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this administrative review in the **Federal Register**.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[8] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[9] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[10] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[11]

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section, above.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by Husteel, Hyundai, or the non-examined companies for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[12]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 4.80 percent,[13] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice 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 POR. 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.

**Notification to Interested Parties Regarding Administrative Protective Order**

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), 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 sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: May 30, 2019.

**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. Margin Calculation
V. Rate for Non-Examined Companies
VI. Discussion of the Issues
Comment 1: Particular Market Situation
Comment 2: Differential Pricing
VII. Recommendation

[FR Doc. 2019–11865 Filed 6–5–19; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–923]**

### Raw Flexible Magnets From the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Countervailing Duty Order

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

**SUMMARY:** As a result of this second sunset review, the Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on raw flexible magnets from the People's Republic of China (China) would be likely to lead to the continuation or recurrence of a countervailable subsidy at the levels indicated in the ''Final Results of Review'' section of this notice.

**DATES:** Applicable June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

[8] *See* 19 CFR 351.212(b)(1).

[9] *Id.*

[10] *Id.*

[11] *See* 19 CFR 351.106(c)(2).

[12] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[13] *See Circular Welded Non-Alloy Steel Pipe From Korea: Notice of Final Court Decision and Amended Final Determination,* 60 FR 55833 (November 3, 1995); *see also Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992).

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4793.

**SUPPLEMENTARY INFORMATION:**

## Background

On September 17, 2008, Commerce published in the **Federal Register** the *Order* on raw flexible magnets from China.[1] On February 5, 2019, Commerce initiated the second sunset review of the *Order* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2]

On February 8, 2019, Commerce received a notice of intent to participate from Magnum Magnetics Corporation, hereinafter referred to as Magnum or the petitioner, within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Magnum, a domestic producer of the subject merchandise, claimed interested party status under section 771(9)(C) of the Act.[4]

On March 7, 2019, Commerce received an adequate substantive response from Magnum within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] Commerce did not receive a substantive response from the Government of China or a respondent interested party to this proceeding. On March 20, 2019, Commerce notified the U.S. International Trade Commission (ITC) that it did not receive an adequate substantive response from respondent interested parties.[6] 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 the *Order.*

## Scope of the Order

The products covered by this order are certain flexible magnets regardless of shape,[7] color, or packaging.[8] Subject flexible magnets are bonded magnets composed (not necessarily exclusively) of (i) any one or combination of various flexible binders (such as polymers or co-polymers, or rubber) and (ii) a magnetic element, which may consist of a ferrite permanent magnet material (commonly, strontium or barium ferrite, or a combination of the two), a metal alloy (such as NdFeB or Alnico), any combination of the foregoing with each other or any other material, or any other material capable of being permanently magnetized. Subject flexible magnets may be in either magnetized or unmagnetized (including demagnetized) condition, and may or may not be fully or partially laminated or fully or partially bonded with paper, plastic, or other material, of any composition and/or color. Subject flexible magnets may be uncoated or may be coated with an adhesive or any other coating or combination of coatings.

Specifically excluded from the scope of this order are printed flexible magnets, defined as flexible magnets (including individual magnets) that are laminated or bonded with paper, plastic, or other material if such paper, plastic, or other material bears printed text and/or images, including but not limited to business cards, calendars, poetry, sports event schedules, business promotions, decorative motifs, and the like. This exclusion does not apply to such printed flexible magnets if the printing concerned consists of only the following: A trade mark or trade name; country of origin; border, stripes, or lines; any printing that is removed in the course of cutting and/or printing magnets for retail sale or other disposition from the flexible magnet; manufacturing or use instructions (*e.g.,* ''print this side up,'' ''this side up,'' ''laminate here''); printing on adhesive backing (that is, material to be removed in order to expose adhesive for use such as application of laminate) or on any other covering that is removed from the flexible magnet prior or subsequent to final printing and before use; non-permanent printing (that is, printing in a medium that facilitates easy removal, permitting the flexible magnet to be re-printed); printing on the back (magnetic) side; or any combination of the above.

All products meeting the physical description of subject merchandise that are not specifically excluded are within the scope of this order. The products subject to the order are currently classifiable principally under subheadings 8505.19.10 and 8505.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided only for convenience and customs purposes; the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[9]

## Analysis of Comments Received

All issues raised in this review, specifically the likelihood of continuation or recurrence of a countervailable subsidy and the net countervailable subsidy likely to prevail if the *Order* was to be revoked, are addressed in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/.*

## Final Results of Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* on raw flexible magnets from China would be likely to lead to continuation or recurrence of a net countervailable subsidy at the following rates: [10]

| Manufacturer/producer/exporter | Net countervailable subsidy *Ad Valorem* rate (percent) |
|---|---|
| China Ningbo Cixi Import Export Corporation | 109.95 |
| Polyflex Magnets Ltd | 109.95 |
| All Others | 109.95 |

## Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the 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 violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

[1] *See Raw Flexible Magnets from the People's Republic of China: Countervailing Duty Order,* 73 FR 53849 (September 17, 2008) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 84 FR 1705 (February 5, 2019).

[3] *See* Letter from Magnum, ''Notice of Intent to Participate,'' dated February 8, 2019.

[4] *Id.* at 2.

[5] *See* Letter from Magnum, ''Domestic Industry Substantive Response,'' dated March 7, 2019.

[6] *See* Letter from Commerce to ITC, ''Sunset Review Initiated on February 5, 2019 Applicable to January 2019,'' dated March 20, 2019 (50-day Letter).

[7] The term ''shape'' includes, but is not limited to profiles, which are flexible magnets with a non-rectangular cross-section.

[8] Packaging includes retail or specialty packaging such as digital printer cartridges.

[9] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited Second Sunset Review of Raw Flexible Magnets from the People's Republic of China,'' dated concurrently with and adopted by this notice (Issues and Decision Memorandum).

[10] *Id.*

Dated: May 31, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2019–11866 Filed 6–5–19; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XG888**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal

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

**ACTION:** Notice; issuance of an incidental harassment authorization Renewal.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA), as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) Renewal to the San Francisco Bay Area Water Emergency Transportation Authority (WETA) to take marine mammals incidental to the Downtown San Francisco Ferry Terminal Expansion Project in San Francisco, California.

**DATES:** This IHA Renewal is valid from June 1, 2019 through May 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Jordan Carduner, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

**SUPPLEMENTARY INFORMATION:**

#### Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation measures''). Monitoring and reporting of such takings are also required. The meaning of key terms such as ''take,'' ''harassment,'' and ''negligible impact'' can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency's regulations at 50 CFR 216.103.

NMFS' regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-year IHA Renewal when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. All of the following conditions must be met in order to issue a Renewal:

- A request for Renewal is received no later than 60 days prior to expiration of the current IHA;
- The request for Renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized;

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the initial findings remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals.*

#### History of Request

On May 31, 2018, NMFS issued an IHA to WETA to take marine mammals incidental to pile driving activities associated with the Downtown San Francisco Ferry Terminal Expansion Project, South Basin Improvements Project in San Francisco, California, effective from June 1, 2018, through May 30, 2019 (83 FR 28826; June 21, 2018). On March 5, 2019, NMFS received an application for the Renewal of that IHA. As described in the application for Renewal, the activities authorized in the initial IHA would not be completed by the time that IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section of the initial IHA. As required, the applicant also provided a preliminary monitoring report (available at *www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

#### Description of the Specified Activities and Anticipated Impacts

WETA plans to continue to expand the berthing capacity at the Downtown San Francisco Ferry Terminal, located at

the San Francisco Ferry Building, to support existing and future planned water transit services operated on San Francisco Bay by WETA and WETA's emergency operations. The Downtown San Francisco Ferry Terminal Expansion Project includes the construction of three new water transit gates and overwater berthing facilities, in addition to supportive landside improvements, such as additional passenger waiting and queueing areas, circulation improvements, and other water transit-related amenities. The new gates and other improvements will be designed to accommodate future planned water transit services between Downtown San Francisco and Antioch, Berkeley, Martinez, Hercules, Redwood City, Richmond, and Treasure Island, as well as emergency operation needs. All piles will be driven during the authorized in-water work window of June 1 to November 30, 2019.

The specified activities described for this renewal are an identical subset of the activities covered by the initial 2018 IHA. NMFS previously published notices of proposed IHA (83 FR 18507; April 27, 2018) and issued IHA (83 FR 28826; June 21, 2018). These documents, as well as WETA's initial IHA application and the preliminary monitoring report for the previously issued IHA, are available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*.

Similarly, the anticipated impacts are identical to those described in the initial IHA. Specifically, we anticipate the take of seven marine mammal stocks (including three cetacean and four pinniped stocks), by Level B harassment only, incidental to noise as a result of pile driving associated with the planned activities. WETA was not able to complete the pile driving activities analyzed in the initial IHA by the date that IHA is set to expire and anticipates the need for additional piles driving to complete the project in 2019.

The following documents are referenced in this notice and include important supporting information, and may be found at the indicated location:

- *Initial Proposed IHA:* Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal (83 FR 18507; April 27, 2018). Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0;*
- Initial Final IHA. Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the South Basin Improvements Project at the San Francisco Ferry Terminal (83 FR 28826; June 21, 2018). Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*; and
- Preliminary Monitoring Report from Initial IHA. Available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*.

**Detailed Description of the Activity**

As described above, WETA was not able to complete the activities analyzed in the initial IHA by the date that IHA is set to expire (June 1, 2019). As such, the activities WETA plans to conduct in 2019 would be a continuation of the activities as described in the initial 2018 IHA and would be identical to the activities analyzed in the initial IHA (same location, equipment, methods, and seasonality). The initial IHA analyzed the potential impacts to marine mammals from the construction of new water transit gates and other improvements to the ferry terminal. The new water transit gates and other improvements are designed to accommodate future planned water transit services, including an increase in peak-period WETA vessel arrivals from 14 to approximately 30, and an expansion of WETA services to accommodate more weekday passengers.

Construction of the project improvements requires pile driving. Pile driving for the project includes impact or vibratory pile driving associated with construction of the berthing structures, the Embarcadero Plaza, and East Bayside Promenade. Pile driving would occur during daylight hours only and one hammer would be used at a time. Vibratory driving of 24-inch (in) and 30-in piles may take up to 15 minutes per pile while vibratory driving of 36-in piles may take up to 20 minutes per pile. Piles driven with an impact hammer would require an estimated 1,800 strikes per pile, regardless of pile size. Underwater sound resulting from pile driving could result in the harassment of marine mammals.

Much of the pile driving associated with the project was completed in 2017 and 2018 and was covered previous IHAs. All pile driving completed in 2017 and 2018 was vibratory; no impact pile driving was conducted. The numbers of each pile size that were planned to be driven during 2018 are shown in Table 1 of the 2018 IHA application (available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*). WETA planned to install 81 steel piles, ranging in diameter from 24- to 36- in in diameter, during 2018. However, as described above, WETA was not able to complete all pile driving in 2018 as planned and therefore plans to complete pile driving associated with the planned activities in 2019. WETA installed a total of 52 piles in 2018 over approximately 21 construction days, and anticipates a total of 29 additional piles would need to be installed in 2019 to complete the project. Thus, the total number of piles driven in 2018 and 2019 combined would not exceed the total number described and analyzed in the previously issued IHA (81 piles total). A minor change in design plans would result in the installation of five more 36-in piles and five less 24-in piles that originally planned to complete the work. The Renewal is effective for a period of one year from the date of issuance.

**Description of Marine Mammals**

A description of the marine mammals in the area of the activities for which take is authorized, including information on abundance, status, distribution, and hearing, may be found in the notice of proposed IHA (83 FR 18507; April 27, 2018) for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

**Potential Effects on Marine Mammals and Their Habitat**

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized may be found in the notice of proposed IHA for the initial authorization (83 FR 18507; April 27, 2018). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and

determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

**Estimated Take**

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notice of proposed IHA (83 FR 18507; April 27, 2018) and issued IHA for the initial authorization (83 FR 28826; June 21, 2018). The pile driving equipment that may result in take, as well as the source levels, marine mammal stocks taken, marine mammal density data and the methods of take estimation applicable to this authorization remain unchanged from the previously issued IHA.

Authorized takes would primarily be by Level B harassment as exposure to acoustic sources (*i.e.,* impact and vibratory pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for harbor seals and California sea lions due to larger predicted auditory injury zones.

As described above, WETA completed the installation of 52 piles in 2018 and plans to install 29 piles to complete the project in 2019. Piles would include 24-in, 30-in, and 36-in piles. The number of piles for each respective size planned for installation in 2019 are shown in Table 1.

TABLE 1—NUMBER AND SIZES OF PILES PLANNED FOR INSTALLATION IN 2019, AND ESTIMATED DURATION OF PILE DRIVING

| Pile diameter | Number to be installed | Number of piles installed per day | Estimated construction duration (days) |
|---|---|---|---|
| 24-in | 6 | 2.5 | 2 |
| 30-in | 8 | 3 | 3 |
| 36-in | 15 | 2 | 8 |
| Total | 29 | n/a | 13 |

Distances to the isopleths corresponding to the Level B harassment threshold for each pile size and type are shown in Table 2. Distances to the isopleths corresponding to the Level A harassment thresholds for the various marine mammal functional hearing groups, by pile size and type, are shown in Table 3. Descriptions of the modeling methods used to determine the distances shown in Tables 2 and 3 are described in detail in the notice of issued IHA (83 FR 28826; June 21, 2018) for the initial IHA. These methods have not changed from the initial IHA, and all values shown in Table 2 and 3 have not changed from the initial IHA. No impact driving has been conducted on the project thus far and vibratory driving will be the most likely method of installation during 2019 as well; however, the use of an impact hammer to install piles may be required in 2019 and the potential for impact driving is therefore included in the take analysis.

TABLE 2—DISTANCES TO ISOPLETHS CORRESPONDING TO THE LEVEL B HARASSMENT THRESHOLD

| Pile size and installation method | Distance to Level B harassment threshold (m) |
|---|---|
| 24-in Vibratory | 651 |
| 24-in Impact | 341 |
| 30-in Vibratory | 450 |
| 30-in Impact | 341 |
| 36-in Vibratory | 940 |
| 36-in Impact | 541 |

TABLE 3—DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

| Pile size and installation method | Distance to Level A Harassment threshold (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| 24-in Vibratory | 3.1 | <1 | 4 | 2 | <1 |
| 24-in Impact | 418 | 15 | 498 | 224 | 16 |
| 30-in Vibratory | 2 | <1 | 3 | 1 | <1 |
| 30-in Impact | 418 | 15 | 498 | 224 | 16 |
| 36-in Vibratory | 5 | <1 | 7 | 4 | <1 |
| 36-in Impact | 801 | 29 | 954 | 429 | 31 |

As the number of pile driving days that would occur in 2019 is less than the number of pile driving days analyzed in the previous IHA, the number of takes estimated to occur in 2019, and authorized, has changed from the number of takes authorized in the initial IHA. Take numbers authorized in the initial IHA are shown in Table 11 of the

2018 notice of issued IHA (83 FR 28826; June 21, 2018), available at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-sf-bay-area-water-emergency-transportation-authority-ferry-0*).

The number of takes authorized in this IHA, for each marine mammal stock, are shown in Table 4. Auditory injury (*i.e.,* Level A harassment) is unlikely to occur for cetaceans, however, take by Level A harassment of harbor seals and California sea lions are authorized given their increased presence in the nearshore waters of the project site and the relatively large Level A harassment zones, especially for 36-in piles.

TABLE 4—TOTAL TAKES AUTHORIZED

| Species | Takes by Level A harassment | Takes by Level B harassment | Total takes authorized |
|---|---|---|---|
| Harbor seal | 20 | 83 | 103 |
| Northern fur seal | 0 | 10 | 10 |
| California sea lion | 8 | 92 | 100 |
| Northern elephant seal | 0 | 13 | 13 |
| Gray whale | 0 | 4 | 4 |
| Bottlenose dolphin | 0 | 30 | 30 |
| Harbor porpoise | 0 | 32 | 32 |

**Description of Mitigation, Monitoring and Reporting Measures**

The mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are included in this renewal:

**General Construction Measures**

A Spill Prevention Control and Countermeasure (SPCC) plan has been prepared to address the emergency cleanup of any hazardous material, and will be available onsite. The SPCC plan incorporates SPCC, hazardous waste, stormwater, and other emergency planning requirements. In addition, the project will comply with the Port's stormwater regulations. Fueling of land and marine-based equipment will be conducted in accordance with procedures outlined in the SPCC. Well-maintained equipment will be used to perform work, and except in the case of a failure or breakdown, equipment maintenance will be performed offsite. Equipment will be inspected daily by the operator for leaks or spills. If leaks or spills are encountered, the source of the leak will be identified, leaked material will be cleaned up, and the cleaning materials will be collected and properly disposed. Fresh cement or concrete will not be allowed to enter San Francisco Bay. All construction materials, wastes, debris, sediment, rubbish, trash, fencing, etc. will be removed from the site once project construction is complete, and transported to an authorized disposal area.

**Pile Driving**

Pre-activity monitoring will take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring will continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (described below) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the zone, as described below. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location must be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 or 30 minutes (for pinnipeds/small cetaceans or large cetaceans, respectively) have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

For all pile driving activities, a minimum of one protected species observed (PSO) will be required, stationed at the active pile driving rig or at the best vantage point(s) practicable to monitor the shutdown zones for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Two PSOs will be required on days when impact pile driving occurs.

Monitoring of pile driving will be conducted by qualified PSOs (see below) who will have no other assigned tasks during monitoring periods. WETA will adhere to the following conditions when selecting observers:

- Independent PSOs will be used (*i.e.,* not construction personnel);
- PSOs must have prior experience working as a marine mammal observer during construction activities; and
- WETA will submit PSO CVs for approval by NMFS.

WETA will ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

To prevent Level A take of cetaceans, elephant seals, and Northern fur seals,

shutdown zones equivalent to the Level A harassment zones will be established. If the Level A harassment zone is less than 10 m, a minimum 10 m shutdown zone will be enforced. WETA will implement shutdown zones as follows:

TABLE 5—PILE DRIVING SHUTDOWN ZONES

| Pile size and installation method | Shutdown zone (m) | | | | |
|---|---|---|---|---|---|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Otariid pinnipeds | Phocid pinnipeds |
| 24-in Vibratory | 10 | 10 | 10 | 10 | 10. |
| 24-in Impact | 420 | 15 | 500 | 16 | 30 for harbor seals, 224 for all other species. |
| 30-in Vibratory | 10 | 10 | 10 | 10 | 10. |
| 30-in Impact | 420 | 15 | 500 | 16 | 30 for harbor seals, 224 for all other species. |
| 36-in Vibratory | 10 | 10 | 10 | 10 | 10. |
| 36-in Impact | 800 | 30 | 955 | 30 | 30 for harbor seals, 430 for all other species. |

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B harassment zones, pile driving and removal activities must cease immediately using delay and shutdown procedures. Similarly, if a species for which take by Level A harassment has not been authorized, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level A harassment zones, pile driving and removal activities must cease immediately. Activities must not resume until the animal has been confirmed to have left the area or 15 or 30 minutes (pinniped/small cetacean or large cetacean, respectively) has elapsed.

Piles driven with an impact hammer will employ a ''soft start'' technique to give fish and marine mammals an opportunity to move out of the area before full-powered impact pile driving begins. This soft start will include an initial set of three strikes from the impact hammer at reduced energy, followed by a 30 second waiting period, then two subsequent three-strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of impact pile driving of 30 minutes or longer.

Impact hammers will be cushioned using a 12-in thick wood cushion block. WETA will also employ a bubble curtain during impact pile driving. WETA will implement the following performance standards:

- The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;
- The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact; and
- WETA will require that construction contractors train personnel in the proper balancing of air flow to the bubblers, and shall require that construction contractors submit an inspection/performance report for approval by WETA within 72 hours following the performance test. Corrections to the attenuation device to meet the performance standards shall occur prior to impact driving.

Based on our evaluation of the applicant's proposed measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

**Public Comments**

A notice of NMFS' proposal to issue a Renewal to WETA was published in the **Federal Register** on May 9, 2019 (84 FR 20336). That notice either described, or referenced descriptions of, WETA's activity, the marine mammal species that may be affected by the activity, the anticipated effects on marine mammals and their habitat, proposed amount and manner of take, and proposed mitigation, monitoring and reporting measures. NMFS received a comment letter from the Marine Mammal Commission (Commission). The comments and our responses are summarized below.

*Comment:* The Commission questioned whether the public notice provisions for IHA Renewals fully satisfy the public notice and comment provision in the MMPA and discussed the potential burden on reviewers of reviewing key documents and developing comments quickly. Therefore, the Commission recommended that NMFS use the IHA Renewal process sparingly and selectively for activities expected to have the lowest levels of impacts to marine mammals and that require less complex analysis.

*Response:* NMFS has taken a number of steps to ensure the public has adequate notice, time, and information to be able to comment effectively on IHA Renewals within the limitations of processing IHA applications efficiently. The **Federal Register** notice for the initial proposed IHA (83 FR 18507; April 27, 2018) previously identified the conditions under which a one-year Renewal IHA might be appropriate. This information is presented in the *Request for Public Comments* section of the initial proposed IHA and thus encourages submission of comments on the potential of a one-year renewal as well as the initial IHA during the 30-day comment period. In addition, when we receive an application for a Renewal IHA, we publish a notice of the proposed IHA Renewal in the **Federal Register** and provide an additional 15 days for public comment, for a total of 45 days of public comment. We will also directly contact all commenters on the initial IHA by email, phone, or, if the commenter did not provide email or phone information, by postal service to provide them the opportunity to submit any additional comments on the proposed Renewal IHA.

NMFS also strives to ensure the public has access to key information needed to submit comments on a proposed IHA, whether an initial IHA or a Renewal IHA. The agency's website includes information for all projects under consideration, including the application, references, and other supporting documents. Each **Federal Register** notice also includes contact information in the event a commenter has questions or cannot find the information they seek.

Regarding the Commission's comment that Renewal IHAs should be limited to certain types of projects, NMFS has explained on its website and in individual **Federal Register** notices that Renewal IHAs are appropriate where the continuing activities are identical, nearly identical, or a subset of the activities for which the initial 30-day comment period applied. Where the commenter has likely already reviewed and commented on the initial proposed IHA for these activities, the abbreviated additional comment period is sufficient for consideration of the results of the preliminary monitoring report and new information (if any) from the past year.

**National Environmental Policy Act**

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA Renewal qualifies to be categorically excluded from further NEPA review.

**Determinations**

WETA's planned activity is identical to the activity analyzed in our previously issued notices of proposed IHA and issued IHA (with the exception of the number of piles planned for installation, which is less than the number analyzed in those documents). We concluded that the initial IHA would have a negligible impact on all marine mammal stocks and species and that the taking would be small relative to population sizes. The marine mammal information, potential effects, and the mitigation and monitoring measures remain the same as those analyzed in the previously issued notices of proposed IHA and issued IHA, therefore the extensive analysis, as well as the associated findings, included in the prior documents remain applicable.

The only differences between the initial IHA and this Renewal is that the number of piles planned for installation, and the numbers of marine mammal takes expected to occur incidental to the planned activities, are lower than the numbers analyzed and authorized in the previously issued IHA. As both the number of piles planned for installation and the number of takes expected to occur, and authorized, are lower than in the initial IHA, we have concluded that the effects of the IHA Renewal are the same or less than those that were analyzed in the notices of the initial proposed IHA and issued IHA.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) WETA's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

**Endangered Species Act**

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. No incidental take of ESA-listed species is authorized or expected to result from WETA's planned activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

**Renewal**

NMFS has issued an IHA Renewal to WETA for conducting ferry terminal expansion activities at the Downtown San Francisco Ferry Terminal, provided the previously described mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 3, 2019.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2019–11851 Filed 6–5–19; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP18–1115–002.
*Applicants:* Saltville Gas Storage Company L.L.C.
*Description:* Compliance filing Saltville RP18–1115 Compliance Filing to be effective 10/1/2018.
*Filed Date:* 5/30/19.
*Accession Number:* 20190530–5500.
*Comments Due:* 5 p.m. ET 6/6/19.

*Docket Numbers:* RP19–343–004.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* Compliance filing TETLP Rate Case Compliance Filing RP19–343–000 to be effective 6/1/2019.
*Filed Date:* 5/24/19.
*Accession Number:* 20190524–5121.
*Comments Due:* 5 p.m. ET 6/5/19.

*Docket Numbers:* RP19–1234–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* Compliance filing 2019 Refund Report—Texas Eastern OFO Penalties (Rate Schedule S–2) to be effective N/A.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5037.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1235–000.
*Applicants:* Tallgrass Interstate Gas Transmission, LLC.
*Description:* Penalty Charge Reconciliation Filing of Tallgrass Interstate Gas Transmission, LLC.
*Filed Date:* 5/22/19.
*Accession Number:* 20190522–5214.
*Comments Due:* 5 p.m. ET 6/3/19.

*Docket Numbers:* RP19–1236–000.
*Applicants:* Vector Pipeline L.P.
*Description:* § 4(d) Rate Filing: Tariff Clean-Up Filing (7/1/2019) to be effective 7/1/2019.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5073.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1237–000.
*Applicants:* Transcontinental Gas Pipe Line Company, LLC.
*Description:* § 4(d) Rate Filing: Initial Rate Filing—Rivervale South to Market to be effective 7/1/2019.

*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5086.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1238–000.
*Applicants:* Questar Southern Trails Pipeline Company.
*Description:* Annual Fuel Gas Reimbursement Report of Questar Southern Trails Pipeline Company.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5110.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1239–000.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Update (SRP Jul–Sep 2019) to be effective 7/1/2019.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5130.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1240–000.
*Applicants:* El Paso Natural Gas Company, L.L.C.
*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Jul–Sep 2019) to be effective 7/1/2019.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5131.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1241–000.
*Applicants:* AVAD Operating, LLC.
*Description:* Joint Petition for Temporary Waivers of Capacity Release Regulations and Policies, et al. of AVAD Operating, LLC, et al.
*Filed Date:* 5/23/19.
*Accession Number:* 20190523–5210.
*Comments Due:* 5 p.m. ET 6/4/19.

*Docket Numbers:* RP19–1242–000.
*Applicants:* Stagecoach Pipeline & Storage Company LLC.
*Description:* § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC—Filing of Tariff Modifications to be effective 6/24/2019.
*Filed Date:* 5/24/19.
*Accession Number:* 20190524–5088.
*Comments Due:* 5 p.m. ET 6/5/19.

*Docket Numbers:* RP19–1243–000.
*Applicants:* Northern Natural Gas Company.
*Description:* § 4(d) Rate Filing: 20190524 Negotiated Rate to be effective 5/25/2019.
*Filed Date:* 5/24/19.
*Accession Number:* 20190524–5207.
*Comments Due:* 5 p.m. ET 6/5/19.

*Docket Numbers:* RP19–1244–000.
*Applicants:* Bobcat Gas Storage.
*Description:* § 4(d) Rate Filing: BGS Form of Service Agreements Cleanup Filing to be effective 7/1/2019.
*Filed Date:* 5/28/19.
*Accession Number:* 20190528–5025.
*Comments Due:* 5 p.m. ET 6/10/19.

*Docket Numbers:* RP19–1245–000.
*Applicants:* Steckman Ridge, LP.
*Description:* § 4(d) Rate Filing: SR Forms of Service Agreement Cleanup Filing to be effective 7/1/2019.
*Filed Date:* 5/28/19.
*Accession Number:* 20190528–5026.
*Comments Due:* 5 p.m. ET 6/10/19.

*Docket Numbers:* RP19–1246–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Boston Gas Releases to BBPC eff 6–1–2019 to be effective 6/1/2019.
*Filed Date:* 5/28/19.
*Accession Number:* 20190528–5047.
*Comments Due:* 5 p.m. ET 6/10/19.

*Docket Numbers:* RP19–1247–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Aethon 911578 eff 6–1–19 to be effective 6/1/2019.
*Filed Date:* 5/28/19.
*Accession Number:* 20190528–5062.
*Comments Due:* 5 p.m. ET 6/10/19.

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: May 31, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–11852 Filed 6–5–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER19–2005–000]**

### Wildhorse Wind Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildhorse Wind Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 20, 2019.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 31, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–11850 Filed 6–5–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

*Docket Numbers:* EC19–96–000.

*Applicants:* Grady Wind Energy Center, LLC, Pattern Energy Group Inc.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act, et al. of Grady Wind Energy Center, LLC, et al.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5351.

*Comments Due:* 5 p.m. ET 6/21/19.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–1437–010.

*Applicants:* Tampa Electric Company.

*Description:* Notice of Change in Status of Tampa Electric Company.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5218.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER10–2794–029; ER12–1825–027; ER14–2672–014.

*Applicants:* EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.

*Description:* Notice of Non-Material Change in Status of the EDF Sellers.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5526.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER17–1531–003.

*Applicants:* CPV Fairview, LLC.

*Description:* Supplement (Confidential Attachment A) to May 3, 2019 Supplement to January 17, 2019 Notice of Change in Status of CPV Fairview, LLC.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5537.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER18–734–002.

*Applicants:* Frenchtown III Solar, LLC.

*Description:* Compliance filing: Frenchtown III Solar Compliance Filing to be effective 4/1/2018.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5504.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER18–1226–002.

*Applicants:* PA Solar Park, LLC.

*Description:* Compliance filing: PA Solar Park Compliance Filing to be effective 6/1/2018.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5094.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–467–002.

*Applicants:* New York Independent System Operator, Inc.

*Description:* Compliance filing: Compliance re: Electric storage facility participation in markets as ELRs to be effective 12/31/9998.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5374.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–511–002.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Compliance filing: Compliance Filing Pursuant to May 3, 2019 Order re: Peak Shaving Adjustments to be effective 2/5/2019.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5398.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER19–1180–000.

*Applicants:* First Choice Energy LLC.

*Description:* Report Filing: Refund Report Filing to be effective N/A.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5406.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER19–2011–000.

*Applicants:* New Brunswick Energy Marketing Corporation.

*Description:* Request for Limited Waiver of New Brunswick Energy Marketing Corporation.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5365.

*Comments Due:* 5 p.m. ET 6/13/19.

*Docket Numbers:* ER19–2015–000.

*Applicants:* Virginia Electric and Power Company, Monongahela Power Company, The Potomac Edison Company, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Dominion, Potomac and Monongahela submit Interconnection Agreement SA No. 4874 to be effective 4/30/2019.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5427.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER19–2016–000.

*Applicants:* AC Energy, LLC.

*Description:* Notice of Cancellation of Market-Based Rate Tariff of AC Energy, LLC.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5521.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER19–2017–000.

*Applicants:* San Diego Gas & Electric Company.

*Description:* Informational Filing [Cycle 8] of Transmission Owner Rate Appendix X Formula rate mechanism of San Diego Gas & Electric Company.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5522.

*Comments Due:* 5 p.m. ET 6/20/19.

*Docket Numbers:* ER19–2018–000.

*Applicants:* Wolverine Power Supply Cooperative, Inc.

*Description:* § 205(d) Rate Filing: Application to Modify Reactive Power Revenue Requirements for Rate Schedule 20 to be effective 6/1/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5196.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2019–000.

*Applicants:* Tucson Electric Power Company.

*Description:* § 205(d) Rate Filing: Formula Transmission Rate to be effective 8/1/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5197.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2020–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2019–05–31_SA 3304 Lincoln Land Wind-Ameren GIA (J757) to be effective 5/16/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5205.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2021–000.

*Applicants:* New England Power Pool Participants Committee.

*Description:* § 205(d) Rate Filing: Jun 2019 Membership Filing to be effective 5/1/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5209.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2022–000.

*Applicants:* PacifiCorp.

*Description:* Tariff Cancellation: Termination of Exelon NITSA (OR D.A.) to be effective 7/31/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5213.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2023–000.

*Applicants:* Tucson Electric Power Company.

*Description:* Application for Abandoned Plant Cost Recovery of Tucson Electric Power Company.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5347.

*Comments Due:* 5 p.m. ET 6/21/19.

*Docket Numbers:* ER19–2024–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* § 205(d) Rate Filing: May 2019 Western Interconnection Agreement Biannual Filing to be effective 8/1/2019.

*Filed Date:* 5/31/19.

*Accession Number:* 20190531–5368.

*Comments Due:* 5 p.m. ET 6/21/19.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers:* ES19–31–000.

*Applicants:* Duquesne Light Company.

*Description:* Duguesne Light Company submits Application for an Order Authorizing the Issuance of Short—Term Indebtedness.

*Filed Date:* 5/30/19.

*Accession Number:* 20190531–0001.

*Comments Due:* 5 p.m. ET 6/20/19.

Take notice that the Commission received the following electric reliability filings.

*Docket Numbers:* RD19–6–000.

*Applicants:* North American Electric Reliability Corporation, Western Electricity Coordinating Council.

*Description:* Joint Petition of North American Electric Reliability Corporation and Western Electricity Coordinating Council for Approval of Proposed Reliability Standard IRO–002–6.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5525.

*Comments Due:* 5 p.m. ET 7/1/19.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR19–6–000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* North American Electric Reliability Corporation's Report of Comparisons of Budgeted to Actual Costs for 2018 for NERC and the Regional Entities.

*Filed Date:* 5/30/19.

*Accession Number:* 20190530–5519.

*Comments Due:* 5 p.m. ET 6/20/19.

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: May 31, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–11854 Filed 6–5–19; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2016–0715; FRL–9994–58–OW]**

## Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The Environmental Protection Agency (EPA) announces the release of final *Recommended Human Health Recreational Ambient Water Quality Criteria or Swimming Advisories for Microcystins and Cylindrospermopsin.* These are the recommended concentrations of the cyanotoxins microcystins and cylindrospermopsin in recreational waters protective of human health while swimming or participating in primary contact recreational activities on the water. The recommended values found in this document supplement the 2012 Recreational Water Quality Criteria to provide further public health protection for potentially hazardous conditions found in ambient recreational waters.

This document was released for 90-day public comment in the **Federal Register** on December 16, 2016. The EPA has considered the comments, revised the draft document, as appropriate, and published this final document to provide recommendations for states and authorized tribes interested in establishing water quality standards (WQS) under the Clean Water Act (CWA). Alternatively, these same values can be used as the basis for swimming advisories in recreational waters to protect the public. States and authorized tribes may also wish to consider using these values as both WQS and swimming advisory values.

**FOR FURTHER INFORMATION CONTACT:** John Ravenscroft, Health and Ecological Criteria Division, Office of Water (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 566–1101; email address: *ravenscroft.john@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. How can I get copies of this document and other related information?*

*1. Docket.* The EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2016–0715. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center Public Reading Room is open Monday through Friday from 8:30 a.m. to 4:30 p.m., excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

*2. Electronic Access.* You may access this **Federal Register** document electronically from the Government Printing Office under the **Federal Register** listings FDSys (*http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR*).

### II. What are microcystins and cylindrospermopsin and why is the EPA concerned about them?

Microcystins and cylindrospermopsin are toxins that can be produced by a variety of cyanobacteria species. Cyanobacteria, also commonly referred to as blue-green algae, are photosynthetic bacteria that live in many diverse habitats. Under some conditions, cyanobacteria can proliferate to high densities in surface waters, creating a bloom, and produce toxins that are harmful to humans, the environment, and animals. Excessive growth of cyanobacteria in surface waters can lead to situations in which elevated levels of cyanotoxins are more likely, however, exposure to cyanotoxins can occur even when there are no visible signs of a bloom.

Studies indicate that, at certain concentrations, short-term and long-term adverse effects from oral exposure of microcystins and cylindrospermopsin include liver and kidney damage. Additionally, studies demonstrate that recreational exposures to these cyanotoxins can lead to headaches, sore throats, vomiting and nausea, stomach pain, dry cough, diarrhea, blistering around the mouth, and pneumonia.

## III. Information on the Recommended Recreational Ambient Water Quality Criteria or Swimming Advisories (AWQC/SA) for the Cyanotoxins Microcystins and Cylindrospermopsin

The EPA's recommended AWQC/SA identify the following concentrations of microcystins and cylindrospermopsin that would be protective of human health given a primary contact recreational exposure scenario: 8 µg/L for microcystins and 15 µg/L for cylindrospermopsin. For both cyanotoxins, the recommended duration and frequency depend on their application as a water quality criterion or a swimming advisory.

These values are based on the exposure of recreating children, due to their higher exposures compared to other age groups. Given that cyanobacterial blooms typically are seasonal events, recreational exposures are likely to be episodic, and may be short-term in nature. If adopted as a WQS, for impairment assessment and listing purposes, the EPA recommends states and authorized tribes use 10-day assessment periods, not a rolling 10-day period, over the course of a recreation season to evaluate ambient water body condition and recreational use attainment. The 10-day period links the water body assessment period to the adverse health effects observed from ingestion of the toxins over short-term exposures. If toxin concentrations are higher than the criterion magnitude during a 10-day assessment period, then the EPA recommends that states and authorized tribes consider that event an excursion from the recreational criteria. The EPA recommends that when more than three excursions occur within a recreational season and that pattern reoccurs in more than one year, it is an indication the water quality has been or is becoming degraded and a water body may not be supporting the recreational use. The EPA recommends that states and authorized tribes indicate the number of years the pattern of degradation can occur and not impair the recreational use. If adopted as a swimming advisory to protect swimmers at a beach, the EPA recommends these values not be exceeded on any single day.

These recommended AWQC/SA supplement the EPA's 2012 Recreational Water Quality Criteria to provide further public health protection when elevated levels of these cyanotoxins are found in ambient recreational waters. The recommended AWQC/SA are based on the same peer-reviewed science used to develop the EPA's 10-Day Drinking Water Health Advisories for these same cyanotoxins, published in 2015. The criteria document includes information on the latest scientific knowledge related to human health effects from exposure to cyanobacteria and cyanotoxins, discussion of other domestic and international governmental and Agency guidelines for recreational waters, and information on incidents involving exposure of domestic pets and other animals to cyanotoxins.

States and authorized tribes can consider using the recommended cyanotoxin values as swimming advisories in making decisions whether to close, open, or warn about concerns in recreational waters in a manner consistent or similar to their current recreational water advisory programs. The recommended cyanotoxin values in these CWA section 304(a) recommended criteria, even if used as swimming advisories, are not regulations, and thus do not constitute legally binding requirements.

## IV. What are clean water act section 304(a) water quality criteria?

CWA section 304(a) water quality criteria are recommendations developed by the EPA under authority of the CWA that reflect the latest scientific knowledge on the type and extent of all identifiable effects on health and welfare of aquatic species and human health. CWA section 304(a) recommended criteria do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations in ambient water.

CWA section 304(a) recommended criteria provide guidance to states and authorized tribes in developing and adopting WQS that protect specific designated uses; in this case recreation. The EPA's water quality criteria recommendations are not regulations. Thus, the EPA's recommended criteria do not constitute legally binding requirements. States and authorized tribes may adopt other scientifically defensible water quality criteria that differ from these recommendations. When adopting new or revised WQS, the states and authorized tribes must adopt criteria that are scientifically defensible and protective of the designated uses of the bodies of water. States and authorized tribes have the flexibility to do this by adopting criteria based on (1) the EPA's recommended criteria, (2) the EPA's criteria modified to reflect local conditions, or (3) other scientifically defensible methods. Cyanotoxins are not part of the 40 CFR part 423, Appendix A list of 126 priority pollutants, therefore states and authorized tribes are not required to adopt criteria for these cyanotoxins.

## V. What is the relationship between the water quality criterion and your state or authorized tribal water quality standards?

As part of the WQS triennial review process defined in CWA section 303(c)(1), the states and authorized tribes are responsible for maintaining and revising WQS. WQS consist of designated uses, water quality criteria to protect those uses, a policy for antidegradation, and may include general policies for application and implementation. CWA section 303(c)(1) requires states and authorized tribes to review and modify, as appropriate, their WQS at least once every three years.

States and authorized tribes must adopt water quality criteria that protect designated uses. Consistent with the Agency's regulations at 40 CFR 131.11(a), protective criteria must be based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses. Criteria may be expressed in either narrative or numeric form.

The EPA's regulation at 40 CFR 131.20(a) provides that if a state or authorized tribe does not adopt new or revised criteria parameters for which the Agency has published new or updated recommendations, then the state or authorized tribe shall provide an explanation when it submits the results of its triennial review to the Regional Administrator consistent with CWA section 303(c)(1).

## VI. What Changed Between the Draft and Final Criteria

Changes in the final criteria document, compared to the December 2016 draft posted for public comment, include revised (higher) values for both microcystins and cylindrospermopsin and modified recommended duration and frequency components. In response to public comments, the Agency did not apply a relative source contribution term in deriving the final recommended criteria. Additionally, the incidental ingestion information for children was updated to reflect a study published in 2017. The updated ingestion rate was the primary factor for the change in the recommended values.

Dated: May 22, 2019.

**David P. Ross,**

*Assistant Administrator, Office of Water.*

[FR Doc. 2019–11814 Filed 6–5–19; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9994–73–Region 10]**

### Proposed Reissuance of NPDES General Permits for Aquaculture Facilities in Idaho Excluding Facilities Discharging Into the Upper Snake-Rock Subbasin (IDG131000) and Aquaculture Facilities Located in Indian Country in Idaho (IDG133000)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed reissuance of NPDES General Permits and request for public comment.

**SUMMARY:** The Director of the Water Division, EPA Region 10, is proposing to reissue two aquaculture National Pollutant Discharge Elimination System (NPDES) General Permits; Aquaculture Facilities in Idaho Excluding Facilities Discharging into the Upper Snake-Rock Subbasin, and Aquaculture Facilities Located in Indian Country in Idaho. As proposed, the General Permits will authorize discharges of wastewater from cold water and warm water Concentrated Aquatic Animal Production facilities (also referred to as CAAPs or ''hatcheries''). The permits will largely replace and combine the NPDES General Permit for Cold Water Aquaculture Facilities in Idaho (not subject to Wasteload Allocations) (IDG131000) and the NPDES General Permit for Aquaculture Facilities in Idaho (subject to Wasteload Allocations) (IDG130000) but will exclude facilities discharging within the Upper Snake-Rock Subbasin. The EPA is not taking action on coverage for facilities that discharge within the Upper Snake-Rock Subbasin under IDG130000 at this time; those facilities with coverage will remain covered under IDG130000. Coverage for facilities under IDG130000 that are *not* within the Upper Snake-Rock Subbasin will be terminated once coverage under IDG131000 or IDG133000 is available. In addition, with this reissuance, the EPA is separating out discharges from aquaculture facilities located in Indian County in Idaho under a separate General Permit number (IDG133000). This will facilitate the transfer of IDG131000 to the State of Idaho in 2020 as part of the phased implementation of Idaho's administration of the NPDES Program. EPA will remain the permitting authority for IDG133000.

**DATES:** Comments must be received by July 22, 2019.

**ADDRESSES:** Comments on the draft General Permits may be mailed to: Director, Water Division; USEPA Region 10; 1200 Sixth Avenue, Suite 155, WD19–C09; Seattle, WA 98101, or may also be submitted by fax to (206) 553–0165 or electronically to *kusnierz.lisa@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Permit documents may be found on the EPA Region 10 website at: *www.epa.gov/npdes-permits/draft-npdes-general-permits-aquaculture-facilities-idaho.* Copies of the draft General Permits and Fact Sheet are also available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Lisa Kusnierz at (208) 378–5626. Requests may also be electronically mailed to: *washington.audrey@epa.gov,* or *kusnierz.lisa@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

#### I. General Information

There are approximately 25 facilities eligible for coverage under the two General Permits. The Permits generally share the same conditions but differ in that IDG131000 is for facilities discharging to waters of the U.S. in Idaho (excluding facilities discharging within the Upper Snake-Rock Subbasin) and IDG133000 is for facilities discharging to waters of the U.S. within Indian Country in Idaho. Aquaculture facilities may use one of several types of production systems, including ponds, flow-through systems, and recirculating systems. Most of the facilities eligible for coverage by the General Permits use flow-through systems. Most facilities have a quiescent zone at the bottom of their raceways to allow solids and debris to settle out (where they can be vacuumed and removed) and use a full-flow settling basin or offline settling basin to remove sediment and associated pollutants prior to discharge.

The General Permits have numeric effluent limits for total phosphorus and total suspended solids for all facilities and temperature limits for some facilities, as well as prohibitions on certain discharges and practices. Numeric limitations for facilities may differ depending on applicable Total Maximum Daily Load (TMDL) wasteload allocations. Permit conditions include reporting requirements for the usage of drugs and chemicals and development of a Best Management Practices Plan that addresses solids control, operational requirements, materials storage, structural maintenance, recordkeeping, and training.

The basis for the conditions and requirements of the draft General Permits are given in the Fact Sheet. Facilities will receive a written notification from the EPA whether permit coverage and authorization to discharge under one of the General Permits is approved. Major changes in the permit conditions from the 2007 General Permit include: Removal of the percent total suspended solids removal requirement for offline settling basins, prohibition on copper usage, the addition of continuous temperature monitoring for some facilities, and miscellaneous monitoring revisions.

The EPA has completed a Biological Evaluation for these Permit actions. Consultation under the Endangered Species Act between the EPA and the National Marine Fisheries Service and the U.S. Fish and Wildlife Service has been completed. The Services concurred on the EPA's determination that the Permit actions are not likely to adversely affect species listed under the Endangered Species Act or designated critical habitat.

#### II. Other Legal Requirements

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866, *Regulatory Planning and Review,* and 13563, *Improving Regulation and Regulatory Review,* and was determined to be not significant. Compliance with Endangered Species Act, Essential Fish Habitat, Paperwork Reduction Act, and other requirements are discussed in the Fact Sheet to the proposed permits.

Dated: May 22, 2019.

**Angela Chung,**

*Acting Director, Water Division, Region 10.*

[FR Doc. 2019–11815 Filed 6–5–19; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Federal Reserve Membership Applications and the Federal Reserve Bank Stock Applications (FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087, FR 2083, FR 2083A, FR 2083B, and FR 2083C; OMB Nos. 7100–0042 and 7100–0046).

**DATES:** Comments must be submitted on or before August 5, 2019.

**ADDRESSES:** You may submit comments, identified by *FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087, FR 2083, FR 2083A, FR 2083B,* or *FR 2083C,* by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available on the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

**Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

**Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collections**

*Report titles:* Federal Reserve Bank Stock Applications.

*Agency form numbers:* FR 2030; FR 2030a; FR 2056; FR 2086; FR 2086a; FR 2087.

*OMB control number:* 7100–0042.

*Frequency:* On occasion.

*Respondents:* New national banks, non-member state banks converting into national banks, member banks, and member banks converting into or merging into member or nonmember banks.

*Estimated number of respondents:* FR 2030, 4; FR 2030a, 7; FR 2056, 1,068; FR 2086, 10; FR 2086a, 86; FR 2087, 1.

*Estimated average hours per response:* 0.5.

*Estimated annual burden hours:* FR 2030, 2; FR 2030a, 3.5; FR 2056, 534; FR 2086, 5; FR 2086a, 43; FR 2087, 0.5.

*General description of report:* Any national bank wanting to purchase stock in the Federal Reserve System, any member bank wanting to increase or decrease its Federal Reserve Bank stock holdings, or any bank wanting to cancel its stock holdings must file an application with the appropriate Federal Reserve Bank. The application forms for the initial subscription of Federal Reserve Bank stock filed by organizing national banks and nonmember state banks converting to national banks (FR 2030 and 2030a, respectively) and the application forms for the cancellation of Federal Reserve Bank stock filed by liquidating member banks, member banks merging or consolidating with nonmember banks, and insolvent member banks (FR 2086, FR 2086a, and FR 2087, respectively) require one or more of the following: A resolution by the applying bank's board of directors authorizing the transaction, an indication of the capital and surplus of the bank as of the date of application, a certification (by official signatures) of the resolution, and/or an indication of the number of shares and dollar amount of the Federal Reserve Bank stock to be purchased or cancelled.

The application form for an interim adjustment in a member bank's holdings of Federal Reserve Bank stock (FR 2056) requires an indication of the capital and surplus of the bank as of the date of application and an indication of the number of shares held and the number of shares to be acquired or canceled.

A completed application form must be submitted for each required adjustment. Any member bank must use the FR 2056 to correct a discrepancy between the amount of Federal Reserve Bank stock required to be held and the amount actually held by the member bank. The latter is determined by the Reserve Bank through its monitoring of the bank's capital accounts reported quarterly on the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036). The Federal Reserve Bank stock applications are distributed by the Federal Reserve

Banks and the information collected enables them to account for required subscription, adjustment, or cancellation payments to and from the System and for dividends paid by the System on any outstanding stock.

*Report title:* Federal Reserve Membership Application.

*Agency form number:* FR 2083/A/B/C.

*OMB control number:* 7100–0046.

*Frequency:* On occasion.

*Respondents:* Member banks converting into or merging into member or non-member banks.

*Estimated number of respondents:* 16.

*Estimated average hours per response:* 4.

*Estimated annual burden hours:* 64.

*General description of report:* The four individual application forms in the FR 2083 series (membership application and relevant attachments) are all one-time submissions that are used by organizing (new) or existing state-chartered banks to apply for membership in the Federal Reserve System. The FR 2083 contains a cover sheet, with general information and instructions detailing the information to be submitted according to the type of applicant bank. The FR 2083A is the application form for the purchase of Federal Reserve Bank stock by state banks (except mutual savings banks) and by national banks converting into state member banks. The FR 2083B is the application form for the purchase of Federal Reserve Bank stock by mutual savings banks. The FR 2083C is the Certificate of Organizers or Directors certifying that the information being submitted is true and complete, and the proposed capital is not impaired.

*Proposed revisions:* The Board is proposing to revise the FR 2030, FR 2030a, FR 2056, FR 2083A, FR 2083B, FR 2086, FR 2086A, FR 2087 with the following updates: (1) Require the bank to include their American Bankers Association (ABA) number on page one (FR 2030, FR 2030A, FR 2056, FR 2083A, and FR 2083B); (2) include the Chief Financial Officer (CFO) as an authorized signer (FR 2030, FR 2030A, FR 2056, FR 2083A, FR 2083B, FR 2086, and FR 2086A); (3) remove the SEAL and/or notarization requirement to allow for electronic retention of documentation (FR 2030, FR 2030A, FR 2056, FR 2083A, FR 2083B, and FR 2087); (4) include a note requiring that the signer of the form be included on the bank's Official Authorization List that is on file with the Federal Reserve (FR 2030, 2030A, FR 2056, 2083A, FR 2083B, and FR 2086A); (5) collect an additional data point ''Less: retained earnings and accumulated other comprehensive income if such combined amount is negative'' on page one (FR 2030, FR 2030a, similar to the FR 2056); (6) on page one of FR 2056: (a) Place a box around the area where member banks enter their Common stock, Paid-in surplus and NRE figures (if applicable) and place a bolded ''Member banks'' identifier at top left, (b) place member bank and mutual savings bank calculations separated from each other in order to alleviate each type of institution from using both areas, and (c) insert the statement to, ''round up only'' to footnote 3. The Board is not proposing any revision to the FR 2083 and FR 2083C forms as part of this process.

*Legal authorization and confidentiality:* The Federal Reserve Membership Application is authorized by Section 9 of the Federal Reserve Act (FRA) (12 U.S.C. 321, 322, 323, 329, and 333). The Federal Reserve Bank Stock Applications are authorized pursuant to Sections 9 (12 U.S.C. 321) and 11(a) of the FRA (12 U.S.C. 248(a)). Additionally, the FR 2030 and FR 2030a are specifically authorized by Section 2 of the FRA (12 U.S.C. 222 and 282); the FR 2056, FR 2086, and FR 2086a are authorized by Section 5 of the FRA (12 U.S.C. 287); and the FR 2087 is authorized by Section 6 of the FRA (12 U.S.C. 288).

The FR 2083 is required to obtain a benefit, while the FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, and FR 2087 are mandatory. Individual respondents may request that information submitted to the Board in these applications be kept confidential on a case-by-case basis. Such applications may contain information related the business plans of the respondent. Under certain circumstances, this information may be withheld under exemption 4 of the Freedom of Information Act (FOIA), which protects privileged or confidential commercial or financial information (5 U.S.C. 552(b)(4)). These applications may also contain information of a personal nature the disclosure of which would result in a clearly unwarranted invasion of personal privacy, which may be protected under exemption 6 of the FOIA (5 U.S.C. 552(b)(6)). Additionally, exemption 8 of the FOIA (5 U.S.C. 552(b)(8)) may apply to the extent the reported information is contained in or related to examination reports.

Board of Governors of the Federal Reserve System, May 31, 2019.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–11795 Filed 6–5–19; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 5, 2019.

*A. Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *PFBS Holdings, Inc., Dallas, Texas;* to become a bank holding company by acquiring voting shares of Lakeside Bancshares, Inc., and indirectly acquire Lakeside National Bank, both of Rockwall, Texas.

Board of Governors of the Federal Reserve System, June 3, 2019.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2019–11856 Filed 6–5–19; 8:45 am]

**BILLING CODE P**

## GENERAL SERVICES ADMINISTRATION

**[Notice–MG–2019–02; Docket No. 2019–0002; Sequence No. 12]**

### Office of Federal High-Performance Buildings; Green Building Advisory Committee; Notification of Upcoming Teleconference

**AGENCY:** Office of Government-Wide Policy (OGP), General Services Administration (GSA).

**ACTION:** Meeting notice.

**SUMMARY:** Notice of a teleconference/web meeting, is being provided according to the requirements of the Federal Advisory Committee Act. This notice provides the schedule for a teleconference/web meeting of the Green Building Advisory Committee (the Committee). This meeting is open for the public to either listen to or observe. Individuals interested in attending this meeting must register to attend as instructed below under **SUPPLEMENTARY INFORMATION**.

**DATES:** The Committee will hold a teleconference/web meeting on Thursday June 20, 2019, from 2:00 p.m. Eastern Standard Time (EDT), to 4:00 p.m., EDT.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Bloom, Group Federal Officer, Office of Federal High-Performance Buildings, OGP, GSA, 1800 F Street NW, Washington, DC 20405, at email address *michael.bloom@gsa.gov,* or telephone number 312–805–6799. Additional information about the Committee is available on-line at *http://www.gsa.gov/gbac.*

**SUPPLEMENTARY INFORMATION:**

#### Background

The Administrator of GSA established the Committee on June 20, 2011 (**Federal Register**/Vol. 76, No. 118) pursuant to Section 494 of the Energy Independence and Security Act of 2007 (EISA, 42 U.S.C. 17123). Under this authority, the Committee provides independent policy advice and recommendations to GSA to improve federal buildings (assets, operations, use, and resilience) to enhance human health and performance, and safeguard social, economic, and environmental security.

#### Purpose

The purpose of this teleconference/web meeting is to review, consolidate and develop consensus for the Committee's input to GSA as part of the public review period for the high-performance building certification systems review.

#### Procedures for Attendance and Public Comment

Contact Mr. Michael Bloom at *michael.bloom@gsa.gov* to register to participate in the teleconference/web meeting on June 20, 2019. To attend this event, submit your full name, organization, email address, and phone number. Requests to attend the teleconference/web meeting must be received by 5:00 p.m. EDT, on Tuesday, June 18, 2019. (GSA will be unable to provide technical assistance to any listener experiencing technical difficulties. Testing access to the Web meeting site before the calls is recommended.)

#### June 20, 2019 Committee Teleconference/Web Meeting

Relevant background information and updates for the teleconference will be posted on GSA's website at *http://www.gsa.gov/gbac.*

#### Committee Teleconference/Web Meeting Agenda

—Review, consolidate and develop consensus for the Committee's input to GSA as part of the public review period for the high-performance building certification systems review.

**Kevin Kampschroer,**

*Federal Director, Office of Federal High-Performance Buildings, General Services Administration.*

[FR Doc. 2019–11886 Filed 6–5–19; 8:45 am]

**BILLING CODE 6820–14–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**[Document Identifier: OS–0990–XXXX]**

### Agency Information Collection Request. 60-Day Public Comment Request

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

**DATES:** Written comments must be received on or before August 5, 2019.

**ADDRESSES:** Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

**FOR FURTHER INFORMATION CONTACT:** When submitting comments or requesting information, please include the document identifier 0990–xxxx60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

*Proposed Project:* 0990–xxxx Evaluation of the Kidney Innovation Accelerator (KidneyX).

*Abstract:* The Office of the Chief Technology Officer (CTO) is initiating an independent evaluation under the Department of Health & Human Services (HHS) of the Kidney Innovation Accelerator—or KidneyX—a public-private partnership between HHS/CTO and the American Society of Nephrology (ASN).

The KidneyX evaluation involves a mixed-methods design for data collection and analysis. The evaluation integrates qualitative techniques, such as document analysis and stakeholder interviews, to capture the details and effects of processes and changes within the KidneyX initiative. We will apply quantitative methods, such as surveys and econometric analysis, in discrete situations in which we find sufficient certainty and coherence in environmental conditions to conduct rigorous analysis.

The evaluation will use a data-driven set of methodologies to address, to the extent possible, the central question of the effectiveness of KidneyX: The degree to which KidneyX contributed to any acceleration in the rate of innovation in the targeted area of kidney technology compared with how innovation would have progressed without KidneyX.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondent | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in min.) | Total burden (in hr.) |
|---|---|---|---|---|---|
| Prize competition applicants | Applicant Interview Guide | 12 | 1 | 50/60 | 9 |
| Prize competition awardees | Awardee Interview Guide | 6 | 1 | 50/60 | 5 |
| Prize competition non-awardees | Non-awardee Interview Guide | 6 | 1 | 50/60 | 5 |
| Other Stakeholders | Other Stakeholder Interview Guide | 6 | 1 | 50/60 | 5 |
| Prize competition applicants | Pre-award Survey Instrument | 300 | 1 | 30/60 | 150 |
| Prize competition awardees and non-awardees. | Post-award Survey Instrument | 300 | 1 | 30/60 | 150 |
| Total | | | | | 324 |

**Terry Clark,**

*Office of the Secretary, Asst. Paperwork Reduction Act Reports Clearance Officer.*

[FR Doc. 2019–11812 Filed 6–5–19; 8:45 am]

**BILLING CODE 4150–04–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:* Center for Scientific Review Special Emphasis; Panel; Member Conflict: Vascular Biology.

*Date:* June 26, 2019.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov*.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology B Study Section.

*Date:* June 27–28, 2019.

*Time:* 8:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

*Contact Person:* Gniesha Yvonne Dinwiddie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20892, 301–827–7235, *dinwiddiegy@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; U.S.-China Program for Biomedical Collaborative Research in Visual System, Environmental Health, Mental Health and Neurological Disorders.

*Date:* June 28, 2019.

*Time:* 8:30 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*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*.

(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: May 31, 2019.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11782 Filed 6–5–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel; National Institute of Child Health and Human Development Special Emphasis Panel. T32 Training Grants.

*Date:* December 5–6, 2019.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

*Contact Person:* Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm 2121A, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov*.

*Name of Committee:* National Institute of Child Health and Human Development, Initial Review Group, Population Sciences Subcommittee, CHHD–W (Population Sciences Subcommittee).

*Date:* January 30–31, 2020.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm 2121A, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov*.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel; National Institute of Child Health and Human Development Special Emphasis Panel.

*Date:* January 30–31, 2020.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch (SRB), DER, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS, 6710B Rockledge Drive, Rm 2121A, Bethesda, MD 20817, 301–451–4989, *crobbins@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: May 31, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11781 Filed 6–5–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Environmental Health Sciences; 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 Environmental Health Sciences Special Emphasis Panel; Mechanism for Time-Sensitive Research Opportunities in Environmental Health Sciences (R21).

*Date:* June 18, 2019.

*Time:* 11:00 a.m. to 12:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Laura A. Thomas, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 919–541–2824, *laura.thomas@nih.gov*.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; NIH Pathway to Independence Award.

*Date:* June 20, 2019.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, (919) 541–0670, *worth@niehs.nih.gov*.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; R13 Support for Conferences and Scientific Meetings.

*Date:* June 25, 2019.

*Time:* 11:00 a.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Varsha Shukla, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Science, 530 Davis Drive, Keystone Bldg, Room 3094, Durham, NC 27713, 984–287–3288, *Varsha.shukla@nih.gov*.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Innovative Approaches for Improving Environmental Health Literacy.

*Date:* July 18, 2019.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Room 1099, Durham, NC 27709 (Virtual Meeting).

*Contact Person:* Alfonso R. Latoni, Ph.D. Chief, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3279, *alfonso.latoni@nih.gov*.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; Evaluation of the P42 SUPERFUND Research Grant Applications.

*Date:* July 23–24, 2019.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* DoubleTree by Hilton Raleigh Durham Airport at Research Triangle Park, 4810 Page Creek Lane, Durham, NC 27703.

*Contact Person:* Janice B. Allen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

*Name of Committee:* National Institute of Environmental Health Sciences Special Emphasis Panel; R25 Summer Research Training Program.

*Date:* July 30, 2019.

*Time:* 11:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Room 2128, Research Triangle Park, NC 27709.

*Contact Person:* Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, 984–287–3236, *bass@niehs.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.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: May 31, 2019.

**Sylvia L. Neal,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11784 Filed 6–5–19; 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:* Center for Scientific Review Special Emphasis Panel; PAR–17–316: Biomedical Technology Research Resource (P41).

*Date:* June 19–20, 2019.

*Time:* 10:00 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.

*Contact Person:* Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.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:* Center for Scientific Review Special Emphasis Panel; Small Business: Instrumentation, Environmental and Occupational Safety.

*Date:* June 24–25, 2019.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 6188, MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Neural Regulation of Cancer.

*Date:* June 27, 2019.

*Time:* 12:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

*Contact Person:* Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@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: May 31, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11780 Filed 6–5–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Biorepository: Exploratory Research Opportunities.

*Date:* June 24, 2019.

*Time:* 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7200, Bethesda, MD 20892, 301–827–7975, *reillymp@nhlbi.nih.gov*.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; NIH Research Commercialization Hubs.

*Date:* June 27–28, 2019.

*Time:* June 27, 2019, 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Time:* June 28, 2019, 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0297, *goltrykl@mail.nih.gov*.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; CLTR Member Conflicts.

*Date:* June 27, 2019.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892, 301–827–7942, *lismerin@nhlbi.nih.gov*.

*Name of Committee:* National Heart, Lung, and Blood Institute Special Emphasis Panel; K01: Career Development Programs to Promote Diversity in Health Research.

*Date:* June 28, 2019.

*Time:* 8:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

*Contact Person:* Lindsay M. Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 7189, Bethesda, MD 20892, 301–827–7911, *lindsay.garvin@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 31, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11787 Filed 6–5–19; 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:* Center for Scientific Review Special Emphasis Panel; Infectious, Reproductive, Asthma and Pulmonary Conditions.

*Date:* June 27, 2019.
*Time:* 7:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
*Contact Person:* Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.nih.gov*.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Infectious Diseases, Reproductive Health, Asthma and Pulmonary Conditions Study Section.
*Date:* June 27–28, 2019.
*Time:* 7:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
*Contact Person:* Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Topics in Non-HIV Microbial Diagnostic and Detection Research.
*Date:* June 27, 2019.
*Time:* 8:00 a.m. to 5:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Wyndham Grand Chicago Riverfront, 71 E Wacker Drive, Chicago, IL 60601.
*Contact Person:* Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mail.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Genes, Genomes and Genetics.
*Date:* June 27–28, 2019.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Hotel Palomar, 2121 P Street NW, Washington, DC 20037.
*Contact Person:* Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, *lystranne.maynard-smith@nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Integrative Nutrition and Metabolic Processes.
*Date:* June 27, 2019.
*Time:* 1:00 p.m. to 2:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Washington Marriott Georgetown, 1221 22nd Street NW, Washington, DC 20037.
*Contact Person:* Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Genes, Genomes and Genetics.
*Date:* June 28, 2019.
*Time:* 8:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Place:* Hotel Palomar, 2121 P Street NW, Washington, DC 20037.
*Contact Person:* Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188, MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.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: May 31, 2019.

**Ronald J. Livingston, Jr.,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019–11783 Filed 6–5–19; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0079]**

### Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Replacement/Initial Nonimmigrant Arrival-Departure Document

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 5, 2019.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0079 in the body of the letter, the agency name and Docket ID USCIS–2007–0011. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0011;

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW, Washington, DC 20529–2140.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW, Washington, DC 20529–2140, telephone number 202–272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:**

#### Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0011 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Replacement/Initial Nonimmigrant Arrival-Departure Document.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–102; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Nonimmigrants temporarily residing in the United States can use this form to request a replacement of a lost, stolen, or mutilated arrival-departure record, or to request a new arrival-departure record, if one was not issued when the nonimmigrant was last admitted but is now in need of such a record. U.S. Citizenship and Immigration Services (USCIS) uses the information provided by the requester to verify eligibility, as well as his or her status, process the request, and issue a new or replacement arrival-departure record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–102 is 4,100 and the estimated hour burden per response is 0.75 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,075 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,182,440.

Dated: May 31, 2019.

**Samantha L Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2019–11817 Filed 6–5–19; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–R1–ES–2018–0095]; [FXES11140100000–190–FF01E00000]**

### Final Environmental Impact Statement and Final Habitat Conservation Plan for the Skookumchuck Wind Energy Project, Lewis and Thurston Counties, Washington; Correction

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; correction.

**SUMMARY:** On May 31, 2019, we, the U.S. Fish and Wildlife Service, announced via a **Federal Register** notice the availability of a final environmental impact statement (EIS) and a final habitat conservation plan addressing the Skookumchuck Wind Energy Project in Lewis and Thurston Counties, Washington. The Skookumchuck Wind Energy Project LLC is requesting an incidental take permit (ITP) covering the take of one threatened species listed under the Endangered Species Act, and two non-listed federally protected species. The final EIS has been prepared in response to the ITP application in accordance with the requirements of the National Environmental Policy Act. Our **Federal Register** notice inadvertently did not give the correct docket number for the public to use to find the announced documents online. In this notice, we correct that error.

**DATES:** The Service's ITP decision will occur no sooner than 30 days after publication of the U.S. Environmental Protection Agency's notice of the final EIS in the **Federal Register**, and will be documented in a record of decision.

**ADDRESSES:** You may obtain copies of the documents by any of the following methods:

- *Internet: http://www.regulations.gov* under Docket No. FWS–R1–ES–2018–0095 or *https://www.fws.gov/wafwo/.*
- *Upon Request:* You may call Curtis Tanner at 360–753–4326 to request alternative formats of the documents or make an appointment to inspect the documents during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Dr. SE, Suite 102, Lacey, WA 98503.

**FOR FURTHER INFORMATION CONTACT:** Curtis Tanner, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office (see **ADDRESSES**); telephone: 360–753–4326; email: *Curtis_Tanner@fws.gov.* Hearing- or speech-impaired individuals may call the Federal Relay Service at 800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** On May 31, 2019, we, the U.S. Fish and Wildlife Service (Service), announced the availability of a final environmental impact statement and a final habitat conservation plan addressing the Skookumchuck Wind Energy Project (project) in Lewis and Thurston Counties, Washington (84 FR 25299). The Skookumchuck Wind Energy Project LLC is requesting an incidental take permit covering the take of the marbled murrelet (*Brachyramphus marmoratus*), bald eagle (*Haliaeetus leucocephalus*), and golden eagle (*Aquila chrysaetos*) likely to be caused by the operation of the project over a 30-year period.

The murrelet is listed as threatened under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d).

**Corrections**

In our May 31, 2019, notice (84 FR 25299), we did not provide the correct docket number in *https://www.regulations.gov/* for the public to use to access the documents announced by that notice. The correct docket number is Docket No. FWS–R1–ES–2018–0095. Our **ADDRESSES** section above has been corrected accordingly. We regret any inconvenience caused by this error.

**Authority**

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Dated: May 31, 2019.

**Sara Prigan,**

*Federal Register Liaison, U.S. Fish and Wildlife Service.*

[FR Doc. 2019–11788 Filed 6–5–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–HQ–ES–2019–0021; FF09E42000 178 FXES11130900000]**

# Endangered and Threatened Species; Issuance of Enhancement of Survival and Incidental Take Permits for Safe Harbor Agreements, Candidate Conservation Agreements, and Habitat Conservation Plans, 2018; Issuance of Recovery Permits, July 1, 2017, Through December 31, 2018

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, in accordance with the Endangered Species Act (ESA), provide a list to the public of permits issued under the ESA. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes or exempts the taking under the ESA. We provide this list to the public as a summary of our permit issuances for candidate conservation agreements with assurances, safe harbor agreements, and habitat conservation plans for calendar year 2018, and for recovery permits issued between July 1, 2017, and December 31, 2018.

**FOR FURTHER INFORMATION CONTACT:** For general information about the ESA permit process, contact Karen Anderson, via phone at 703–358–2301,*viaemailatkaren_anderson@fws.gov,* or via the Federal Relay Service at 800–877–8339. For information on specific permits, see the contact information below in Permits Issued.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service, in accordance with section 10(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), as amended, provide a list to the public of the permits issued under section 10(a)(1)(A) and 10(a)(1)(B) of the ESA. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes the taking or the take is exempted through section 7 of the ESA. Under section 10(a)(1)(A) of the ESA, we issue enhancement of survival permits in conjunction with candidate conservation agreements with assurances (CCAAs) and safe harbor agreements (SHAs). Section 10(a)(1)(A) also authorizes recovery permits. Section 10(a)(1)(B) permits authorize take of listed species incidental to otherwise lawful activities associated with habitat conservation plans (HCPs). We provide this list to the public as a summary of our permit issuances for CCAAs, SHAs, and HCPs for calendar year 2018 and for recovery permits issued between July 1, 2017, and December 31, 2018.

## Background

Under the authority of section 10(a)(1)(A) of the ESA, we have issued enhancement of survival permits to conduct activities that provide a conservation benefit for endangered or threatened species, or for unlisted species should they become listed in the future, in response to permit applications that we received in conjunction with a SHA or a CCAA.

Recovery permits have been issued under ESA section 10(a)(1)(A) to allow for take as part of activities intended to foster the recovery of listed species, typically for scientific research in order to understand better the species' long-term survival needs.

Under ESA section 10(a)(1)(B), we may issue permits for any taking otherwise prohibited by ESA section 9 if such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity (known as an incidental take permit (ITP)) and the permit applicant submits a habitat conservation plan (HCP) that meets the permit issuance criteria under section 10(a)(2)(B). Typically, applicants seek an ITP to conduct activities such as residential and commercial development, infrastructure development or maintenance, and energy development projects that range in scale from small to landscape-level planning efforts.

The permits associated with SHAs, CCAAs, and HCPs that we issued between January 2 and December 28, 2018, and the recovery permits issued between July 1, 2017, and December 31, 2018, are listed below.

Under section 10(a)(1)(A), we issued each permit only after we determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the listed species, or to the unlisted species should it be listed; that the proposed activities would benefit the recovery or the enhancement of survival of the species; and that the terms and conditions of the permits were consistent with the purposes and policy set forth in the ESA.

Under section 10(a)(1)(B), we issued permits only after we determined that the applicant is eligible and has submitted a complete application and HCP that fully meets the permit issuance criteria consistent with section 10(a)(2)(B).

## Permits Issued

*Hawaii, Idaho, Oregon (Except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the States and territories listed above.

HCPs and SHAs

For more information about any of the following HCP or SHA permits, contact the field office that issued the permit by telephone at the appropriate telephone number:

*Oregon Fish and Wildlife Office (OR):* 503–231–6179.

*Washington Fish and Wildlife Office (WA):* 360–753–9440.

*Pacific Islands (HI):* 808–792–9400.

Recovery Permits

For more information about any of the following recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR1ES@fws.gov* or by telephone at 503–231–6131.

| Permit No. | Plan or agreement type | Permittee | Date issued |
|---|---|---|---|
| TE91853B–1 .. | HCP (WA) ..... | KAUFMAN HOLDINGS, INC ..... | 6/14/2018 |
| TE72314C–0 .. | HCP (WA) ..... | LLCWALTERS GRANDCHILDREN WASHINGTON, LLC ..... | 6/14/2018 |
| TE09651B–1 .. | HCP (WA) ..... | GREEN DIAMOND RESOURCES COMPANY ..... | 8/3/2018 |
| TE90139C–0 .. | HCP (WA) ..... | SERIES ONE OF TWIN CREEKS ..... | 8/13/2018 |
| TE35858C–0 .. | HCP (WA) ..... | UCP SAGEWOOD ..... | 8/13/2018 |
| TE01952D–0 .. | HCP (HI) ..... | LLCNA PUA MAKANI POWER PARTNERS, LLC ..... | 9/7/2018 |
| TE84922C–0 .. | HCP (WA) ..... | TODD ANDREW TVETEN ..... | 9/19/2018 |
| TE57529C–0 .. | SHA (WA) ..... | GRAY MARSH LLC ..... | 3/7/2018 |
| TE92463C–0 .. | SHA (HI) ..... | KAMEHAMEHA SCHOOLS, TRUSTEES OF THE ESTATE OF BERNICE PAUAHI BISHOP | 6/22/2018 |

| Permit No. | Plan or agreement type | Permittee | Date issued |
|---|---|---|---|
| TE01952D–0 .. | SHA (OR) ..... | ROSEBURG RESOURCES CO ..... | 8/13/2018 |
| TE40423 ..... | Recovery ..... | KEVIN J. ROE ..... | 7/5/2017 |
| TE125620 ..... | Recovery ..... | BURNS & MCDONNELL ENGINEERING COMPANY, INC ..... | 7/19/2017 |
| TE42183A ..... | Recovery ..... | BURNS & MCDONNELL ENGINEERING COMPANY, INC ..... | 7/19/2017 |
| TE125620 ..... | Recovery ..... | BURNS & MCDONNELL ENGINEERING COMPANY, INC ..... | 7/19/2017 |
| TE98596B ..... | Recovery ..... | VESELKA, SARAH ELIZABETH ..... | 7/26/2017 |
| TE98486B ..... | Recovery ..... | UNIVERSITY OF MISSISSIPPI BIOLOGY DEPARTMENT ..... | 8/2/2017 |
| TE40523A ..... | Recovery ..... | NELSON, DAVID H ..... | 8/7/2017 |
| TE117405 ..... | Recovery ..... | TENNESSEE VALLEY AUTHORITY ..... | 8/20/2017 |
| TE002412 ..... | Recovery ..... | COMALANDER, CECIL LAMAR ..... | 8/22/2017 |
| TE78919A ..... | Recovery ..... | EAST COAST ZOOLOGICAL SOCIETY ..... | 8/25/2017 |
| TE59798B ..... | Recovery ..... | DAGUNA CONSULTING, LLC ..... | 8/25/2017 |
| TE121059 ..... | Recovery ..... | ROUND MOUNTAIN BIOLOGICAL & ENVIRONMENTAL STUDIES, INC ..... | 8/25/2017 |
| TE070846 ..... | Recovery ..... | WALTERS, JEFFREY R ..... | 8/29/2017 |
| TE68616B ..... | Recovery ..... | ATKINSON, CARLA LEE ..... | 8/29/2017 |
| TE23537C ..... | Recovery ..... | APPALACHIAN ECOLOGICAL SERVICES, LLC ..... | 9/6/2017 |
| TE079883 ..... | Recovery ..... | ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT ..... | 9/7/2017 |
| TE65334A ..... | Recovery ..... | MOLANO—FLORES, BRENDA ..... | 9/13/2017 |
| TE47720B ..... | Recovery ..... | PEREZ, HECTOR E ..... | 9/15/2017 |
| TE171516 ..... | Recovery ..... | COPPERHEAD ENVIRONMENTAL CONSULTING, INC ..... | 9/15/2017 |
| TE30733C ..... | Recovery ..... | THALKEN, MARISSA MICHELLE ..... | 9/15/2017 |
| TE237544 ..... | Recovery ..... | GOLLADAY, STEPHEN W ..... | 10/2/2017 |
| TE06337C ..... | Recovery ..... | LOUGHMAN, ZACHARY J ..... | 10/2/2017 |
| TE34387C ..... | Recovery ..... | U.S. FISH AND WILDLIFE SERVICE ..... | 10/5/2017 |
| TE055241 ..... | Recovery ..... | MONTGOMERY, ROBERT L ..... | 10/10/2017 |
| TE12169B ..... | Recovery ..... | MITIGATION MANAGEMENT ..... | 10/10/2017 |
| TE91733B ..... | Recovery ..... | ADAMS, JOSHUA J ..... | 10/17/2017 |
| TE02167C ..... | Recovery ..... | GORE, JAMES WILLIAM ..... | 10/18/2017 |
| TE37652B ..... | Recovery ..... | BLUE RIDGE PARKWAY—NATIONAL PARK SERVICE ..... | 10/27/2017 |
| TE00479C ..... | Recovery ..... | JOHNSON, KEVIN LAYNE ..... | 11/1/2017 |
| TE206894 ..... | Recovery ..... | ROTHERMEL, BETSIE B ..... | 11/2/2017 |
| TE81756A ..... | Recovery ..... | ROBINSON, JASON B ..... | 11/13/2017 |
| TE063179 ..... | Recovery ..... | EDWARDS—PITMAN ENVIRONMENTAL, INC ..... | 11/14/2017 |
| TE106708 ..... | Recovery ..... | MORRISON, JOAN L ..... | 11/19/2017 |
| TE05565B ..... | Recovery ..... | UT–BATELLE CORP ..... | 12/5/2017 |
| TE98532B ..... | Recovery ..... | FRIDELL, JOHN A ..... | 12/6/2017 |
| TE43261B ..... | Recovery ..... | ALTMAN, ANN M ..... | 12/8/2017 |
| TE148282 ..... | Recovery ..... | WILHIDE, JACK (J.D.) D ..... | 12/13/2017 |
| TE57120C ..... | Recovery ..... | ALTAMAHA ENVIRONMENTAL CONSULTING, LLC ..... | 12/15/2017 |
| TE55292B ..... | Recovery ..... | UNIVERSITY OF FLORIDA ..... | 12/20/2017 |

*Arizona, New Mexico, Oklahoma, and Texas*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the States listed above.

HCPs, CCAAs, and SHAs

For more information about any of the following HCP, CCAA, or SHA permits, contact the HCP, CCAA, or SHA Permit Coordinator by email at *FW2_HCP_Permits@fws.gov* or by telephone at 505–248–6651.

Recovery Permits

For more information about any of the following recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR2ES@fws.gov* or by telephone at 505–248–6920.

| Permit No. | Plan or agreement type | Permittee | Date issued |
|---|---|---|---|
| TE00948C–0 ..... | CCAA ..... | ARIZONA ELECTRIC POWER COOPERATION, INC ..... | 5/31/2018 |
| TE36242C–1 ..... | HCP ..... | SAN ANTONIO WATER SYSTEM, ROBERT R. PUENTE, PRESIDENT/CEO ..... | 1/10/2018 |
| TE86834–1 ..... | HCP ..... | LOWER COLORADO RIVER MULTI-SPECIES CONSERVATION PROGRAM ..... | 3/5/2018 |
| TE10556–4 ..... | HCP ..... | AARON ROSS ..... | 5/1/2018 |
| TE62866C–0 ..... | HCP ..... | WEST TRAVIS COUNTY PUBLIC UTILITY AGENCY ..... | 9/5/2018 |
| TE10607–0 ..... | HCP ..... | BARTON SPRINGS/EDWARDS ACQUIFER CONSERVATION DISTRICT ..... | 9/11/2018 |
| TE81211C–0 ..... | HCP ..... | AMERICAN ELECTRIC SERVICE CORPORATION ..... | 11/30/2018 |
| TE55026C–0 ..... | HCP ..... | AMERUCAB ELECTRIC POWER OKLAHOMA TRANSMISSION ..... | 4/2/2108 |
| TE071287 ..... | Recovery ..... | CHRISTMAN, BRUCE LOUIS ..... | 8/4/2017 |
| TE40343C ..... | Recovery ..... | HUFFMAN, DAVID G ..... | 8/21/2017 |
| TE88788B ..... | Recovery ..... | SUMMERLIN, JEFFERSON B ..... | 8/24/2017 |
| TE054791 ..... | Recovery ..... | MARSHALL, BRYCE L ..... | 9/8/2017 |
| TE814933 ..... | Recovery ..... | TEXAS PARKS & WILDLIFE DEPARTMENT ..... | 9/14/2017 |
| TE32916C ..... | Recovery ..... | G.M. SUTTON AVIAN RESEARCH CENTER ..... | 9/21/2017 |
| TE21840C ..... | Recovery ..... | WILDWOOD ENVIRONMENTAL CREDIT COMPANY ..... | 9/21/2017 |

| Permit No. | Plan or agreement type | Permittee | Date issued |
|---|---|---|---|
| TE22964C | Recovery | MEMPHIS ZOO | 9/25/2017 |
| TE72079A | Recovery | RINNE, JOHN N. | 9/25/2017 |
| TE25105C | Recovery | TRATHNIGG, HEIDI KLOEPPEL | 9/25/2017 |
| TE232639 | Recovery | DESCO ENVIRONMENTAL CONSULTANTS, LP | 9/30/2017 |
| TE34460C | Recovery | GROUSE MOUNTAIN ENVIRONMENTAL CONSULTANTS, LLC | 9/30/2017 |
| TE835139 | Recovery | HAWKS ALOFT, INC | 9/30/2017 |
| TE048464 | Recovery | ROBERTS, JOANNE MARIE | 9/30/2017 |
| TE37484A | Recovery | BALCONES CANYONLANDS NATIONAL WILDLIFE REFUGE | 10/3/2017 |
| TE023643 | Recovery | U.S. ARMY, III CORPS AND FORT HOOD | 10/3/2017 |
| TE35802C | Recovery | GEODATA CRAWLER RESEARCH INSTITUTE | 11/1/2017 |
| TE051819 | Recovery | FORT WORTH ZOOLOGICAL PARK | 11/13/2017 |
| TE72065A | Recovery | PRESCOTT NATIONAL FOREST | 11/13/2017 |
| TE794593 | Recovery | TEXAS STATE AQUARIUM | 11/13/2017 |
| TE25609A | Recovery | THE PEREGRINE FUND | 11/13/2017 |
| TE819558 | Recovery | USFS NATIONAL FORESTS AND GRASSLANDS IN TEXAS | 11/20/2017 |
| TE051839 | Recovery | U.S. FISH AND WILDLIFE SERVICE, REGION 2 | 12/4/2017 |
| TE72321B | Recovery | FRANCKE, CHRISTOPHER E | 12/7/2017 |
| TE040346 | Recovery | THE KAUFFMAN GROUP | 12/12/2017 |
| TE29890C | Recovery | MATRIX CONSULTING NM | 12/22/2017 |
| TE43777A | Recovery | SEA LIFE US, LLC | 12/22/2017 |
| TE43754A | Recovery | TURNER ENDANGERED SPECIES FUND, LLC | 12/22/2017 |
| TE053085 | Recovery | BUREAU OF RECLAMATION—BOULDER CITY | 1/8/2018 |
| TE829996 | Recovery | HOUSTON ZOO, INC | 1/8/2018 |
| TE834782 | Recovery | WESTLAND RESOURCES, INC | 1/15/2018 |
| TE10107C | Recovery | BANDELIER NATIONAL MONUMENT | 1/22/2018 |
| TE828830 | Recovery | BUREAU OF LAND MANAGEMENT—TUCSON FIELD OFFICE | 1/31/2018 |
| TE13598B | Recovery | BURFORD, BRADLEY BYRON | 1/31/2018 |
| TE798920 | Recovery | CITY OF AUSTIN | 1/31/2018 |
| TE028605 | Recovery | SWCA ENVIRONMENTAL CONSULTANTS—FLAGSTAFF | 1/31/2018 |
| TE94739A | Recovery | TRAVIS AUDUBON SOCIETY, INC | 1/31/2018 |
| TE88512A | Recovery | NEW MEXICO DEPARTMENT OF TRANSPORTATION ENVIRONMENTAL BUREAU. | 2/5/2018 |
| TE676811 | Recovery | U.S. FISH AND WILDLIFE SERVICE, REGION 2 | 2/13/2018 |
| TE37418B | Recovery | BROWN AND GAY ENGINEERS, INC | 2/28/2018 |
| TE11267C | Recovery | BUSCHOW, MARISSA ANN | 2/28/2018 |
| TE27791B | Recovery | NATIONAL PARK SERVICE—MONTEZUMA CASTLE AND TUZIGOOT MONUMENTS. | 2/28/2018 |
| TE35437B | Recovery | USDA FOREST SERVICE—SANTA FE NATIONAL FOREST | 2/28/2018 |
| TE230274 | Recovery | KELLER, DAVID C | 3/5/2018 |
| TE83693A | Recovery | OKLAHOMA BIOLOGICAL SURVEY | 3/5/2018 |
| TE19661B | Recovery | TETRA TECH, INC | 3/5/2018 |
| TE827726 | Recovery | U.S. FOREST SERVICE—TONTO NATIONAL FOREST | 3/5/2018 |
| TE819475 | Recovery | BUREAU OF RECLAMATION | 3/12/2018 |
| TE207369 | Recovery | U.S. ARMY GARRISON—FT. HUACHUCA | 3/19/2018 |
| TE205717 | Recovery | COLLINS, VALERIE M | 3/26/2018 |
| TE776123 | Recovery | TEXAS A & M UNIVERSITY—GALVESTON | 3/26/2018 |
| TE85077A | Recovery | ZARA ENVIRONMENTAL LLC | 3/26/2018 |
| TE77510C | Recovery | HAYES, MATTHEW T | 4/2/2018 |
| TE37047A | Recovery | SEA WORLD PARKS AND ENTERTAINMENT | 4/2/2018 |
| TE127287 | Recovery | AMMERMAN, LOREN K. | 4/9/2018 |
| TE109028 | Recovery | COURAGE, SUSAN ANNE | 4/9/2018 |
| TE48900C | Recovery | GELUSO, KEITH | 4/9/2018 |
| TE799103 | Recovery | HICKS & COMPANY | 4/9/2018 |
| TE000948 | Recovery | WESTERN NEW MEXICO UNIVERSITY | 4/9/2018 |
| TE830177 | Recovery | UNIVERSITY OF TEXAS MARINE SCIENCE INSTITUTE | 4/11/2018 |
| TE039466 | Recovery | USGS—IDAHO COOPERATIVE FISH & WILDLIFE RESEARCH UNIT | 4/12/2018 |
| TE43746A | Recovery | NORTHERN ARIZONA UNIVERSITY | 4/16/2018 |
| TE006655 | Recovery | LOGAN SIMPSON DESIGN, INC | 4/23/2018 |
| TE87818B | Recovery | GREGORY, MELANIE L | 4/25/2018 |
| TE181762 | Recovery | SEA TURTLE, INC | 4/25/2018 |
| TE826091 | Recovery | BUREAU OF LAND MANAGEMENT—PHOENIX | 5/1/2018 |
| TE814833 | Recovery | U.S. FOREST SERVICE, ROCKY MOUNTAIN RESEARCH STATION | 5/7/2018 |
| TE17901C | Recovery | VOYLES, JAMIE L | 5/7/2018 |
| TE65846A | Recovery | SAGUARO NATIONAL PARK | 5/14/2018 |
| TE25946A | Recovery | ANDREWS, CHARLIE F | 5/21/2018 |
| TE97824A | Recovery | SMITH ENVIRONMENTAL AND RESEARCH CONSULTING HOUSE, LLC | 5/21/2018 |
| TE037155 | Recovery | BIO-WEST, INC | 5/22/2018 |
| TE166250 | Recovery | MIAMI UNIVERSITY | 5/22/2018 |
| TE815409 | Recovery | NEW MEXICO DEPARTMENT OF GAME & FISH | 5/22/2018 |
| TE79165C | Recovery | RANDKLEV, CHARLES ROBERT | 5/22/2018 |
| TE78507C | Recovery | STOECKEL, JAMES A | 5/22/2018 |
| TE63200B | Recovery | AUDUBON ARIZONA | 5/23/2018 |

| Permit No. | Plan or agreement type | Permittee | Date issued |
|---|---|---|---|
| TE58221C | Recovery | DASILVA, JORGE ALBERTO | 5/23/2018 |
| TE81148C | Recovery | BEAUREGARD, NICHOLAS DAVID | 5/25/2018 |
| TE66177C | Recovery | NEWGORD, GARY ERIC | 5/25/2018 |
| TE32832C | Recovery | USFWS BUENOS AIRES NATIONAL WILDLIFE REFUGE | 5/25/2018 |
| TE044359 | Recovery | ENERCON SERVICES, INC | 5/31/2018 |
| TE78625C | Recovery | MA, JESSICA | 6/1/2018 |
| TE045236 | Recovery | SWCA, INCRPORATED | 6/4/2018 |
| TE86884B | Recovery | LILLIE, SCOTT LEE | 6/5/2018 |
| TE93542C | Recovery | NEW MEXICO STATE UNIVERSITY | 6/5/2018 |
| TE144755 | Recovery | REAGAN SMITH ENERGY SOLUTIONS, INC | 6/11/2018 |
| TE85994C | Recovery | BOAL, CLINT W | 6/25/2018 |
| TE63022C | Recovery | KARRAKER, NANCY E. | 6/26/2018 |
| TE840727 | Recovery | NATIONAL PARK SERVICE | 8/31/2018 |
| TE72371C | Recovery | BOONE, AARON TED | 9/1/2018 |
| TE79697C | Recovery | CLARK, BARRETT R | 9/1/2018 |
| TE71110C | Recovery | DURISH, NEVIN D | 9/1/2018 |
| TE17880C | Recovery | GARRETT, TIMOTHY BRENT | 9/1/2018 |
| TE69480C | Recovery | HAVERLAND, MATTHEW BRYAN | 9/1/2018 |
| TE74409C | Recovery | KITCHEN, MATTHEW VAL | 9/1/2018 |
| TE00284A | Recovery | RAINWATER, STEPHANIE KAYE | 9/1/2018 |
| TE71101C | Recovery | RAMIREZ, ABBEY L | 9/1/2018 |
| TE77509C | Recovery | SCHUSTER, SARA A | 9/1/2018 |
| TE08548B | Recovery | USGS—SOUTHWEST BIOLOGICAL SCIENCE CENTER | 9/1/2018 |
| TE04322D | Recovery | WALDT, RALPH W | 9/1/2018 |
| TE168185 | Recovery | COX/MCLAIN ENVIRONMENTAL CONSULTING, INC | 9/10/2018 |
| TE71114C | Recovery | KAINER, PATRICK A | 9/10/2018 |
| TE72895C | Recovery | SCHATTE, JOSHUA P | 9/10/2018 |
| TE73319B | Recovery | THOMPSON, BRENT E | 9/10/2018 |
| TE72898C | Recovery | WILLIAMS, DAVID X | 9/10/2018 |
| TE40886B | Recovery | ZAHRATKA, JENNIFER L | 9/10/2018 |
| TE92454A | Recovery | EL PASO ZOO | 9/21/2018 |
| TE44542B | Recovery | OLSSON ASSOCIATES | 9/21/2018 |
| TE207863 | Recovery | AECOM TECHNICAL SERVICES, INC | 9/28/2018 |
| TE833851 | Recovery | CITY OF AUSTIN—WATERSHED PROTECTION DEPARTMENT | 9/28/2018 |
| TE800611 | Recovery | SWCA, INCRPORATED | 9/30/2018 |
| TE103076 | Recovery | TRANSCON ENVIRONMENTAL, INC | 10/1/2018 |
| TE35147A | Recovery | NEWSTEAD, DAVID JOHN | 10/10/2018 |
| TE00482C | Recovery | DILLSAVER, WILLIAM J | 10/30/2018 |
| TE09879D | Recovery | SAGEBRUSH ADVISORS | 10/30/2018 |
| TE41814B | Recovery | TUCSON AUDUBON SOCIETY | 10/30/2018 |
| TE048806 | Recovery | U.S. FISH AND WILDLIFE SERVICE, REGION 2 | 11/9/2018 |
| TE85337C | Recovery | BARNES, BRADLEY W | 11/18/2018 |
| TE85591C | Recovery | JARRELL, JARED MATTHEW | 11/21/2018 |
| TE041875 | Recovery | KOPROWSKI, JOHN LAD | 11/21/2018 |
| TE85338C | Recovery | MCCOY, CHAD B | 11/21/2018 |
| TE00974A | Recovery | MCLEAN, JESSE M | 11/21/2018 |
| TE00975A | Recovery | OSAGE NATION, DEPARTMENT OF NATURAL RESOURCES | 11/21/2018 |
| TE90005C | Recovery | PATTERSON, RANDE R | 11/21/2018 |
| TE85444C | Recovery | THE CHICKASAW NATION | 11/21/2018 |
| TE85341C | Recovery | WARD, WILLIAM A | 11/21/2018 |
| TE082492 | Recovery | HATHCOCK, CHARLES D | 11/30/2018 |
| TE55633C | Recovery | OWEN, JACOB D | 11/30/2018 |
| TE023159 | Recovery | SORA | 12/6/2018 |
| TE93531C | Recovery | STEWART, JUSTIN | 12/6/2018 |
| TE64710A | Recovery | JACKSON, JACOB THOMAS | 12/10/2018 |
| TE32917C | Recovery | LONG, ASHLEY M | 12/21/2018 |
| TE148363 | Recovery | MARTIN, KEITH WILLIAM | 12/21/2018 |
| TE59231C | Recovery | MOULTON, LAUREL LYNNE | 12/21/2018 |

*Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the states listed above.

HCP

The following HCP permit was applied for and issued in Region 3. For more information about the permit, contact the field office that issued the permit by telephone at Illinois-Iowa Ecological Services Field Office, 309–757–5800.

Recovery Permits

For more information about any of the following recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR3ES@fws.gov* or by telephone at 612–713–5343.

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE016724–4 .. | HCP ..... | DUKE ENERGY ..... | 11/8/2018 |
| TE39710C ..... | Recovery ..... | FOREST COUNTY POTAWATOMI COMMUNITY ..... | 7/5/2017 |
| TE34067C ..... | Recovery ..... | NATIONAL PARK SERVICE ..... | 7/5/2017 |
| TE34563C ..... | Recovery ..... | CAMPA, HENRY ..... | 7/6/2017 |
| TE38793A ..... | Recovery ..... | MIERZWA, KENNETH S ..... | 7/12/2017 |
| TE04397C ..... | Recovery ..... | AUTERI, GIORGIANNA G ..... | 7/21/2017 |
| TE26856C ..... | Recovery ..... | LANGLEY, SEAN M ..... | 7/25/2017 |
| TE07730A ..... | Recovery ..... | REDWING ECOLOGICAL SERVICES, INC ..... | 7/27/2017 |
| TE19208C ..... | Recovery ..... | MATTESON, ASHLEY M ..... | 7/27/2017 |
| TE26854C ..... | Recovery ..... | HYZY, BRENNA ANNE ..... | 7/27/2017 |
| TE11145C ..... | Recovery ..... | KLEINSCHMIDT, LISA ..... | 7/28/2017 |
| TE01311C ..... | Recovery ..... | MCKINLEY, SHAWN D ..... | 7/28/2017 |
| TE38842A ..... | Recovery ..... | SANDERS ENVIRONMENTAL INC ..... | 7/31/2017 |
| TE26855C ..... | Recovery ..... | BAILEY, JEANETTE CATHERINE ..... | 8/4/2017 |
| TE64071B ..... | Recovery ..... | ZUERCHER, GERALD L ..... | 8/7/2017 |
| TE38856A ..... | Recovery ..... | SKELLY AND LOY, INC ..... | 8/8/2017 |
| TE82665A ..... | Recovery ..... | MYERS-KINZIE, MELODY LYNN ..... | 9/7/2017 |
| TE71821A ..... | Recovery ..... | ZANATTA, DAVID T ..... | 9/14/2017 |
| TE06846A ..... | Recovery ..... | SMITHSONIAN INSTITUTION ..... | 9/19/2017 |
| TE26953C ..... | Recovery ..... | GOODELL, KAREN ..... | 9/20/2017 |
| TE30471C ..... | Recovery ..... | MITCHELL, RANDALL J ..... | 9/21/2017 |
| TE27007C ..... | Recovery ..... | MINNESOTA DEPARTMENT OF TRANSPORTATION ..... | 9/21/2017 |
| TE24914C ..... | Recovery ..... | NORTHERN RESEARCH STATION ..... | 9/21/2017 |
| TE32959C ..... | Recovery ..... | CARIVEAU, DANIEL PAUL ..... | 9/21/2017 |
| TE35856C ..... | Recovery ..... | SPIVAK, MARLA S ..... | 9/21/2017 |
| TE88224B ..... | Recovery ..... | SNAVELY, JOSEPH CHRISTIAN ..... | 10/20/2017 |
| TE182436 ..... | Recovery ..... | ILLINOIS NATURAL HISTORY SURVEY ..... | 11/1/2017 |
| TE30603C ..... | Recovery ..... | DIEHLUX LLC ..... | 11/17/2017 |
| TE02560A ..... | Recovery ..... | CARTER, TIMOTHY C ..... | 12/1/2017 |
| TE40247C ..... | Recovery ..... | MINNESOTA DEPARTMENT OF NATURAL RESOURCES ..... | 12/7/2017 |
| TE36875C ..... | Recovery ..... | GERKE, GREGORY J ..... | 12/7/2017 |
| TE37601C ..... | Recovery ..... | SNELL-ROOD, EMILIE C ..... | 12/7/2017 |
| TE71041B ..... | Recovery ..... | KUCZYNSKA, IWONA ..... | 12/29/2017 |
| TE207526 ..... | Recovery ..... | US GEOLOGICAL SURVEY ..... | 12/31/2017 |
| TE26921C ..... | Recovery ..... | WORLD BIRD SANCTUARY ..... | 1/4/2018 |
| TE71720A ..... | Recovery ..... | FOREST PRESERVE DISTRICT OF WILL COUNTY ..... | 1/25/2018 |
| TE38085B ..... | Recovery ..... | MOUNTAIN STATE BIOSURVEYS, LLC ..... | 1/31/2018 |
| TE64081B ..... | Recovery ..... | HOYT, JOSEPH R ..... | 2/7/2018 |
| TE38769A ..... | Recovery ..... | BRADLEY, SARAH A ..... | 2/8/2018 |
| TE85232B ..... | Recovery ..... | KAISER, ZACHARY D ..... | 2/28/2018 |
| TE35518B ..... | Recovery ..... | SHEETS, JEREMY J ..... | 2/28/2018 |
| TE30472C ..... | Recovery ..... | EVANS, ELAINE C ..... | 3/12/2018 |
| TE64070B ..... | Recovery ..... | SWCA, INC ..... | 3/12/2018 |
| TE41689C ..... | Recovery ..... | RICHARDSON, LEIF L ..... | 3/12/2018 |
| TE54397C ..... | Recovery ..... | TITUS, KEIFER L ..... | 3/23/2018 |
| TE212440 ..... | Recovery ..... | BAT CONSERVATION AND MANAGEMENT, INC ..... | 3/26/2018 |
| TE06801A ..... | Recovery ..... | PITTSBURGH WILDLIFE & ENVIRONMENTAL, INC ..... | 3/28/2018 |
| TE151109 ..... | Recovery ..... | OHIO DEPARTMENT OF NATURAL RESOURCES ..... | 3/30/2018 |
| TE35859B ..... | Recovery ..... | MILLS, CHARLES E ..... | 4/2/2018 |
| TE26953C ..... | Recovery ..... | GOODELL, KAREN ..... | 4/4/2018 |
| TE30471C ..... | Recovery ..... | MITCHELL, RANDALL J ..... | 4/4/2018 |
| TE07358A ..... | Recovery ..... | CIVIL AND ENVIRONMENTAL CONSULTANTS, INC ..... | 4/10/2018 |
| TE53616C ..... | Recovery ..... | ILLINOIS NATURAL HISTORY SURVEY ..... | 4/18/2018 |
| TE90090B ..... | Recovery ..... | POWER ENGINEERS, INC ..... | 4/18/2018 |
| TE38087B ..... | Recovery ..... | HICKEY-MILLER, JESSICA L ..... | 4/23/2018 |
| TE23734 ..... | Recovery ..... | ENVIRONMENTAL SOLUTIONS AND INNOVATIONS, INC ..... | 4/27/2018 |
| TE207180 ..... | Recovery ..... | OHIO DEPARTMENT OF NATURAL RESOURCES ..... | 5/4/2018 |
| TE234121 ..... | Recovery ..... | WESTERN ECOSYSTEMS TECHNOLOGY, INC ..... | 5/14/2018 |
| TE85228B ..... | Recovery ..... | SCHRODER, ERIC STEVEN ..... | 5/18/2018 |
| TE40247C ..... | Recovery ..... | MINNESOTA DEPARTMENT OF NATURAL RESOURCES ..... | 5/25/2018 |
| TE70488C ..... | Recovery ..... | BERGESON, SCOTT M ..... | 5/29/2018 |
| TE106220 ..... | Recovery ..... | WALTERS, BRIANNE LORRAINE ..... | 5/29/2018 |
| TE64984C ..... | Recovery ..... | COOPER, BRIAN L ..... | 5/30/2018 |
| TE26856C ..... | Recovery ..... | LANGLEY, SEAN M ..... | 5/31/2018 |
| TE64236B ..... | Recovery ..... | MAINE, JOSIAH J ..... | 5/31/2018 |
| TE71680A ..... | Recovery ..... | MARTIN, MEGAN K ..... | 5/31/2018 |
| TE21829B ..... | Recovery ..... | BISHOP-BOROS, LARISA J ..... | 5/31/2018 |
| TE07730A ..... | Recovery ..... | REDWING ECOLOGICAL SERVICES, INC ..... | 6/7/2018 |
| TE73587A ..... | Recovery ..... | MISSOURI DEPARTMENT OF CONSERVATION ..... | 6/11/2018 |
| TE86137B ..... | Recovery ..... | THE NATURE CONSERVANCY MINNESOTA CHAPTER ..... | 6/14/2018 |
| TE64079B ..... | Recovery ..... | MINNESOTA ZOOLOGICAL GARDEN ..... | 6/14/2018 |
| TE99059B ..... | Recovery ..... | UNIVERSITY OF WISCONSIN-MADISON ..... | 6/18/2018 |
| TE30472C ..... | Recovery ..... | EVANS, ELAINE C ..... | 6/21/2018 |

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE27007C | Recovery | SMITH, CHRISTOPHER E | 6/25/2018 |
| TE64986C | Recovery | GORDON, JEFFREY D | 6/27/2018 |
| TE62286A | Recovery | WHITTLE, JASON B | 6/28/2018 |
| TE64238B | Recovery | KARSK, JOCELYN R | 6/29/2018 |
| TE151107 | Recovery | REDWING ECOLOGICAL SERVICES, INC | 6/29/2018 |
| TE30970B | Recovery | MILLER, JEFFREY C | 6/29/2018 |
| TE39719C | Recovery | FOREST COUNTY POTAWATOMI COMMUNITY | 7/3/2018 |
| TE60958A | Recovery | BAT CALLS IDENTIFICATION, INC | 7/9/2018 |
| TE74592A | Recovery | BROWN, ROBERT J | 7/9/2018 |
| TE21831B | Recovery | CALDWELL, KATHERINE L | 7/23/2018 |
| TE06845A | Recovery | LOCHMUELLER GROUP, INC | 7/27/2018 |
| TE82666A | Recovery | BOYLES, JUSTIN G | 7/31/2018 |
| TE26856C | Recovery | LANGLEY, SEAN M | 8/1/2018 |
| TE75774C | Recovery | CONWAY, WESLEY P | 8/29/2018 |
| TE74742C | Recovery | SMITH, BENJAMIN A | 8/29/2018 |
| TE64077B | Recovery | KRYCH, SCOTT ANTHONY | 8/31/2018 |
| TE85294C | Recovery | WOLF, AMY T | 9/13/2018 |
| TE84882C | Recovery | US FOREST SERVICE | 9/13/2018 |
| TE81001C | Recovery | ZLONIS, KATHARINE J | 9/13/2018 |
| TE81122C | Recovery | THREE RIVERS PARK DISTRICT | 9/13/2018 |
| TE90426C | Recovery | DINGLEDINE, NATALIE A | 9/18/2018 |
| TE81137C | Recovery | LUTHER COLLEGE | 9/19/2018 |
| TE15664C | Recovery | MCKAY, APRIL I. R | 9/20/2018 |
| TE15027A | Recovery | STANTEC CONSULTING SERVICES, INC | 9/21/2018 |
| TE02373A | Recovery | ENVIRONMENTAL SOLUTIONS AND INNOVATIONS, INC | 9/26/2018 |
| TE89557A | Recovery | TRC COMPANIES, INC | 9/27/2018 |
| TE85231B | Recovery | KALAMAZOO NATURE CENTER | 9/28/2018 |
| TE77125C | Recovery | LIPPS, GREGORY J | 9/28/2018 |
| TE06452D | Recovery | NATIONAL PARK SERVICE APOSTLE ISLANDS NATIONAL LAKESHORE | 10/1/2018 |
| TE64073B | Recovery | ECOLOGICAL AND GIS SERVICES | 10/9/2018 |
| TE95228C | Recovery | VANDEWALLE, TERRY J | 10/18/2018 |
| TE95225C | Recovery | THE ECOLOGICAL CONSULTING GROUP, LLC | 10/18/2018 |
| TE64073B | Recovery | ECOLOGICAL AND GIS SERVICES | 10/23/2018 |
| TE98032A | Recovery | GARDNER, JAMES E | 10/26/2018 |
| TE64235B | Recovery | O'LEARY, WILLIAM | 11/30/2018 |
| TE19173A | Recovery | CHICAGO BOTANIC GARDEN | 11/30/2018 |
| TE90423C | Recovery | BARNETT, SHAUGHN E | 12/21/2018 |

*Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, Commonwealth of Puerto Rico, and the U.S. Virgin Islands*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the States and territories listed above.

HCPs and CCAA

For more information about the CCAA or any of the following HCPs, contact the HCP or CCAA Permit Coordinator by email at *PermitsR4ES@fws.gov* or by telephone at 404–679–7140.

Recovery Permits

For more information about any of the recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR4ES@fws.gov* or by telephone at 404–679–7140.

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE06594C | CCAA | LOUISIANA DEPARTMENT OF WILDLIFE AND FISHERIES | 1/15/2018 |
| TE12889D | CCAA | CITY OF HUNTSVILLE | 10/29/2018 |
| TE93544C | CCAA | CITY OF HUNTSVILLE | 10/29/2018 |
| TE 46110C | HCP | ORANGE COUNTY UTILITIES | 1/24/2018 |
| TE 98666 | HCP | SUGGS, DALE RAYMOND | 1/26/2018 |
| TE 70601 | HCP | GARMON, LINDA N | 2/9/2018 |
| TE 74747C | HCP | KANINE PROPERTIES, LLC | 2/9/2018 |
| TE 50490C | HCP | LENNAR CORPORATION | 2/9/2018 |
| TE 13012B | HCP | SMITH, DAVID E | 2/9/2018 |
| TE 74762C | HCP | WILSON, DAVID B | 2/9/2018 |
| TE 74748C | HCP | BROUSSARD, MARYGAIL W | 3/5/2018 |
| TE 75596C | HCP | COLLINS, MATTHEW S | 3/12/2018 |
| TE 72134C | HCP | CREWS, GREG S | 3/12/2018 |
| TE 63420C | HCP | SARGENT, ELISA LYN | 3/12/2018 |
| TE 81210C | HCP | THRASHER, BARRETT A | 3/16/2018 |
| TE 59397C | HCP | CITY OF WINTER HAVEN | 4/20/2018 |
| TE 85570C | HCP | BENSING, MICHAEL L | 4/27/2018 |
| TE 12514C | HCP | IRA INNOVATIONS LLC | 4/27/2018 |
| TE 83981C | HCP | JBKT LLC | 4/27/2018 |

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE 84036C | HCP | OPENSHAW, WILLIAM A | 4/27/2018 |
| TE 21091C | HCP | CEMEX CONSTRUCTION MATERIALS FLORIDA, LLC | 4/30/2018 |
| TE 84034C | HCP | WEST BEACH LLC | 5/3/2018 |
| TE 84040C | HCP | MARLAR, DAN L | 5/4/2018 |
| E 60480C | HCP | SAVI INVESTMENTS, LLC | 5/17/2018 |
| TE 59070C | HCP | DR. HORTON, INC | 5/18/2018 |
| TE 87970C | HCP | LINDSAY, ARNOLD F | 5/21/2018 |
| TE 84038C | HCP | STEVENS, JIMMY D | 5/21/2018 |
| TE 83974C | HCP | TURNER, CRAIG M | 5/21/2018 |
| TE 236128 | HCP | MOSAIC FERTILIZER LLC | 5/22/2018 |
| TE 74732C | HCP | ORANGE COUNTY PUBLIC SCHOOLS | 5/25/2018 |
| TE 102005 | HCP | SHORES LLC, BREEZY | 6/29/2018 |
| TE 95388C | HCP | BENTLEY, ROBERT J | 7/9/2018 |
| TE 95368C | HCP | COLLOVA, WILLIAM | 7/9/2018 |
| TE 95386C | HCP | FAUCHEUX, CORY | 7/9/2018 |
| TE 63724C | HCP | SUCO, CARA L | 7/9/2018 |
| TE 93592A | HCP | DUKE ENERGY FLORIDA, LLC | 7/18/2018 |
| TE 78729 | HCP | CUSTOM HOMES LLC, ISLAND DEVELOPMENT | 7/23/2018 |
| TE 95387C | HCP | RYAN, JAMES PATRICK | 7/23/2018 |
| TE 96157C | HCP | ROMAR VISTA, LLC | 8/3/2018 |
| TE 98759C | HCP | MARLAR, DANIEL L | 8/6/2018 |
| TE 98821C | HCP | WHEELER, BENTON M | 8/6/2018 |
| TE 98820C | HCP | COX, ANDREW MICHAEL | 8/7/2018 |
| TE 69953C | HCP | LAND ACQUISITION ONE, LLC | 8/15/2018 |
| TE 90500B | HCP | BENNETT, JENNIFER | 8/23/2018 |
| TE 69950C | HCP | TOHOPEKALIGA WATER AUTHORITY | 8/23/2018 |
| TE 69951C | HCP | K. HOVNANIAN AT MYSTIC DUNES, LLC | 8/28/2018 |
| TE 69952C | HCP | CLAY CUT, LLC. | 8/30/2018 |
| TE 05530D | HCP | HELTON, KATHY A | 9/19/2018 |
| TE 84363C | HCP | CITY OF GULF SHORES | 10/9/2018 |
| TE 27735B | HCP | COOK , MILES STANLEY | 10/10/2018 |
| TE 160192 | HCP | MCCULLERS, CHRISTOPHER R | 10/10/2018 |
| TE 05532D | HCP | MCMAHAN, JO | 10/10/2018 |
| TE 35089B | HCP | WARD VACATION PROPERTIES | 10/10/2018 |
| TE 08525D | HCP | CONNELLY, JOHN A | 10/11/2018 |
| TE 59063C | HCP | M/I HOMES OF ORLANDO, LLC | 10/31/2018 |
| TE 12895D | HCP | WEEKS, AMY G | 11/5/2018 |
| TE 05529D | HCP | DACE, PAMELA L | 11/9/2018 |
| TE 11932D | HCP | FERGUSON, MICHAEL W | 11/9/2018 |
| TE 12894D | HCP | POLING, DAVID W | 11/9/2018 |
| TE 84046C | HCP | RESIDENTIAL DEVELOPMENT CORP | 11/12/2018 |
| TE 14507D | HCP | GOSSETT, CHRIS AND LAURA | 12/7/2018 |
| TE 11097C | HCP | JONES, CHARLES L | 12/7/2018 |
| TE 98747C | HCP | MCDONALD VENTURES XXXVIII, LLC | 12/10/2018 |
| TE 14508D | HCP | ED MOTES & JANICE A. MURRAY | 12/13/2018 |
| TE 21579D | HCP | BALDWIN COUNTY COMMISSION | 12/21/2018 |
| TE 103269 | HCP | DARREN WIGGINS | 12/21/2018 |
| TE 19157D | HCP | INDIES CONDOMINIUM ASSOCIATION, INC | 12/21/2018 |
| TE040423 | Recovery | ROE, KEVIN J | 7/5/2017 |
| TE125620 | Recovery | BURNS & MCDONNELL ENGINEERING COMPANY, INC | 7/19/2017 |
| TE42183A | Recovery | EGLIN AIR FORCE BASE | 7/19/2017 |
| TE98596B | Recovery | VESELKA, SARAH ELIZABETH | 7/26/2017 |
| TE98486B | Recovery | UNIVERSITY OF MISSISSIPPI BIOLOGY DEPARTMENT | 8/2/2017 |
| TE40523A | Recovery | NELSON, DAVID H | 8/7/2017 |
| TE117405 | Recovery | TENNESSEE VALLEY AUTHORITY | 8/20/2017 |
| TE002412 | Recovery | COMALANDER, CECIL LAMAR | 8/22/2017 |
| TE59798B | Recovery | DAGUNA CONSULTING, LLC | 8/25/2017 |
| TE78919A | Recovery | EAST COAST ZOOLOGICAL SOCIETY | 8/25/2017 |
| TE121059 | Recovery | ROUND MOUNTAIN BIOLOGICAL & ENVIRONMENTAL STUDIES, INC | 8/25/2017 |
| TE68616B | Recovery | ATKINSON, CARLA LEE | 8/29/2017 |
| TE070846 | Recovery | WALTERS, JEFFREY R | 8/29/2017 |
| TE23537C | Recovery | APPALACHIAN ECOLOGICAL SERVICES, LLC | 9/6/2017 |
| TE079883 | Recovery | ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT | 9/7/2017 |
| TE65334A | Recovery | MOLANO-FLORES, BRENDA | 9/13/2017 |
| TE47720B | Recovery | PEREZ, HECTOR E | 9/15/2017 |
| TE171516 | Recovery | COPPERHEAD ENVIRONMENTAL CONSULTING, INC | 9/15/2017 |
| TE30733C | Recovery | THALKEN, MARISSA MICHELLE | 9/15/2017 |
| TE237544 | Recovery | GOLLADAY, STEPHEN W | 10/2/2017 |
| TE06337C | Recovery | LOUGHMAN, ZACHARY J | 10/2/2017 |
| TE34387C | Recovery | U.S. FISH AND WILDLIFE SERVICE | 10/5/2017 |
| TE12169B | Recovery | MITIGATION MANAGEMENT | 10/10/2017 |
| TE055241 | Recovery | MONTGOMERY, ROBERT L | 10/10/2017 |
| TE91733B | Recovery | ADAMS, JOSHUA J | 10/17/2017 |

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE37652B | Recovery | BLUE RIDGE PARKWAY—NATIONAL PARK SERVICE | 10/27/2017 |
| TE129703 | Recovery | HMB PROFESSIONAL ENGINEERS, INC | 3/20/2018 |
| TE075916 | Recovery | VIRZI, THOMAS | 3/21/2018 |
| TE26554C | Recovery | CENTRAL FLORIDA ZOOLOGICAL SOCIETY | 3/22/2018 |
| TE71854A | Recovery | EARGLE, DAVID A | 3/22/2018 |
| TE28975C | Recovery | STALLSMITH, BRUCE WAGNER | 3/22/2018 |
| TE34429C | Recovery | BUSCHHAUS, NANCY L | 3/23/2018 |
| TE63577A | Recovery | MAMMOTH CAVE NATIONAL PARK | 3/29/2018 |
| TE049654 | Recovery | GORDON, WILLIAM DAVID | 4/2/2018 |

*Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia*

No ITPs for HCPs, enhancement of survival permits for CCAAs or SHAs, or recovery permits were applied for in the Regional office responsible for section 10 permitting in the States listed above.

*Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the States listed above.

CCAAs and HCPs

For more information about any of the following permits for CCAAs or HCPs, contact the HCP or CCAA Permit Coordinator by email at *amelia_orton-palmer@fws.gov,* or by telephone at 303–236–4211.

Recovery Permits

For more information about any of the following recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR6ES@fws.gov,* or by telephone at 303–236–4224.

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE62289C | CCAA | THE NATURE CONSERVANCY | 1/4/2018 |
| TE88361B | CCAA | VOSBURG, GARY D | 7/26/2018 |
| TE06990D | CCAA | MONTANA FISH, WILDLIFE & PARKS | 9/12/2018 |
| TE83104C | HCP | BEAVER COUNTY | 4/10/2018 |
| TE03107C | HCP | GARFIELD COUNTY | 4/10/2018 |
| TE83406C | HCP | IRON COUNTY | 4/10/2018 |
| TE60208A | HCP | MONTANA DEPT OF NATURAL RESOURCES AND CONSERVATION | 8/31/2018 |
| TE86119C–0 | HCP | WAYNE COUNTY | 12/18/2018 |
| TE41329C | Recovery | MANZANITA BOTANICAL CONSULTING | 7/11/2017 |
| TE27486B | Recovery | WETLAND DYNAMICS, LLC | 7/14/2017 |
| TE053925 | Recovery | NATIONAL PARK SERVICE NIOBRARA NSR | 7/24/2017 |
| TE051826 | Recovery | LOUISVILLE ZOOLOGICAL GARDENS | 7/24/2017 |
| TE051139 | Recovery | TURNER ENDANGERED SPECIES FUND, LLC | 7/24/2017 |
| TE37351A | Recovery | SPOMER, STEPHEN M | 7/24/2017 |
| TE131398 | Recovery | LOWER BRULE SIOUX TRIBE DEPT WILDLIFE, FISH AND RECREATION | 7/24/2017 |
| TE040748 | Recovery | CHEYENNE MOUNTAIN ZOO | 7/24/2017 |
| TE121911 | Recovery | BUREAU OF LAND MANAGEMENT | 7/25/2017 |
| TE064682 | Recovery | PRAIRE WILDLIFE RESEARCH, INC | 7/25/2017 |
| TE047285 | Recovery | US GEOLOGICAL SURVEY CERC | 7/27/2017 |
| TE040510 | Recovery | ERO RESOURCES COPRORATION | 10/18/2017 |
| TE210754 | Recovery | LINCOLN CHILDREN'S ZOO | 10/18/2017 |
| TE077684 | Recovery | MEMPHIS ZOOLOGICAL SOCIETY | 10/18/2017 |
| TE121914 | Recovery | US GEOLOGICAL SURVEY | 11/2/2017 |
| TE67018A | Recovery | NATIONAL PARK SERVICE | 11/2/2017 |
| TE56825C | Recovery | SOUTH DAKOTA STATE UNIVERSITY | 2/9/2018 |
| TE27147C | Recovery | ST PIERRE, JASON E | 2/12/2018 |
| TE89157A | Recovery | EDM INTERNATIONAL, INC | 2/12/2018 |
| TE237961 | Recovery | HWA WILDLIFE CONSULTING, LLC | 2/12/2018 |
| TE37337A | Recovery | NATIONAL MISSISSIPPI RIVER MUSEUM & AQUARIUM | 2/12/2018 |
| TE71872A | Recovery | WYOMING NATURAL DIVERSITY DATABASE | 2/28/2018 |
| TE051715 | Recovery | BIOTA RESEARCH AND CONSULTING, INC | 3/21/2018 |
| TE054317 | Recovery | INTERWEST WILDLIFE & ECOLOGICAL SERVICES, INC | 3/21/2018 |
| TE051715 | Recovery | BIOTA RESEARCH AND CONSULTING, INC | 3/21/2018 |
| TE057485 | Recovery | NATIONAL PARK SERVICE | 4/2/2018 |
| TE165829 | Recovery | BUREAU OF LAND MANAGEMENT | 4/2/2018 |
| TE237960 | Recovery | POWER ENGINEERS | 4/2/2018 |
| TE106182 | Recovery | DENVER BOTANIC GARDENS, INC | 4/9/2018 |
| TE64613B | Recovery | PHILLIPS, ANDREW L | 4/10/2018 |
| TE68706C | Recovery | GUY, CHRISTOPHER S | 4/11/2018 |
| TE044836 | Recovery | ENVIRONMENTAL INDUSTRIAL SERVICES, LLC | 4/19/2018 |
| TE26583C | Recovery | CHICAGO BOTANIC GARDEN | 4/19/2018 |
| TE067486 | Recovery | UNIVERSITY OF NEBRASKA—LINCOLN | 5/14/2018 |
| TE66113B | Recovery | REISER, JIM M | 5/17/2018 |

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE72607C | Recovery | NEW CENTURY ENVIRONMENTAL LLC | 5/18/2018 |
| TE09941B | Recovery | FELSBURG HOLT & ULLEVIG | 5/21/2018 |
| TE86135C | Recovery | DRAGONFLY ENVIRONMENTAL CONSULTANTS | 5/21/2018 |
| TE85365C | Recovery | JACOBS ENGINEERING | 5/23/2018 |
| TE66511C | Recovery | VELARDI, MILU S | 5/31/2018 |
| TE085324 | Recovery | WYOMING NATURAL DIVERSITY DATABASE | 5/31/2018 |
| TE064680 | Recovery | NATIONAL PARK SERVICE | 5/31/2018 |
| TE98708A | Recovery | SOUTH DAKOTA DEPT OF ENVIRONMENT AND NATURAL RESOURCES | 8/6/2018 |
| TE73239C | Recovery | US ARMY CORPS OF ENGINEERS | 8/6/2018 |
| TE95376C | Recovery | BELLINI, MARK J | 8/14/2018 |
| TE94926A | Recovery | DUNMIRE CONSULTING | 8/15/2018 |
| TE180540 | Recovery | BUREAU OF LAND MANAGEMENT | 8/20/2018 |
| TE59243C | Recovery | REVIVE & RESTORE | 9/17/2018 |
| TE056079 | Recovery | COLORADO STATE UNIVERSITY | 10/1/2018 |
| TE26584C | Recovery | TWO DOT CONSULTING | 10/1/2018 |

*Alaska*

Two recovery permits were applied for; see the table below. For more information about either of the recovery permits, contact the Recovery Permit Coordinator, by email at *PermitsR7ES@fws.gov* or by telephone at 907–786–3323.

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE48025C | Recovery | UNIVERSITY OF ALASKA, FAIRBANKS | 5/14/2018 |
| TE012155 | Recovery | ABR, INC | 5/14/2018 |

*California, Nevada, and the Klamath Basin Portion of Oregon*

The following permits, sorted by type of permit or agreement and date issued in the table below, were applied for and issued by the Regional office responsible for section 10 permitting in the States and region listed above.

HCPs

For more information about any of the permits for HCPs, contact the HCP Permit Coordinator by email at *dan_cox@fws.gov.*

Recovery Permits

For more information about any of the following recovery permits, contact the Recovery Permit Coordinator by email at *PermitsR8ES@fws.gov* or by telephone at 916–414–6464.

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE43708A–0 | HCP | CITY OF SCOTTS VALLEY | 10/27/2011 |
| TE44928A–0 | HCP | COUNTY OF SANTA CRUZ RENEWAL | 10/27/2011 |
| TE52396C–0 | HCP | PHILLIPS 66 PIPELINE LLC—MUNOZ | 12/15/2017 |
| 3196C | HCP | ORANGE COUNTY WASTE AND RECYCLE | 2/13/2018 |
| TE01989 | HCP | SENTIAL PEAKE RESOURCES CALIFORNIA LLC | 4/13/2018 |
| TE82595C | HCP | CALVARY CHAPPLE SNATEE | 4/13/2018 |
| TE93385C | HCP | PACIFIC GAS AND ELECTGRIC VEG MGMT | 7/18/2018 |
| TE93388C | HCP | PACIFIC GAS AND ELECGTRIC VEG MGMT 1816–15 | 7/18/2018 |
| TE97791C–0 | HCP | CITY OF SAN DIEGO | 8/3/2018 |
| TE2171C–0 | HCP | FAIRVIEW CORNERS LLC C/O FC INVESTORS & GAVILAN COLLEGE JOINT COMMUNITY COLLEGE DISTRICT. | 8/7/2018 |
| TE05527D–0 | HCP | YOOLO HABITAT CONSERVATION PLAN PERMITTEES | 9/24/2018 |
| TE78126C | HCP | COACHELLA VALLEY ASSOCIATION OF GOVERNMENTS | 10/9/2018 |
| TE08937D–0 | HCP | MIDNIGHT SUN INC. II—GAVER RANCH | 10/11/2018 |
| TE 41503C–0 | HCP | RICHARD PHILLIPS | 10/11/2018 |
| TE237086 | Recovery | ORR, BRUCE K | 7/24/2017 |
| TE89964A | Recovery | BARRINGER, DEBRA S | 7/25/2017 |
| TE834489 | Recovery | TENNANT, STACIE A | 7/25/2017 |
| TE15265B | Recovery | FLISIK, TYLER J | 7/25/2017 |
| TE17852B | Recovery | MARTUS, CAROLYN | 7/25/2017 |
| TE02484A | Recovery | MOORE, KARLY J | 7/25/2017 |
| TE74590A | Recovery | SMITH, JUSTIN EARL | 7/25/2017 |
| TE781220 | Recovery | WAGNER, WILLIAM D | 7/25/2017 |
| TE29909C | Recovery | JONES SCHERBINSKI, JENNIE KATHLEEN | 7/25/2017 |
| TE213728 | Recovery | CITY OF SAN DIEGO PARK & RECREATION | 7/25/2017 |
| TE88576A | Recovery | KETSELA, KEDEST | 7/25/2017 |
| TE036550 | Recovery | JIMERSON–KIDD, NINA L | 7/26/2017 |
| TE79192A | Recovery | PUGH, DALLAS RYAN | 7/26/2017 |
| TE60147A | Recovery | MOINE, HEATHER L | 7/26/2017 |
| TE63330A | Recovery | ANDERSON, RACHEL B | 7/26/2017 |

| Permit No. | Plan or agreement | Permittee | Date issued |
|---|---|---|---|
| TE168924 | Recovery | GURULE, JEFF E | 7/27/2017 |
| TE810380 | Recovery | WHITNEY ENVIRONMENTAL CONSULTING, INC | 7/27/2017 |
| TE080779 | Recovery | BUSBY, MELISSA A | 8/3/2017 |
| TE148555 | Recovery | BRYLSKI, PHILLIP V | 8/3/2017 |
| TE837448 | Recovery | ALLEN, DOUGLAS W | 8/7/2017 |
| TE006112 | Recovery | PADGETT-FLOHR, GRETCHEN E | 8/8/2017 |
| TE02399C | Recovery | SANDOVAL, HARRY | 8/8/2017 |
| TE176209 | Recovery | SAN FRANCISCO INTERNATIONAL AIRPORT | 8/9/2017 |
| TE793645 | Recovery | ALLEY, DONALD W | 8/10/2017 |
| TE19906C | Recovery | TAYLOR, ROSS N | 8/14/2017 |
| TE813431 | Recovery | FAMOLARO, PETER C | 8/15/2017 |
| TE081306 | Recovery | CLARK, HOWARD O | 8/15/2017 |
| TE789255 | Recovery | PATTON, ROBERT T | 8/21/2017 |
| TE744878 | Recovery | INSTITUTE FOR WILDLIFE STUDIES | 8/21/2017 |
| TE14554C | Recovery | MORALES, JAIME F | 8/23/2017 |
| TE007520 | Recovery | SIMONSEN, JULIE ANNE | 8/24/2017 |
| TE068072 | Recovery | VERGNE, PHILIPPE JEAN | 8/24/2017 |
| TE787924 | Recovery | SPIEGELBERG, MARKUS OLIVER | 8/25/2017 |
| TE93072A | Recovery | MULDER, JOEL J | 8/28/2017 |
| TE09196C | Recovery | CONDOR COUNTRY CONSULTING, INC | 9/14/2017 |
| TE27502B | Recovery | SCHUYLER, PATRICIA C | 9/15/2017 |
| TE45247C | Recovery | SITES, ROBERT W | 9/15/2017 |
| TE203391 | Recovery | NEVADA FISH AND WILDLIFE SERVICE OFFICE | 9/20/2017 |
| TE023496 | Recovery | ENDANGERED SPECIES RECOVERY PROGRAM | 9/25/2017 |
| TE813545 | Recovery | ORTEGA, BROCK A | 10/3/2017 |
| TE97717A | Recovery | BLUNDELL, MELISSA ANN–REYES | 10/3/2017 |
| TE157199 | Recovery | STOUT, JULIE ANN | 10/3/2017 |
| TE89994B | Recovery | SNIDER, DARIA M | 10/3/2017 |
| TE95006A | Recovery | CHEN, STEVEN CHUNG–LI | 10/11/2017 |
| TE049461 | Recovery | MARTY, JAYMEE T | 10/12/2017 |
| TE799570 | Recovery | WITHAM, CAROL W | 10/13/2017 |
| TE57065B | Recovery | MORRIS, STEVEN G | 10/18/2017 |
| TE069534 | Recovery | NOVIK, VICTOR C | 10/18/2017 |
| TE59573B | Recovery | KRAUSE, ANDREW P | 11/1/2017 |
| TE64546A | Recovery | POWER ENGINEERS, INC | 11/15/2017 |
| TE34126C | Recovery | CANNIZZO, FRANCESCA A | 11/15/2017 |
| TE14587C | Recovery | MCGUIRK, ANDREW FARRAR | 11/15/2017 |
| TE177979 | Recovery | RUDALEVIGE, ALLISON DU ROSE | 11/15/2017 |
| TE14560C | Recovery | WOOLLEY, LANCE P | 11/15/2017 |
| TE221411 | Recovery | THE CENTER FOR NATURAL LANDS MANAGEMENT | 11/17/2017 |
| TE046262 | Recovery | CLAYPOOL, BLAKE A | 11/21/2017 |
| TE02351A | Recovery | SEARL, TIMOTHY JAMES | 11/21/2017 |
| TE843381 | Recovery | CALIFORNIA DEPARTMENT OF PARKS AND RECREATION | 11/28/2017 |
| TE009018 | Recovery | RANCHO SANTA ANA BOTANIC GARDEN | 12/1/2017 |
| TE221294 | Recovery | GALLOWAY, MICHAEL JAY | 1/18/2018 |
| TE20160B | Recovery | VETTES, BRENNAN C | 1/18/2018 |
| TE022183 | Recovery | LOS ANGELES WORLD AIRPORTS | 1/18/2018 |
| TE022230 | Recovery | KIDD, JEFF W | 1/24/2018 |
| TE181716 | Recovery | NATIONAL PARK SERVICE, CRATER LAKE NATIONAL PARK | 1/24/2018 |
| TE043630 | Recovery | SAN FRANCISCO ESTUARY INSTITUTE | 2/7/2018 |
| TE090849 | Recovery | WOLFF, DAVID K | 2/7/2018 |
| TE180579 | Recovery | OBERHOFF, DWAYNE N | 2/7/2018 |
| TE14737C | Recovery | HOWARD, JOHN EARL | 2/7/2018 |
| TE128462 | Recovery | FEENSTRA, JONATHAN S | 2/12/2018 |
| TE01768B | Recovery | KARPMAN, BRIAN E | 2/12/2018 |
| TE006559 | Recovery | POWELL, DALE A | 2/12/2018 |
| TE786497 | Recovery | PRINCIPE, PAUL A | 2/13/2018 |
| TE776608 | Recovery | MONK & ASSOCIATES INCORPORATED | 2/13/2018 |
| TE050122 | Recovery | CALIFORNIA DEPARTMENT OF FISH AND GAME | 2/13/2018 |
| TE08276C | Recovery | BROWN, SHANNON DANIEL | 2/14/2018 |
| TE08288C | Recovery | KINMONT, ROBIN LYNNE | 2/14/2018 |
| TE110373 | Recovery | KLINE, ERIC F | 2/15/2018 |
| TE780566 | Recovery | RAMIREZ, RUBEN S | 2/15/2018 |
| TE90000A | Recovery | BROWN, RYAN M | 2/15/2018 |
| TE205600 | Recovery | PETERSON, BONNIE ELIZABETH | 2/15/2018 |
| TE30023C | Recovery | ZINN, JOSHUA ISAAC | 2/15/2018 |
| TE799569 | Recovery | OWENS, RENEE Y | 2/20/2018 |
| TE29992C | Recovery | VITALI, DOMINIC A | 2/20/2018 |
| TE838743 | Recovery | FAULKNER, DAVID K | 2/20/2018 |
| TE043418 | Recovery | KERN NATIONAL WILDLIFE REFUGE | 2/20/2018 |
| TE20513C | Recovery | MCLEAN, KATHERINE MATILDA | 2/20/2018 |
| TE074955 | Recovery | SCATOLINI, SUSAN R | 2/21/2018 |
| TE24603A | Recovery | CARTER, KAREN J | 2/22/2018 |

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|---|---|---|---|
| TE181713 | Recovery | HARTLEY, CYNTHIA ANN | 2/22/2018 |
| TE188803 | Recovery | USFWS—LODI FISH AND WILDLIFE OFFICE | 2/23/2018 |
| TE27460A | Recovery | ZITT, BRIAN ALLEN | 2/26/2018 |
| TE34132C | Recovery | USDA FOREST SERVICE—PACIFIC SOUTHWEST REGION | 2/26/2018 |
| TE179036 | Recovery | WILKERSON, CULLEN A | 2/26/2018 |
| TE085880 | Recovery | FRANCIS, RONALD A | 2/26/2018 |
| TE839960 | Recovery | DICUS, JOHN W | 3/15/2018 |
| TE782703 | Recovery | COUFFER, MICHAEL CRAIG | 3/15/2018 |
| TE60149A | Recovery | CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE | 3/15/2018 |
| TE089980 | Recovery | HAGAR ENVIRONMENTAL SCIENCE | 3/15/2018 |
| TE02869B | Recovery | DELANEY, KATHLEEN SEMPLE | 3/15/2018 |
| TE29053C | Recovery | SCHADE, CHARLES BURROUGHS | 3/15/2018 |
| TE92799B | Recovery | FAIRCHILD, KARL C | 3/19/2018 |
| TE70880B | Recovery | HOBBS, MICHAEL T | 3/19/2018 |
| TE26551C | Recovery | HIRKALA, MATTHEW JAMES | 3/19/2018 |
| TE210235 | Recovery | MCDONALD, MATTHEW W | 3/22/2018 |
| TE45250C | Recovery | BRUNGRABER, GRIFFIN R | 3/22/2018 |
| TE049540 | Recovery | RIVERSIDE–CORONA RESOURCE CONSERVATION DISTRICT | 4/11/2018 |
| TE097516 | Recovery | RYAN, THOMAS P | 4/12/2018 |
| TE74377B | Recovery | MINDEMAN, SHANNON E | 4/20/2018 |
| TE840619 | Recovery | PRIEST, JEFFREY D | 4/20/2018 |
| TE19843C | Recovery | SEXTON, JENNIFER LYN | 4/20/2018 |
| TE39186A | Recovery | ALVARADO, CARLOS | 4/20/2018 |
| TE092469 | Recovery | EICH, INGRID I | 4/20/2018 |
| TE36221C | Recovery | PETERS, JASON ROBERT | 4/20/2018 |
| TE76005A | Recovery | SCHOENWETTER, TARA | 4/20/2018 |
| TE039460 | Recovery | OLSON, THOMAS E | 4/20/2018 |
| TE29622C | Recovery | COUNTY OF SAN MATEO, DEPARTMENT OF PUBLIC WORKS | 4/20/2018 |
| TE221290 | Recovery | RIPMA, LEE | 4/20/2018 |
| TE166490 | Recovery | RODRIGUEZ, HEATHER CELINA | 4/20/2018 |
| TE211097 | Recovery | CADDY, TRACI A | 4/23/2018 |
| TE157216 | Recovery | U.S.G.S.—WESTERN ECOLOGICAL RESEARCH CENTER | 4/23/2018 |
| TE54614A | Recovery | CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE | 4/23/2018 |
| TE72713C | Recovery | HOLLINGSWORTH, BRADFORD D | 4/23/2018 |
| TE58846C | Recovery | MOFFETT, NATHAN JAMES | 4/23/2018 |
| TE019949 | Recovery | JOSHI, VIPUL RAMESH | 4/24/2018 |
| TE59680C | Recovery | WANG, THEA | 4/24/2018 |
| TE835365 | Recovery | CALIFORNIA DEPT OF WATER RESOURCES | 4/26/2018 |
| TE60035C | Recovery | SACRAMENTO NATIONAL WILDLIFE REFUGE COMPLEX | 4/26/2018 |
| TE48210A | Recovery | AREA WEST ENVIRONMENTAL, INC | 4/30/2018 |
| TE35292C | Recovery | BASSON, GALLI | 4/30/2018 |
| TE181714 | Recovery | JOHNSON, PIETER T. J | 5/1/2018 |
| TE59924C | Recovery | LAND TRUST OF SANTA CRUZ COUNTY | 5/1/2018 |
| TE101462 | Recovery | SARAFIAN, PETER G | 5/1/2018 |
| TE54716A | Recovery | HARVEY, CHRISTINE L | 5/3/2018 |
| TE777965 | Recovery | LSA ASSOCIATES, INC | 5/3/2018 |
| TE15264B | Recovery | HOWARD, PHILLIP J | 5/15/2018 |
| TE062907 | Recovery | FORDE, ANDREW MCGINN | 5/18/2018 |
| TE60358C | Recovery | CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE | 5/18/2018 |
| TE787376 | Recovery | BLOOM BIOLOGICAL, INC | 5/21/2018 |
| TE28101C | Recovery | KIERAN, SHANNON ROSE CHRISTIE | 5/21/2018 |
| TE796284 | Recovery | ROGERS, DAVID CHRISTOPHER | 5/21/2018 |
| TE75492C | Recovery | BENNETT, SUSAN RENEE | 5/22/2018 |
| TE058073 | Recovery | CHRISTOPHER, SUSAN V | 5/22/2018 |
| TE212445 | Recovery | SCHELL, ROBERT ANTHONY | 5/22/2018 |
| TE87580B | Recovery | CITY OF COSTA MESA | 6/14/2018 |
| TE814222 | Recovery | CALIFORNIA DEPARTMENT OF PARKS AND RECREATION | 6/18/2018 |
| TE62868B | Recovery | THE KLAMATH TRIBES | 6/20/2018 |
| TE233373 | Recovery | FLETT, MARY ANNE | 6/21/2018 |
| TE34122C | Recovery | ROSE, ELI T | 6/21/2018 |
| TE798003 | Recovery | STANTEC CONSULTING SERVICES | 6/22/2018 |
| TE021929 | Recovery | SACRAMENTO SPLASH | 6/22/2018 |
| TE32004C | Recovery | TUMA, MICHAEL W | 6/22/2018 |
| TE161496 | Recovery | HALBERT, PORTIA | 6/25/2018 |
| TE082233 | Recovery | ENGLAND, MARCUS C | 7/23/2018 |
| TE003269 | Recovery | JAMES, ROBERT A | 7/23/2018 |
| TE45251C | Recovery | MOFFITT, EMILY B | 7/23/2018 |
| TE190302 | Recovery | SIEMENS, MITCH C | 7/23/2018 |
| TE203074 | Recovery | SCHAAP, MATTHEW ALAN | 7/23/2018 |
| TE083348 | Recovery | SAN BERNARDINO COUNTY, DEPT OF PUBLIC WORKS | 7/24/2018 |
| TE053379 | Recovery | TISCHER, CHRISTINE LEILANI | 7/24/2018 |
| TE082237 | Recovery | CALIFORNIA STATE PARKS SAN LUIS OBISPO COAST DISTRICT | 7/25/2018 |
| TE29991C | Recovery | SCHWENNESEN, JOSEPH LYNN | 7/25/2018 |

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|---|---|---|---|
| TE811615 | Recovery | DAVERIN, CYNTHIA JONES | 7/26/2018 |
| TE095896 | Recovery | RICHARDS, PHILLIP CHARLES | 7/27/2018 |
| TE004234 | Recovery | CALIFORNIA DEPARTMENT OF PARKS AND RECREATION | 7/27/2018 |
| TE72549C | Recovery | LEWIS, MARTY ANTHONY | 7/27/2018 |
| TE036499 | Recovery | GOLDEN GATE NATIONAL RECREATION AREA | 7/27/2018 |
| TE59234C | Recovery | ADVANCED SOLUTIONS FOR EARTHS FUTURE | 8/21/2018 |
| TE02785B | Recovery | DAVIS, CHERYL LYNNE | 8/21/2018 |
| TE02737B | Recovery | DEWAR, SUSAN BETH | 8/21/2018 |
| TE022649 | Recovery | MESSIN, JOSEPH E | 8/21/2018 |
| TE837574 | Recovery | EREMICO BIOLOGICAL SERVICES | 8/22/2018 |
| TE74785A | Recovery | NERHUS, BARRY SCOTT | 8/22/2018 |
| TE190303 | Recovery | SHAW, DANIEL W.H | 8/22/2018 |
| TE787037 | Recovery | SIMOVICH, MARIE A | 8/23/2018 |
| TE218901 | Recovery | HINDERLE, DANNA | 8/23/2018 |
| TE83414C | Recovery | MISSION SUPPORT AND TEST SERVICES | 8/23/2018 |
| TE04999D | Recovery | SMITH, JACQUELYN E | 8/29/2018 |
| TE073205 | Recovery | SANDOVAL, CRISTINA P | 9/5/2018 |
| TE80703A | Recovery | REIMERS, SETH B | 9/5/2018 |
| TE185611 | Recovery | CURIODYSSEY CORPORATION | 9/5/2018 |
| TE200339 | Recovery | FOSTER, SARAH M | 9/5/2018 |
| TE815537 | Recovery | SWAIM, KAREN E | 9/5/2018 |
| TE58866B | Recovery | LOS ANGELES ZOO | 9/11/2018 |
| TE86811A | Recovery | SOUTHWEST RESOURCE MANAGEMENT ASSOCIATION | 9/20/2018 |
| TE802089 | Recovery | TATARIAN, PATRICIA J | 10/9/2018 |
| TE028223 | Recovery | STEAD, JONATHAN E | 10/29/2018 |
| TE98574C | Recovery | RIVER DESIGN GROUP, INC | 11/28/2018 |
| TE207873 | Recovery | THOMPSON, CAROL A | 11/29/2018 |
| TE53787B | Recovery | FRANKLIN, HEATHER A | 11/29/2018 |
| TE799564 | Recovery | SYCAMORE ENVIRONMENTAL CONSULTANTS, INC | 11/29/2018 |
| TE80906C | Recovery | SMITH, KATHERINE ROSE | 11/29/2018 |
| TE13691B | Recovery | ZACK, CHRISTINE L | 11/29/2018 |
| TE789251 | Recovery | ARNOLD, RANDALL C | 11/29/2018 |
| TE148556 | Recovery | VAN DOOREMOLEN, DEBORAH M | 12/3/2018 |
| TE14231A | Recovery | BRUNGRABER, CAESARA W | 12/3/2018 |
| TE85074C | Recovery | US GEOLOGICAL SURVEY, WERC | 12/3/2018 |
| TE72044A | Recovery | DEMETROPOULOS, CARL L | 12/3/2018 |
| TE166383 | Recovery | BUREAU OF LAND MANAGMENT, HOLLISTER FIELD OFFICE | 12/3/2018 |
| TE800777 | Recovery | JEPSON PRAIRIE RESERVE DOCENT PROGRAM | 12/3/2018 |
| TE233332 | Recovery | MAZON, MAYA ELLENDER | 12/3/2018 |
| TE053598 | Recovery | KIMBALL, NICOLE M | 12/4/2018 |
| TE026089 | Recovery | HUMBOLDT REDWOOD COMPANY, LLC | 12/4/2018 |
| TE75988A | Recovery | SAN DIEGO NATURAL HISTORY MUSEUM | 12/4/2018 |
| TE185595 | Recovery | BAYNE, KELLY E | 12/4/2018 |
| TE091857 | Recovery | DENISE DUFFY & ASSOCIATES, INC | 12/4/2018 |
| TE025732 | Recovery | SWEET, SAMUEL SPENDER | 12/4/2018 |
| TE797315 | Recovery | MORRISON, MICHAEL L | 12/4/2018 |
| TE74980C | Recovery | PLUMAS AUDUBON SOCIETY | 12/4/2018 |
| TE022225 | Recovery | STITT, ERIC W | 12/4/2018 |
| TE804203 | Recovery | MYERS, STEPHEN J | 12/6/2018 |
| TE192702 | Recovery | CALIFORNIA STATE UNIVERSITY SACRAMENTO | 12/6/2018 |
| TE115370 | Recovery | DAYTON, GAGE H | 12/6/2018 |
| TE59233C | Recovery | UC MERCED VERNAL POOLS AND GRASSLAND RESERVE | 12/6/2018 |
| TE009015 | Recovery | BERKLEY, JASON L | 12/11/2018 |
| TE59592B | Recovery | JOHNSON, ANGELA M | 12/11/2018 |
| TE799568 | Recovery | KAMADA, DANA K | 12/11/2018 |
| TE93070A | Recovery | MCCANN, KYLE R | 12/11/2018 |
| TE030659 | Recovery | US GEOLOGICAL SURVEY | 12/19/2018 |
| TE64144A | Recovery | MASTRELLI, EMILY M | 12/20/2018 |
| TE095858 | Recovery | PREITE, ARIANNE B | 12/20/2018 |
| TE84905C | Recovery | LEWIS, DEBORAH L | 12/20/2018 |
| TE84904C | Recovery | SKILLEN, ROBERT R | 12/20/2018 |
| TE094845 | Recovery | BETTELHEIM, MATTHEW P | 12/20/2018 |
| TE091012 | Recovery | GOBLE, MOLLY E | 12/20/2018 |

**Availability of Documents**

You may request copies of the **Federal Register** documents publishing the receipt of applications for these permits from the office that issued the permit (see contact information above). Documents and other information submitted with these applications are available for review subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552), by any party who submits a written request for a copy of such documents.

**Authority**

We provide this notice under the authority of section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: May 13, 2019.

**Gary Frazer,**

*Assistant Director for Ecological Services.*

[FR Doc. 2019–11806 Filed 6–5–19; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[190A2100DD/AAKC001030/A0A501010.999900]**

## Mechoopda Indian Tribe of Chico Rancheria; Alcoholic Beverage Ordinance

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice publishes the Mechoopda Indian Tribe of Chico Rancheria's Alcoholic Beverage Ordinance #19 (Ordinance). The Ordinance regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of California.

**DATES:** This ordinance shall take effect July 8, 2019.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harley Long, Tribal Government Officer, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Room W–2820, Sacramento, California 95825, telephone (916) 978–6000, fax: (916) 978–6099.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Mechoopda Indian Tribe of Chico Rancheria duly adopted Alcoholic Beverage Ordinance #19 on October 6, 2018.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Mechoopda Indian Tribe of Chico Rancheria duly adopted Alcoholic Beverage Ordinance #19 on October 6, 2018.

Dated: May 7, 2019.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

The Mechoopda Indian Tribe of Chico Rancheria's Alcoholic Beverage Ordinance #19 shall read as follows:

**Mechoopda Indian Tribe of Chico Rancheria, California**

**Ordinance No. 19**

**Alcoholic Beverage Ordinance**

1. Title
2. Authority
3. Purpose
4. Applicability
5. Definitions
6. Powers of Enforcement
7. Licensing
8. Prohibitions
9. Enforcement
10. Taxes
11. Severability and Miscellaneous
12. Amendments
13. Effective Date
14. Sovereign Immunity

**1. Title**

This Ordinance shall be known as the Mechoopda Indian Tribe of Chico Rancheria, California, Alcoholic Beverage Ordinance.

**2. Authority**

This Ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161) and Article VIII, of the Constitution of the Mechoopda Indian Tribe of Chico Rancheria, California, and the Tribe's inherent sovereignty.

**3. Purpose**

The purpose of this Ordinance is to regulate and control the manufacture, distribution, and sale of Alcoholic Beverages on the Tribe's Trust Lands and to permit the sale of Alcoholic Beverages by tribally owned enterprises and private licensees. The enactment of this Ordinance shall help provide a source of revenue for the continued operation of the tribal government and the provision of governmental services to tribal members.

**4. Applicability**

This Ordinance shall apply to all lands now or in the future held in trust by the federal government for the benefit of the Tribe (''Trust Lands''). This Ordinance is in conformity with the laws of the State as required by 18 U.S.C. 1161.

**5. Definitions**

5.1 ''Alcohol'' means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, in any form and regardless of source or the process used for production.

5.2 ''Alcoholic Beverage'' means any beverage containing or consisting of Alcohol, Spirits, Wine, or Beer or combination thereof and every liquid or solid containing Alcohol, Spirits, Wine, or Beer, and which contains one-half of one (1) percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

5.3 ''Alcoholic Beverage License'' means a permanent or temporary license to sell Alcoholic Beverages issued pursuant to this Ordinance.

5.4 ''Beer'' means a beverage containing Alcohol created by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination thereof in water, and includes ale, porter, brown, stout, lager, small beer, and strong beer, but does not include Japanese rice wine.

5.5 ''Spirits'' means any beverage obtained by the distillation of fermented agricultural products including but not limited to spirits of wine, whiskey, rum, brandy, vodka, tequila, scotch, liqueurs, and gin, including all dilutions and mixtures thereof, and includes proof spirits.

5.6 ''General Membership'' means the general membership of the Mechoopda Indian Tribe of Chico Rancheria, California.

5.7 ''Licensed Premises'' means the location at which an Alcoholic Beverage License authorizes a Licensee to sell Alcoholic Beverages.

5.8 ''Licensee'' means the holder of an Alcoholic Beverage License.

5.9 ''Ordinance'' means this Mechoopda Indian Tribe of Chico Rancheria, California, Alcoholic Beverage Ordinance.

5.10 ''State'' means the State of California.

5.11 ''Temporary Alcoholic Beverage Permit'' means an authorization for a Licensee to sell alcohol at a designated temporary location granted by the Tribal Council, or designee.

5.12 ''Tribal Council'' means the Tribal Council of the Mechoopda Indian Tribe of Chico Rancheria, California.

5.13 ''Tribe'' means the Mechoopda Indian Tribe of Chico Rancheria, California, a federally recognized Indian tribe.

5.14 ''Trust Lands'' means those lands held in trust for the benefit of the Tribe by the United States of America.

5.15 ''Wine'' means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar and blending material and which contains

not more than 24 percent of alcohol by volume, and includes vermouth and Japanese rice wine.

**6. Powers of Enforcement**

6.1 *Powers.* The Tribal Council, or designee, shall have the following powers and duties:

(a) To publish and enforce the rules and regulations governing the manufacture, distribution, and sale of Alcoholic Beverages on Trust Lands;

(b) To employ managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Tribal Council to perform its functions pursuant to this Ordinance;

(c) To issue Alcoholic Beverage Licenses permitting the manufacture, distribution and/or retail of Alcoholic Beverages on Trust Lands;

(d) To hold hearings on violations of this Ordinance or for revocation or denial of Alcoholic Beverage Licenses;

(e) To bring suit in the appropriate court of competent jurisdiction to enforce this Ordinance, as necessary;

(f) To determine and seek damages for violation of this Ordinance;

(g) To make such reports to the General Membership as may be required herein;

(h) To levy taxes and fees on the manufacture, distribution and sale of Alcoholic Beverages in accordance with this Ordinance;

(i) To collect taxes and fees, and to keep accurate records, books, and accounts; and

(j) To exercise such other powers as are necessary and appropriate to fulfill the purposes of this Ordinance.

6.2 *Limitation on Powers.* In the exercise of its powers and duties under this Ordinance, the individual members of the Tribal Council shall not accept for personal gain any gratuity, compensation or other items of value from any Alcoholic Beverage wholesaler, retailer, vendor, or distributor or from any Licensee.

6.3 *Inspection Rights.* Any premises on which any Alcoholic Beverage is sold or distributed shall be open for inspection by the Tribal Council, or designee, during normal business hours for the purpose of ascertaining whether the rules and regulations of this Ordinance are being followed.

**7. Licensing**

7.1 *Alcoholic Beverage License.* The Tribal Council, or designee, may issue an Alcoholic Beverage License only upon written application including the following:

(a) Satisfactory proof that the applicant is licensed to engage in the retail sale of Alcoholic Beverages by the State of California.

(b) A description of the premises in which the Alcoholic Beverages are to be sold, and proof of the applicant's right to occupy and sell Alcoholic Beverages on the premises for the duration of the requested Alcoholic Beverage License.

(c) Written agreement by the applicant to accept and abide by all conditions of the Alcoholic Beverage License.

(d) Payment of the fee as may be prescribed by the Tribal Council, or designee, from time to time.

(e) Written disclosure of any prior Alcoholic Beverage License or Temporary Alcoholic Beverage Permit, any prior violations of this Ordinance, and any penalties imposed under this Ordinance.

7.2 *Temporary Permits.* The Tribal Council, or its designee, may grant a Temporary Alcoholic Beverage Permit authorizing a Licensee in good standing to sell Alcoholic Beverages at a designated temporary site located on Trust Lands in connection with a public event.

7.3 *Denial of License.* Applicants denied a license may request a hearing before the Tribal Council, or designee, within fifteen (15) days of the Applicant's receipt of notice of such denial. The notice shall set forth the right of the alleged violator to be represented by legal counsel, speak and present witnesses, and cross examine any adverse witnesses. The decision of the Tribal Council, or designee, shall be issued within sixty (60) days of the date of the hearing and shall be final and non-appealable.

7.4 *Conditions of the Alcoholic Beverage License.* Any Alcoholic Beverage License, or Temporary Alcoholic Beverage Permit, issued under this Ordinance shall be subject to such reasonable conditions, restrictions, and limitations, as the Tribal Council, or designee, shall prescribe, including, at a minimum the following:

(a) No Alcoholic Beverage License shall be for a term greater than one (1) year.

(b) Unless otherwise authorized by a Temporary Alcohol Beverage Permit, all sales and consumption of Alcoholic Beverages must occur within the Licensed Premises.

(c) The Licensee shall at all times maintain the Licensed Premises and the immediate surrounding area in an orderly, clean, and sanitary manner.

(d) The Licensed Premises shall be subject to patrol by tribal law enforcement officials and such other enforcement officials as may be authorized under federal, State, or Tribal law.

(e) The Licensed Premises shall be open to inspection by designated officials of the Tribe at all times during normal business hours.

(f) No Alcoholic Beverages shall be sold, served, or consumed on the Licensed Premises except in conformity with the hours and days prescribed by the laws of the State or in accordance with more restrictive hours fixed as may be prescribed by Tribal law.

(g) No Alcoholic Beverages shall be sold within 200 feet of a polling place on Tribal election days or when a referendum is being held.

(h) All acts and transactions under authority of the Alcoholic Beverage License shall be in conformity with the laws of the State and this Ordinance.

(i) No person under the minimum age permitted under State law then in effect shall be permitted to purchase, receive, or consume Alcoholic Beverages on the Licensed Premises.

(j) An Alcoholic Beverage License must specify whether a Licensee may sell Beer, Wine, and/or Spirits.

7.5 *License Not a Property Right.* An Alcoholic Beverage License shall not be deemed a property right or vested right of any kind, nor shall the granting of an Alcoholic Beverage License give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

7.6 *Assignment or Transfer.* An Alcoholic Beverage License may not be assigned or transferred.

**8. Prohibitions**

8.1 *Sales Without a License; Possession with Intent to Sell Without a License.* Any person who sells, offers for sale, or distributes any Alcoholic Beverages on Trust Land without having first obtained an Alcoholic Beverage License, or who possesses Alcoholic Beverages with the intent to sell or distribute on Trust Land without having first obtained an Alcoholic Beverage License shall be in violation of this Ordinance; provided, however, nothing in this Ordinance shall be construed to prohibit a State-licensed Alcoholic Beverage distributor from making deliveries of Alcoholic Beverages on Trust Land to a Licensee without having first obtained an Alcoholic Beverage License.

8.2 *Purchases from Non-Licensed Sellers.* Any person who, while on Trust Lands, buys an Alcoholic Beverage from any person other than a Licensee shall be in violation of this Ordinance.

8.3 *Sales to Persons Under the Influence of Alcohol.* Any person who sells any Alcoholic Beverages to any apparently intoxicated person shall be in violation of this Ordinance.

8.4 *Consumption or Possession of Alcoholic Beverage by Under-Aged Persons.* Any person under the minimum age for Alcohol consumption under State law who consumes, possesses, or attempts to consume or possess any Alcoholic Beverage on Trust Lands shall be in violation of this Ordinance.

8.5 *Sales of Alcoholic Beverage to Under-Aged Persons.* Any person who sells or otherwise provides an Alcoholic Beverage to any person under the minimum age for Alcohol consumption under State law shall be in violation of this Ordinance.

8.6 *Use of False or Altered Identification.* Any person who attempts to purchase any Alcoholic Beverage on Trust Lands through the use of false or altered identification shall be in violation of this Ordinance.

8.7 *Acceptable Identification.* Any Licensee who sells or otherwise provides any Alcoholic Beverage to a person who appears he or she may be under the minimum age for Alcohol consumption under State law without first verifying that person's age with an acceptable form of identification shall be in violation of this Ordinance. The following are acceptable forms of identification:

(a) A current driver's license of any state or other current identification card issued by any state;

(b) A current passport of any nation; or

(c) A Mechoopda Indian Tribe of Chico Rancheria, California, tribal member identification card.

8.8 *No Extension of Credit.* Any Licensee who makes a retail sale of any Alcoholic Beverage on credit shall be in violation of this Ordinance; provided, however, nothing in this Ordinance shall prohibit the use of ATM cards, debit cards, or credit cards as a means of purchasing Alcoholic Beverages.

8.9 *Sale for Personal Consumption.* Any person, organization, or entity, other than a Licensee, who purchases any Alcoholic Beverage on Trust Lands and resells the Alcoholic Beverage, shall be in violation of this Ordinance.

**9. Enforcement**

9.1 *Fine Imposed.* In addition to any other penalty, any person, organization, or entity in violation of this Ordinance or any Alcoholic Beverage License or Temporary Alcoholic Beverage Permit shall be liable for a reasonable civil fine not to exceed $500.00 per violation.

9.2 *Revocation or Suspension of License.* In addition to any other penalty, any Alcoholic Beverage License or Temporary Alcoholic Beverage Permit may be suspended or revoked for violation of this Ordinance, an Alcoholic Beverage License, or a Temporary Alcoholic Beverage Permit.

9.3 *Right to Notice and Hearing.* No penalty, other than temporary suspension of an Alcoholic Beverage License or Temporary Alcoholic Beverage Permit, shall be imposed under this Ordinance without first providing the alleged violator written notice of the circumstances surrounding the alleged violation and the opportunity to be heard and present witnesses and evidence at a hearing before the Tribal Council, or designee, within fifteen (15) days of the alleged violator's receipt of such notice. The notice shall set forth the right of the alleged violator to be represented by legal counsel, speak and present witnesses, and cross examine any adverse witnesses. The decision of the Tribal Council, or designee, shall be issued within sixty (60) days of the date of the hearing and shall be final and non-appealable.

9.4 *Seizure of Contraband.* Any Alcoholic Beverage possessed, transferred, sold, or purchased contrary to the terms of this Ordinance, an Alcoholic Beverage License, or a Temporary Alcoholic Beverage Permit is contraband and subject to seizure by a designated Tribal official. Contraband shall be preserved in accordance with State law and shared with State and federal law enforcement officials as required by law.

**10. Taxes**

10.1 *Sales Tax.* There is hereby levied and shall be collected a tax on each sale of Alcoholic Beverages on Trust Lands in an amount to be determined by the Tribal Council, or designee, from time to time. The tax imposed pursuant to this section shall be in addition to any tax imposed on Alcoholic Beverages sales by the State.

10.2 *Taxes Due.* All taxes for the sale of Alcoholic Beverages on Trust Lands are due and payable to the Tribal Council, or designee, within thirty (30) days of the end of the calendar quarter.

10.3 *Reports.* Along with the payment of taxes imposed herein, the Licensee shall submit an accounting for the quarter of all income from the sale of Alcoholic Beverages as well as the amount of taxes collected.

10.4 *Audit.* The Tribal Council, or designee, shall have the right to review or audit the books and records of any Licensee relating to the sale of Alcoholic Beverages on Trust Lands at any time during the Licensee's normal business hours.

**11. Severability and Miscellaneous**

11.1 *Severability.* If any provision or application of this Ordinance is determined upon review by a court of competent jurisdiction to be invalid, such adjudication shall not be held to render ineffectual the remaining provisions of this Ordinance or to render such provisions inapplicable to other persons or circumstances.

11.2 *Prior Enactments.* Any and all ordinances, resolutions, or enactments of the Tribal Council which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**12. Amendments**

Any amendments to this Ordinance shall become effective upon the Secretary of the Interior's publication of the same in the **Federal Register** in accordance with federal law.

**13. Effective Date**

This Ordinance shall be effective upon the Secretary of the Interior's publication of the same in the **Federal Register** in accordance with federal law.

**14. Sovereign Immunity**

Nothing herein is intended to, nor does in any way, limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.

[FR Doc. 2019–11807 Filed 6–5–19; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[190A2100DD/AAKC001030/A0A501010.999900 253G]**

### Request for Nominations of Members To Serve on the Bureau of Indian Education Advisory Board for Exceptional Children

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of request for nominations.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act and the Individuals with Disabilities Education Act of 2004 (IDEA), the Bureau of Indian Education (BIE) requests nominations of individuals to serve on the Advisory Board for Exceptional Children (Advisory Board). There will be four positions available. Board members will serve a staggered term of two years or three years from the date of their appointment. The BIE will consider nominations received in response to this request for nominations, as well as other

sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

**DATES:** Please submit nominations by July 31, 2019.

**ADDRESSES:** Please submit nominations to Ms. Jennifer Davis, Designated Federal Officer (DFO), Bureau of Indian Education, Division of Performance and Accountability, 2600 N Central Ave., Suite 800, Phoenix, AZ 85004, or fax to (602) 265–0293, or email to *jennifer.davis@bie.edu.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Davis, DFO, at telephone number (480) 777–7986; or email *jennifer.davis@bie.edu.*

**SUPPLEMENTARY INFORMATION:** The Advisory Board was established in accordance with the Federal Advisory Committee Act, Public Law 92–463. The following provides information about the Committee, the membership and the nomination process.

**1. Objective and Duties**

(a) Members of the Advisory Board will provide guidance, advice and recommendations with respect to special education and related services for children with disabilities in BIE-funded schools in accordance with the requirements of IDEA;

(b) The Advisory Board will:

(1) Provide advice and recommendations for the coordination of services within the BIE and with other local, State and Federal agencies;

(2) Provide advice and recommendations on a broad range of policy issues dealing with the provision of educational services to American Indian children with disabilities;

(3) Serve as advocates for American Indian students with special education needs by providing advice and recommendations regarding best practices, effective program coordination strategies, and recommendations for improved educational programming;

(4) Provide advice and recommendations for the preparation of information required to be submitted to the Secretary of Education under 20 U.S.C. 1411(h)(2);

(5) Provide advice and recommend policies concerning effective inter/intra agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities; and

(6) Report and direct all correspondence to the Assistant Secretary—Indian Affairs through the Director, BIE with a courtesy copy to the Designated Federal Officer (DFO).

**2. Membership**

(a) Pursuant to 20 U.S.C. 1411(h)(6), the Advisory Board will be composed of up to 15 individuals involved in or concerned with the education and provision of services to American Indian infants, toddlers, children, and youth with disabilities. The Advisory Board composition will reflect a broad range of viewpoints and will include at least one member representing each of the following interests: American Indians with disabilities; teachers of children with disabilities; American Indian parents or guardians of children with disabilities; service providers; State education officials; local education officials; State interagency coordinating councils (for States having Indian reservations); Tribal representatives or Tribal organization representatives; and other members representing the various divisions and entities of the BIE.

(b) The Assistant Secretary—Indian Affairs may provide the Secretary of the Interior recommendations for the chairperson; however, the chairperson and other Advisory Board members will be appointed by the Secretary of the Interior. Advisory Board members shall serve staggered terms of two years or three years from the date of their appointment.

**3. Miscellaneous**

(a) Members of the Advisory Board will not receive compensation, but will be reimbursed for travel, including subsistence, and other necessary expenses incurred in the performance of their duties in the same manner as persons employed intermittently in Government Service under 5 U.S.C. 5703.

(b) A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's spouse or minor children, unless authorized by the appropriate ethics official. Compensation from employment does not constitute a financial interest of the member so long as the matter before the committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory ethical obligations to which a member may be subject.

(c) The Advisory Board meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Assistant Secretary—Indian Affairs or the DFO.

(d) All Advisory Board meetings are open to the public in accordance with the Federal Advisory Committee Act regulations.

**4. Nomination Information**

(a) Nominations are requested from individuals, organizations, and federally recognized Tribes, as well as from State Directors of Special Education (within the 23 States in which BIE-funded schools are located) concerned with the education of Indian children with disabilities as described above.

(b) Nominees should have expertise and knowledge of the issues and/or needs of American Indian children with disabilities. Such knowledge and expertise are needed to provide advice and recommendations to the BIE regarding the needs of American Indian children with disabilities.

(c) A summary of the candidates' qualifications (resumé or curriculum vitae) must be included with a completed nomination application form, which is located on the BIE website. Nominees must have the ability to attend Advisory Board meetings, carry out Advisory Board assignments, participate in teleconference calls, and work in groups.

(d) The Department of the Interior is committed to equal opportunities in the workplace and seeks diverse Committee membership, which is bound by Indian Preference Act of 1990 (25 U.S.C. 472).

**5. Basis for Nominations**

If you wish to nominate someone for appointment to the Advisory Board, please do not make the nomination until the person has agreed to have his or her name submitted to the BIE for this purpose. A person can also self-nominate.

**6. Nomination Application**

Please fill out the application form completely and also include a copy of the nominee's resumé or curriculum vitae. The nomination application form can be found on the BIE website at *http://www.bie.edu/Programs/SpecialEd/AdvisoryBoard/index.htm.*

**7. Information Collection**

This collection of information is authorized by OMB Control Number 1076–0179, ''Solicitation of Nominations for the Advisory Board for Exceptional Children,'' with an expiration date of: 02/28/2021.

**Authority:** 5 U.S.C. Appendix 5; 20 U.S.C. 1400 *et seq.*

Dated: May 7, 2019.

**Tara Sweeney,**

*Assistant Secretary—Indian Affairs.*

[FR Doc. 2019–11811 Filed 6–5–19; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[190A2100DD/AAKC001030/ A0A501010.999900253G]**

### Draft Environmental Impact Statement for the Proposed Redding Rancheria Fee-to-Trust and Casino Project, Shasta County, California

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of comment period extension.

**SUMMARY:** The Bureau of Indian Affairs (BIA) is announcing a two-week extension of the comment period for the Draft Environmental Impact Statement (DEIS) for the Proposed Redding Rancheria Fee-to-Trust and Casino Project, Shasta County, California. The BIA published a Notice of Availability on April 10, 2019.

**DATES:** The BIA must receive all comments by June 17, 2019.

**ADDRESSES:** You may mail or hand deliver comments to Amy Dutschke, Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and ''DEIS Comments, Redding Rancheria Project'' on the first page of your written comments. You may also submit comments through email to Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, at *chad.broussard@bia.gov.* Please include your name and return address on the first page of your written comments. If emailing comments, please use ''DEIS Comments, Redding Rancheria Project'' as the subject of your email.

**FOR FURTHER INFORMATION CONTACT:** Chad Broussard, Environmental Protection Specialist, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Room W–2820, Sacramento, California 95825; telephone: (916) 978–6165; email: *chad.broussard@bia.gov.* Information is also available online at *www.reddingeis.com.*

**SUPPLEMENTARY INFORMATION:** On April 10, 2019, the BIA published in the **Federal Register** (84 FR 14391) a Notice of Availability for the DEIS the Proposed Redding Rancheria Fee-to-Trust and Casino Project, Shasta County, California. BIA then held a public hearing at the Redding Memorial Veterans Hall in Redding on May 20, 2019.

The DEIS has been prepared for the Redding Rancheria's (Tribe) application requesting that the United States acquire approximately 232 acres of land in trust in Shasta County, California. The proposed fee-to-trust property is located in an unincorporated part of Shasta County, California, approximately 1.6 miles northeast of the existing Redding Rancheria, and about two miles southeast of downtown Redding. The proposed trust property includes seven parcels, bound by Bechelli Lane on the north, private properties to the south, the Sacramento River on the west, and Interstate 5 on the east. The Tribe is proposing to construct a casino resort that includes a casino, hotel, event/convention center, outdoor amphitheater, retail center, and associated parking/infrastructure. The new facility would replace the Tribe's existing casino, and the Tribe would convert the existing casino buildings to a different Tribal use. Additional information on the proposed action, alternatives to the proposed action, and potential environmental impacts associated with the proposed action and alternatives can be found in the DEIS.

*Locations where the DEIS is Available for Review:* The DEIS is available for review during regular business hours (8 a.m.–4:30 p.m.) at the BIA Pacific Regional Office, 2800 Cottage Way, Sacramento, California, and the Redding Public Library, 1100 Parkview Avenue, Redding, California. The DEIS is also available online at *http://www.reddingeis.com.* To obtain a compact disc copy of the DEIS, please provide your name and address in writing or by phone to Chad Broussard, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, California; *chad.broussard@bia.gov;* telephone: (916) 978–6165. Individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

*Public Comment Availability:* Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Dated: May 23, 2019.

**John Tahsuda,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 2019–11809 Filed 6–5–19; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWY–957000–19X–L13100000–PP0000]**

### Filing of Plats of Survey, Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. The surveys, which were executed at the request of the BLM and the United States Forest Service, are necessary for the management of these lands.

**DATES:** Protests must be received by the BLM by July 8, 2019.

**ADDRESSES:** You may submit written protests to the Wyoming State Director at WY957, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

**FOR FURTHER INFORMATION CONTACT:** Sonja Sparks, BLM Wyoming Chief Cadastral Surveyor at 307–775–6225 or *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The lands surveyed are: The plat and field notes representing the corrective dependent resurvey of a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, Township 21 North, Range 102 West, Sixth Principal Meridian, Wyoming, Group No. 959, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of portions of the south and west boundaries, and a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of section 31, Township 19 North, Range 79 West, Sixth Principal Meridian, Wyoming, Group No. 971, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of section 32, Township 19 North, Range 105 West, Sixth Principal Meridian, Wyoming, Group No. 974, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of a portion of the Eighth Standard Parallel North, through Range 71 West, portions of the east boundary and portions of the subdivisional lines designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of section 14, Township 32 North, Range 71 West, Sixth Principal Meridian, Wyoming, Group No. 985, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of portions of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of sections 21 and 22, Township 16 North, Range 87 West, Sixth Principal Meridian, Wyoming, Group No. 991, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines and Mineral Survey No. 422, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of sections 22 and 27, Township 18 North, Range 78 West, Sixth Principal Meridian, Wyoming, Group No. 1004, was accepted May 31, 2019.

The plat and field notes representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the subdivision of section 3, Township 15 North, Range 81 West, Sixth Principal Meridian, Wyoming, Group No. 1006, was accepted May 31, 2019.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Copies of the preceding described plats and field notes are available to the public at a cost of $4.20 per plat and $.13 per page of field notes.

Dated: May 31, 2019.

**Sonja S. Sparks,**

*Chief Cadastral Surveyor, Division of Support Services.*

[FR Doc. 2019–11906 Filed 6–5–19; 8:45 am]

**BILLING CODE 4310–22–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLOR957000.L63100000.HD0000. 19XL1109AF.HAG 19–0084]**

### Filing of Plats of Survey: Oregon/ Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of official filing.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon/ Washington State Office, Portland, Oregon, 30 calendar days from the date of this publication. The surveys, which were executed at the request of the BLM, are necessary for the management of these lands.

**DATES:** Protests must be received by the BLM by July 8, 2019.

**ADDRESSES:** A copy of the plats may be obtained from the Public Room at the BLM, Oregon/Washington State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost. Please use this address when filing written protests.

**FOR FURTHER INFORMATION CONTACT:** Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, BLM, 1220 SW 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The plats of survey of the following described lands are scheduled to be officially filed in the BLM, Oregon/Washington State Office, Portland, Oregon:

**Willamette Meridian, Oregon**

T. 10 S., R. 21 E., accepted April 9, 2019
T. 32 S., R. 14 W., accepted April 26, 2019
T. T. 22 S., R. 6 W., accepted April 26, 2019
T. 16 S., R. 15 E., accepted April 26, 2019
T. 32 S., R. 2 E., accepted April 26, 2019
T. 29 S., R. 9 W., accepted April 26, 2019
T. 17 S., R. 16 E., accepted April 26, 2019

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the State Director for Oregon/Washington, BLM. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will not be considered. A notice of protest is considered filed on the date it is received by the State Director for Oregon/Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director for Oregon/Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey

identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 43 U.S.C. Chap. 3.

**Mary J.M. Hartel,**

*Chief Cadastral Surveyor of Oregon/Washington.*

[FR Doc. 2019–11907 Filed 6–5–19; 8:45 am]

**BILLING CODE 4310–33–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[L14400000.BJ0000.241A.X.4500104880]**

### Filing of Plats of Survey: Idaho

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Idaho State Office, Boise, Idaho, in 30 days from the date of this publication.

**Boise Meridian**

*Idaho*

T. 35 N., R. 1 W., accepted March 20, 2019
T. 15 S., R. 24 E., accepted March 20, 2019
T. 1 N., R. 22 E., accepted March 29, 2019
T. 3 S., R. 18 E., accepted March 29, 2019
T. 3 N., R. 3 W., accepted April 29, 2019
T. 2 N., R. 19 E.,
Sections 17, 19, 20, and 30, accepted April 29, 2019
T. 30 N., R. 4 E.,
Section 7, accepted May 14, 2019

**ADDRESSES:** A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, upon required payment.

**FOR FURTHER INFORMATION CONTACT:** Timothy A. Quincy, (208) 373–3981 Branch of Cadastral Survey, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with Mr. Quincy. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** A person or party who wishes to protest one or more plats of survey identified above must file a written notice with the Chief Cadastral Surveyor for Idaho, Bureau of Land Management. The protest must identify the plat(s) of survey that the person or party wishes to protest and contain all reasons and evidence in support of the protest. The protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any protest filed after the scheduled date of official filing will be untimely and will not be considered. A protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Idaho during regular business hours; if received after regular business hours, a protest will be considered filed the next business day. If a protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a protest, you should be aware that the documents you submit, including your personal identifying information, may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Timothy A. Quincy,**

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 2019–11909 Filed 6–5–19; 8:45 am]

**BILLING CODE 4310–GG–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Ocean Energy Management

### Notice on Outer Continental Shelf Oil and Gas Lease Sales

**AGENCY:** Bureau of Ocean Energy Management, Interior.

**ACTION:** List of Restricted Joint Bidders.

**SUMMARY:** Pursuant to the Bureau of Ocean Energy Management (BOEM) regulatory restrictions on joint bidding, the Director of the BOEM is publishing a List of Restricted Joint Bidders. Each entity within one of the following groups is restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2019, through October 31, 2019.

**DATES:** This List of Restricted Joint Bidders will cover the period May 1, 2019, through October 31, 2019, and replaces the prior list published on November 6, 2018 (83 FR 55560), which covered the period of November 1, 2018, through April 30, 2019.

Group I
BP America Production Company
BP Exploration & Production Inc.
BP Exploration (Alaska) Inc.
Group II
Chevron Corporation
Chevron U.S.A. Inc.
Chevron Midcontinent, L.P.
Unocal Corporation
Union Oil Company of California
Pure Partners, L.P.
Group III
Eni Petroleum Co. Inc.
Eni Petroleum US LLC
Eni Oil US LLC
Eni Marketing Inc.
Eni BB Petroleum Inc.
Eni US Operating Co. Inc.
Eni BB Pipeline LLC
Group IV
Equinor ASA
Equinor Gulf of Mexico LLC
Equinor USA E&P Inc.
Group V
Exxon Mobil Corporation
ExxonMobil Exploration Company
Group VI
Shell Oil Company
Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
SOI Finance Inc.
Shell Gulf of Mexico Inc.
Group VII
Total E&P USA, Inc.

Even if an entity does not appear on the above list, certain joint or single bids submitted by such an entity may be disqualified, and rejected, by BOEM if that entity is chargeable for the prior production period with an average daily production in excess of 1.6 million barrels of crude oil, natural gas, and natural gas liquids. *See* 30 CFR 556.512.

**Authority:** 30 CFR 556.511–556.515.

Dated: May 31, 2019.

**Walter D. Cruickshank,**

*Acting Director, Bureau of Ocean Energy Management.*

[FR Doc. 2019–11779 Filed 6–5–19; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Barcode Scanners, Scan Engines, Products Containing the Same, and Components Thereof, DN 3392;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Honeywell International, Inc.; Hand Held Products, Inc.; and Metrologic Instruments, Inc. on May 31, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain barcode scanners, scan engines, products containing the same, and components thereof. The complaint names as respondents: Opticon, Inc. of Renton, WA; Opticon Sensors Europe B.V. of the Netherlands; OPTO Electronics Co., Ltd. of Japan; and Hokkaido Electronic Industry Co., Ltd. of Japan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3392'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Issued: June 3, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–11903 Filed 6–5–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof, DN 3391;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Ethicon LLC; Ethicon Endo-Surgery, Inc.; and Ethicon US, LLC on May 30, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laparoscopic surgical staplers, reload cartridges, and components thereof. The complaint names as respondents: Intuitive Surgical Inc. of Sunnyvale, CA; Intuitive Surgical Operations, Inc. of Sunnyvale, CA; Intuitive Surgical Holdings, LLC of Sunnyvale, CA; and Intuitive Surgical S.DE R.L. DE C.V. of Mexico. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3391'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 31, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–11794 Filed 6–5–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–19–021]**

### Sunshine Act Meetings

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** June 11, 2019 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote on Inv. Nos. 701–TA–606 and 731–TA–1416 (Final) (Quartz Surface Products from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by June 27, 2019.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 4, 2019.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2019–12034 Filed 6–4–19; 4:15 pm]

**BILLING CODE 7020–02–P**

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1114 (Second Review)]**

### Steel Nails From China; Scheduling of an Expedited Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order on steel nails from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

**DATES:** April 12, 2019.

**FOR FURTHER INFORMATION CONTACT:** Lawrence Jones-(202)-205–3358, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—On April 12, 2019, the Commission determined that the domestic interested party group response to its notice of institution (83 FR 62342, December 3, 2018) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c) (3) of the Tariff Act of 1930 (19 U.S.C. 1675(c) (3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

*Staff report.*—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 5, 2019, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d) (4) of the Commission's rules.

*Written submissions.*—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before June 11, 2019 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by June 11, 2019. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules with respect to filing were revised effective July 25, 2014. *See* 79 FR 35920 (June 25, 2014), and the revised Commission Handbook on E-filing, available from the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

*Determination.*—The Commission has determined that this review are extraordinarily complicated and

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted by Mid-Continent to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d) (2)).

therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

*Authority:* This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 31, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–11819 Filed 6–5–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: American Radiolabeled Chem

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 5, 2019.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on March 7, 2019, American Radiolabeled Chem, 101 Arc Drive, Saint Louis, Missouri 63146 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Gamma Hydroxybutyric Acid | 2010 | I |
| Ibogaine | 7260 | I |
| Lysergic acid diethylamide | 7315 | I |
| Tetrahydrocannabinols | 7370 | I |
| Dimethyltryptamine | 7435 | I |
| 1-[1-(2-Thienyl)cyclohexyl]piperidine | 7470 | I |
| Dihydromorphine | 9145 | I |
| Heroin | 9200 | I |
| Normorphine | 9313 | I |
| Amphetamine | 1100 | II |
| Methamphetamine | 1105 | II |
| Amobarbital | 2125 | II |
| Phencyclidine | 7471 | II |
| Phenylacetone | 8501 | II |
| Cocaine | 9041 | II |
| Codeine | 9050 | II |
| Dihydrocodeine | 9120 | II |
| Oxycodone | 9143 | II |
| Hydromorphone | 9150 | II |
| Ecgonine | 9180 | II |
| Hydrocodone | 9193 | II |
| Meperidine | 9230 | II |
| Metazocine | 9240 | II |
| Methadone | 9250 | II |
| Dextropropoxyphene, bulk (non-dosage forms) | 9273 | II |
| Morphine | 9300 | II |
| Oripavine | 9330 | II |
| Thebaine | 9333 | II |
| Oxymorphone | 9652 | II |
| Phenazocine | 9715 | II |
| Carfentanil | 9743 | II |
| Fentanyl | 9801 | II |

The company plans to manufacture small quantities of the above-listed controlled substances as radiolabeled compounds for biochemical research.

Dated: May 24, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–11878 Filed 6–5–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Importer of Controlled Substances Application: Shertech Laboratories, LLC

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 8, 2019. Such persons may also file a written request for a hearing on the application on or before July 8, 2019.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301,

incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on February 25, 2019, Shertech Laboratories, LLC, 1185 Woods Chapel Road, Duncan, South Carolina 29334 applied to be registered as an importer of the following basic class of controlled substance:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Cocaine | 9041 | II |

The company plans to import synthetic derivatives of the listed controlled substance in bulk form to conduct clinical trials.

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.

Dated: May 17, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–11876 Filed 6–5–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Application: SpecGx LLC

**ACTION:** Notice of application.

**DATES:** Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before August 5, 2019.

**ADDRESSES:** Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.33(a), this is notice that on February 1, 2019, SpecGx LLC, 3600 North 2nd Street, Saint Louis, Missouri 63147 applied to be registered as a bulk manufacturer of the following basic class of controlled substances:

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Gamma Hydroxybutyric Acid | 2010 | I |
| Tetrahydrocannabinols | 7370 | I |
| Codeine-N-oxide | 9053 | I |
| Dihydromorphine | 9145 | I |
| Difenoxin | 9168 | I |
| Morphine-N-oxide | 9307 | I |
| Normorphine | 9313 | I |
| Norlevorphanol | 9634 | I |
| Acetyl Fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide) | 9821 | I |
| Butyryl Fentanyl | 9822 | I |
| Fentanyl related-compounds as defined in 21 CFR 1308.11(h) | 9850 | I |
| Amphetamine | 1100 | II |
| Methamphetamine | 1105 | II |
| Lisdexamfetamine | 1205 | II |
| Methylphenidate | 1724 | II |
| Nabilone | 7379 | II |
| 4-Anilino-N-phenethyl-4-piperidine (ANPP) | 8333 | II |
| Codeine | 9050 | II |
| Dihydrocodeine | 9120 | II |
| Oxycodone | 9143 | II |
| Hydromorphone | 9150 | II |
| Diphenoxylate | 9170 | II |
| Ecgonine | 9180 | II |
| Hydrocodone | 9193 | II |
| Levorphanol | 9220 | II |
| Meperidine | 9230 | II |
| Methadone | 9250 | II |
| Methadone intermediate | 9254 | II |
| Dextropropoxyphene, bulk (non-dosage forms) | 9273 | II |
| Morphine | 9300 | II |
| Oripavine | 9330 | II |
| Thebaine | 9333 | II |
| Opium tincture | 9630 | II |
| Opium, powdered | 9639 | II |
| Oxymorphone | 9652 | II |
| Noroxymorphone | 9668 | II |
| Alfentanil | 9737 | II |
| Remifentanil | 9739 | II |
| Sufentanil | 9740 | II |
| Tapentadol | 9780 | II |
| Fentanyl | 9801 | II |

The company plans to manufacture bulk active pharmaceutical ingredients (APIs) for distribution to its customers.

Dated: May 23, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–11877 Filed 6–5–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–392]**

### Bulk Manufacturer of Controlled Substances Registration

**ACTION:** Notice of registration.

**SUMMARY:** The registrant listed below has applied for and been granted a registration by the Drug Enforcement Administration (DEA) as a bulk manufacturer of various classes of schedule I and II controlled substances.

**SUPPLEMENTARY INFORMATION:** The company listed below applied to be registered as a bulk manufacturer of various basic classes of controlled substances. Information on a previously published notice is listed below. No comments or objections were submitted for the notice.

| Company | FR docket | Published |
|---|---|---|
| Noramco, Inc .... | 84 FR 5499. | February 21, 2019. |

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of this registrant to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed company.

Dated: May 21, 2019.

**John J. Martin,**

*Assistant Administrator.*

[FR Doc. 2019–11881 Filed 6–5–19; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 22, 2019, the Department of Justice lodged a proposed Consent Decree (''Consent Decree'') with the United States District Court for the District of Connecticut in the lawsuit entitled *United States and the State of New Jersey, Department of Environmental Protection* v. *Gloucester County Utilities Authority,* Civil Action No. 2:19–cv–12818.

In a Complaint, the United States, on behalf of the U.S. Environmental Protection Agency (''EPA'') and the State of New Jersey, on behalf of the Department of Environmental Protection, alleges that the Gloucester County Utilities Authority (''GCUA'') violated the Clean Air Act (the ''Act''), 42 U.S.C. 7413, by violating: (1) The Solid Waste Combustion provisions in Section 129 of the Clean Air Act, 42 U.S.C. 7429, and (2) the Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or Before October 14, 2010, 40 CFR part 62, subpart LLL (''Subpart LLL''). The proposed Consent Decree in this case, among other things, requires that GCUA pay a civil penalty of $132,500 in two installments. In addition, the Consent Decree requires a New Jersey-sponsored supplemental project, to be overseen by the state, involving the purchase and installation of four electric vehicle-charging stations within Gloucester County by September 31, 2019.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of New Jersey, Department of Environmental Protection* v. *Gloucester County Utilities Authority,* D.J. Ref. No. 90–5–2–1–11877. 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 ..... | *pubcomment-ees.enrd@usdoj.gov* |
| By mail ..... | 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 $10.00 (25 cents per page reproduction cost), payable to the United States Treasury.

**Jeffrey Sands,**

*Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.*

[FR Doc. 2019–11863 Filed 6–5–19; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### 196th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 196th meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on June 25–27, 2019.

The three-day meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 in N5437 A–C. The meeting will run from 9:00 a.m. to approximately 5:30 p.m. on June 25 and 26 with a one hour break for lunch, and from 8:30 a.m. to 11:00 a.m. on June 27. The purpose of the open meeting is for Advisory Council members to hear testimony from invited witnesses and to receive an update from the Employee Benefits Security Administration (EBSA). The EBSA update is scheduled for the morning of June 25, subject to change.

The Advisory Council will study the following topics: (1) Beyond Plan Audit Compliance: Improving the Financial Statement Audit Process (on June 25); and, (2) Permissive Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Funds (on June 26). The Advisory Council will continue with discussions of its topics on June 27. Descriptions of these topics are available on the Advisory Council page of the EBSA website, at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.*

Organizations or members of the public wishing to make a written submission may do so by sending 40 copies on or before June 18, 2019, to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue NW, Washington, DC 20210. Submissions may be sent as email attachments in word processing or pdf format transmitted to *good.larry@dol.gov.* It is requested that submissions not be included in the body of the email. Submissions deemed relevant by the Advisory Council and received on or before June 18 will be included in the record of the meeting and made available through the EBSA Public Disclosure Room, along with witness statements. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed.

Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 10 minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact the Executive Secretary by June 18.

Signed at Washington, DC, this 30th day of May, 2019.

**Preston Rutledge,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 2019–11897 Filed 6–5–19; 8:45 am]

**BILLING CODE 4510–29–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

### National Council on the Arts 197th Meeting

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held. Open to the public on a space available basis.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is Eastern time and the ending time is approximate.

**ADDRESSES:** Charles H. Wright Museum—General Motors Theater, 315 E Warren Ave., Detroit, MI 48201.

**FOR FURTHER INFORMATION CONTACT:** Victoria Hutter, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202–682–5570.

**SUPPLEMENTARY INFORMATION:** If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the July 5, 2016 determination of the Chairman. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested persons may attend, as observers, to Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682–5733, Voice/T.T.Y. 202/682–5496, at least seven (7) days prior to the meeting.

*The upcoming meeting is:*

**National Council on the Arts 197th Meeting**

This meeting will be open.

*Date and time:* June 21, 2019; 9:30 a.m. to 11:30 a.m.

There will be opening remarks and voting on recommendations for grant funding and rejection, followed by updates from the Acting Chairman and guest presentations.

Dated: June 3, 2019.

**Jillian Miller,**

*Director, Office of Guidelines and Panel Operations, National Endowment for the Arts.*

[FR Doc. 2019–11845 Filed 6–5–19; 8:45 am]

**BILLING CODE 7537–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2018–0203]**

### Information Collection: Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of submission to the Office of Management and Budget; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

**DATES:** Submit comments by July 8, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

**ADDRESSES:** Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150–0090), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: *oira_submission@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** David Cullison, NRC Clearance 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–2018–0203 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0203.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML19073A077 and ML19148A680.
- *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the 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*

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

**II. Background**

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC a **Federal Register** notice with a 60-day comment period on this information collection on February 13, 2019, 84 FR 3830.

1. *The title of the information collection:* 10 CFR part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions.''

2. *OMB approval number:* 3150–0021.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* Environmental Reports are required upon submittal of an application for a combined license, construction permit, operating license, operating license renewal, early site permit, design certification, decommissioning or license termination review, or manufacturing license, or upon submittal of a petition for rulemaking.

6. *Who will be required or asked to respond:* Licensees and applicants requesting approvals for actions proposed in accordance with the provisions of 10 CFR parts 30, 32, 33, 34, 35, 36, 39, 40, 50, 52, 54, 60, 61, 70, and 72.

7. *The estimated number of annual responses:* 17.

8. *The estimated number of annual respondents:* 16.7.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 30,462.

10. *Abstract:* The NRC's regulations at 10 CFR part 51 specify information to be provided in environmental reports by applicants and licensees so that the NRC can make determinations necessary to adhere to the policies, regulations, and public laws of the United States, which are interpreted and administered in accordance with the provisions set forth in the National Environmental Policy Act of 1969, as amended.

Dated at Rockville, Maryland, this 3rd day of June 2019.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Office.*

[FR Doc. 2019–11848 Filed 6–5–19; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2019–0109]**

## Information Collection: Pre-Application Interactions With Prospective Part 52 Applicants for Nuclear Power Plant Licenses

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed information collection; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) invites public comment on this proposed collection of information. The information collection is entitled ''Pre-application Interactions with Prospective Part 52 Applicants for Nuclear Power Plant Licenses.''

**DATES:** Submit comments by August 5, 2019. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0109. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Information and Submitting Comments**

*A. Obtaining Information*

Please refer to Docket ID NRC–2019–0109 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2019–0109.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The supporting statement for ''Pre-application activities for prospective combined license applicants'' is available in ADAMS under Accession No. ML19085A327.

• *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.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

*B. Submitting Comments*

Please include Docket ID NRC–2019–0109 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 *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

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

## II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Pre-application Interactions with Prospective Part 52 Applicants for Nuclear Power Plant Licenses.

2. *OMB approval No.:* An OMB control number has not yet been assigned to this proposed information collection.

3. *Type of submission:* New.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion. Information is submitted only when combined license application is anticipated.

6. *Who will be required or asked to respond:* Applicants for combined licenses for nuclear power plants have the option of submitting information.

7. *The estimated number of annual responses:* 2.

8. *The estimated number of annual respondents:* 2.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 50,000 hours (45,000 hours reporting + 5,000 hours recordkeeping).

10. *Abstract:* Regulatory Guide 1.206 provides guidance for applicants for combined licenses for nuclear power plants. Section C.2.1 of Regulatory Guide 1.206 deals with pre-application activities for respondents who intend to submit applications for combined licenses for nuclear power plants. Pre-application activities encompass all the communications, correspondence, meetings, document submittals/reviews, and other interactions that occur between the NRC staff and a prospective applicant before the tendering of an application under part 52 of title 10 of the *Code of Federal Regulations.* Participation in pre-application activities is voluntary. Potential applicants who engage in pre-application activities benefit from an early NRC staff assessment of the completeness and level of detail of the information that the applicant proposes to submit and staff identification of potential deficiencies in the application. Pre-application activities are expected to increase the efficiency of the staff's review of those applications once they are submitted.

## 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 at Rockville, Maryland, this 3rd day of June 2019.

For the Nuclear Regulatory Commission.

**David C. Cullison,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 2019–11855 Filed 6–5–19; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Date of required notice:* June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Reed, 202–268–3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 3, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 529 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2019–144, CP2019–160.

**Elizabeth Reed,**

*Attorney, Corporate and Postal Business Law.*

[FR Doc. 2019–11910 Filed 6–5–19; 8:45 am]

**BILLING CODE 7710–12–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86016; File No. 013–00067]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 7, 2019, Aqua filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 7, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Aqua was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January

7, 2019.[1] Aqua filed an initial Form ATS–N on February 7, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Aqua's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Aqua about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Aqua. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Aqua.

In the conversations between Aqua and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Aqua have discussed a potential amendment to update Aqua's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Aqua. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 5, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Aqua ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11894 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86009; File No. 013–00126]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 11, 2019, PRO Securities filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 11, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

PRO Securities was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] PRO Securities filed an initial Form ATS–N on February 11, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on PRO Securities' initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with PRO Securities about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with PRO Securities. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with PRO Securities.

In the conversations between PRO Securities and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and PRO Securities have discussed a potential amendment to update PRO Securities' disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by PRO Securities. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 9, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by PRO Securities ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11875 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85994; File No. 013–00129]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, CitiBLOC filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

CitiBLOC was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] CitiBLOC filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on CitiBLOC's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with CitiBLOC about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with CitiBLOC. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with CitiBLOC.

In the conversations between CitiBLOC and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and CitiBLOC have discussed a potential amendment to update CitiBLOC's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by CitiBLOC. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by CitiBLOC ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11835 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85993; File No. 013–00106]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, Crossfinder filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Crossfinder was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Crossfinder filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Crossfinder's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Crossfinder about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Crossfinder. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

initial Form ATS–N disclosures and discussions with Crossfinder.

In the conversations between Crossfinder and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Crossfinder have discussed a potential amendment to update Crossfinder's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Crossfinder. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Crossfinder ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11834 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85976; File No. 013–00069]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, UBS ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

UBS ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] UBS ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on UBS ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with UBS ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with UBS ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with UBS ATS.

In the conversations between UBS ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and UBS ATS have discussed a potential amendment to update UBS ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by UBS ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by UBS ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11840 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86007; File No. 013–00115]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, MS Trajectory Cross ATS–1 filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

MS Trajectory Cross ATS–1 was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] MS Trajectory Cross ATS–1 filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on MS Trajectory Cross ATS–1's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with MS Trajectory Cross ATS–1 about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with MS Trajectory Cross ATS–1. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with MS Trajectory Cross ATS–1.

In the conversations between MS Trajectory Cross ATS–1 and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and MS Trajectory Cross ATS–1 have discussed a potential amendment to update MS Trajectory Cross ATS–1's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by MS Trajectory Cross ATS–1. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by MS Trajectory Cross ATS–1 ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11873 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86011; File No. 013–00104]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, Instinet Crossing filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Instinet Crossing was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Instinet Crossing filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Instinet Crossing initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Instinet Crossing about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Instinet Crossing. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Instinet Crossing.

In the conversations between Instinet Crossing and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Instinet Crossing have discussed a potential amendment to update Instinet Crossing's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Instinet Crossing. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Instinet Crossing ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11889 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86002; File No. 013–00132]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 12, 2019, LeveL ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 12, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

LeveL ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] LeveL ATS filed an initial Form ATS–N on February 12, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on LeveL ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with LeveL ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with LeveL ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with LeveL ATS.

In the conversations between LeveL ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and LeveL ATS have discussed a potential amendment to update LeveL ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by LeveL ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 10, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by LeveL ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11868 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85975; File No. 013–00052]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 6, 2019, SuperX ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 6, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

SuperX ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] SuperX ATS filed an initial Form ATS–N on February 6, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on SuperX ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with SuperX ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with SuperX ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

initial Form ATS–N disclosures and discussions with SuperX ATS.

In the conversations between SuperX ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and SuperX ATS have discussed a potential amendment to update SuperX ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by SuperX ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 4, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by SuperX ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11826 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85982; File No. 013–00107]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, Liquidnet Negotiation ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Liquidnet Negotiation ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Liquidnet Negotiation ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Liquidnet Negotiation ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Liquidnet Negotiation ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Liquidnet Negotiation ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Liquidnet Negotiation ATS.

In the conversations between Liquidnet Negotiation ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Liquidnet Negotiation ATS have discussed a potential amendment to update Liquidnet Negotiation ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Liquidnet Negotiation ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Liquidnet Negotiation ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11828 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85984; File No. SR–NSCC–2019–001]**

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make a Clarification and Technical Changes to Addendum K

May 31, 2019.

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 May 29, 2019, National Securities Clearing Corporation (''NSCC'') 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. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(1) 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 amendments to Addendum K of NSCC's Rules & Procedures (''Rules'') in order to make a clarification and technical

[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)(1).

changes, as described in greater detail below.[5]

## 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

The proposed rule change would amend Addendum K to make a clarification and technical changes, as described in greater detail below. The proposed rule change is only clarifying the language of the NSCC guaranty and, therefore, would not change any of the rights and obligations of NSCC's Members.

Addendum K describes NSCC's trade guaranty to Members regarding their CNS and balance order transactions. The proposed rule change would clarify Addendum K by adding language that was inadvertently deleted from the Rules in connection with the approval by the Commission of rule filing SR–NSCC–2016–005 [6] and notice of no objection to advance notice SR–NSCC–2016–803.[7] Specifically, the proposed rule change would add '', and, in either case,'' after clause (ii) in the third sentence to make it clear that NSCC is guaranteeing balance order transactions through the close of business on T+2, whether submitted bilaterally or locked-in.

NSCC is also proposing to make the following technical changes to Addendum K:

(1) Delete the word ''orders'' in the first sentence and replace it with ''order'' to be consistent with the use of this phrase in the Rules.

(2) Replace the word ''guarantee'' with ''guaranty'' in footnote 1 as well as in the fourth sentence to be consistent with the use of this term in the Rules.

(3) Replace the reference to ''NSCC'' in footnote 1 with ''the Corporation'' to be consistent with the use of this term in the Rules.

(4) Replace the reference to ''Options Clearing Corporation'' in footnote 1 with ''The Options Clearing Corporation'' to reflect the proper legal name of the entity referenced.

2. Statutory Basis

NSCC believes this proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, NSCC believes this proposal is consistent with Section 17A(b)(3)(F) [8] of the Act and Rule 17Ad–22(e)(23)(i),[9] as promulgated under the Act, for the reasons described below.

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.[10] NSCC believes that the proposed rule change would promote prompt and accurate clearance and settlement of securities transactions. This is because the proposed rule change would: (i) Clarify the provision regarding the NSCC guaranty by adding language that reflects how the guaranty works and that was inadvertently deleted in a previous rule filing and (ii) make technical changes that would promote consistency in terminology usage and reflect a proper legal entity name, all of which would ensure that the Rules are clear and consistent. Having clear and consistent Rules would help Members to better understand their rights and obligations regarding NSCC's clearance and settlement services. NSCC believes that when Members better understand their rights and obligations regarding NSCC's clearance and settlement services, they can better act in accordance with the Rules. NSCC believes that better enabling Members to comply with the Rules would promote the prompt and accurate clearance and settlement of securities transactions by NSCC. As such, NSCC believes the proposed rule changes are consistent with Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(23)(i) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to publicly disclose all relevant rules and material procedures.[11] NSCC believes that the proposed rule change would improve the clarity and the transparency of the Rules by clarifying language and making the technical changes described in detail above. NSCC believes that by enhancing the clarity and transparency of the Rules (here in particular, the provisions associated with the NSCC guaranty), NSCC would ensure that the Rules disclose all relevant and material aspects of NSCC's guaranty. As such, NSCC believes these proposed rule changes are consistent with Rule 17Ad–22(e)(23)(i) under the Act.

*(B) Clearing Agency's Statement on Burden on Competition*

NSCC does not believe the proposed rule changes would impact competition. These changes are a clarification and technical changes that would not change NSCC's current practices or affect Members' rights and obligations. As such, NSCC believes these 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 this proposed rule change have not been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

## III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 thereunder.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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:

[5] Capitalized terms not defined herein are defined in the Rules, *available at http://www.dtcc.com/–/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[6] Securities Exchange Act Release No. 79598 (December 19, 2016), 81 FR 94462 (December 23, 2016) (SR–NSCC–2016–005).

[7] Securities Exchange Act Release No. 79592 (December 19, 2016), 81 FR 94448 (December 23, 2016) (SR–NSCC–2016–803).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(23)(i).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(e)(23)(i).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2019–001 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–NSCC–2019–001. 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 NSCC 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–NSCC–2019–001 and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11803 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86008; File No. 013–00111]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, POSIT filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

POSIT was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] POSIT filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on POSIT's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with POSIT about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with POSIT. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with POSIT.

In the conversations between POSIT and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and POSIT have discussed a potential amendment to update POSIT's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by POSIT. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by POSIT ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11874 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85992; File No. 013–00110]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, JPM–X filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing

with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

JPM–X was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] JPM–X filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on JPM–X's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with JPM–X about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with JPM–X. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with JPM–X.

In the conversations between JPM–X and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and JPM–X have discussed a potential amendment to update JPM–X's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by JPM–X. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by JPM–X ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11823 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85996; File No. 013–00113]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, Dealerweb filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Dealerweb was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Dealerweb filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Dealerweb's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Dealerweb about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Dealerweb. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Dealerweb.

In the conversations between Dealerweb and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Dealerweb have discussed a potential amendment to update Dealerweb's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

period of the initial Form ATS–N submitted by Dealerweb. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Dealerweb ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11833 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86012; File No. 013–00114]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, IBKR ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

IBKR ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] IBKR ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on IBKR ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with IBKR ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with IBKR ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with IBKR ATS.

In the conversations between IBKR ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and IBKR ATS have discussed a potential amendment to update IBKR ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by IBKR ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by IBKR ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11890 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85977; File No. 013–00119]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February8, 2019, Ustocktrade filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Ustocktrade was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Ustocktrade filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Ustocktrade's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Ustocktrade about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Ustocktrade. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Ustocktrade.

In the conversations between Ustocktrade and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Ustocktrade have discussed a potential amendment to update Ustocktrade's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Ustocktrade. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Ustocktrade ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11827 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86005; File No. 013–00117]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 11, 2019, MS POOL ATS–4 filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 11, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

MS POOL ATS–4 was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] MS POOL ATS–4 filed an initial Form ATS–N on February 11, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on MS POOL ATS–4's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with MS POOL ATS–4 about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with MS POOL ATS–4. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with MS POOL ATS–4.

In the conversations between MS POOL ATS–4 and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and MS POOL ATS–4 have discussed a potential amendment to update MS POOL ATS–4's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by MS POOL ATS–4. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 9, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by MS POOL ATS–4 ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11871 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85990; File No. SR–NYSE–2019–32]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Rule 123D

May 31, 2019

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 May 24, 2019, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123D to permit the Exchange to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

declare a regulatory halt in a security that traded in the over-the-counter market prior to the initial pricing on the Exchange. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 123D to permit the Exchange to declare a regulatory halt in a security that traded in the over-the-counter market prior to the initial pricing on the Exchange.

Proposed Rule Change

Current Rule 123D(d) permits the Exchange to declare a regulatory halt in a security that is the subject of an initial pricing on the Exchange of a security that has not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 (the ''OTC market'') immediately prior to the initial pricing. Accordingly, the Exchange has authority to declare a regulatory halt for any initial listing that is not a transfer from either another national securities exchange or the OTC market. Regulatory halts under the rule terminate when the DMM opens the security.

The Exchange proposes to delete the clause ''or traded in the over-the-counter market pursuant to FINRA Form 211'' before ''immediately prior to the initial pricing.'' The proposed amendment would thus enable the Exchange to declare a regulatory halt for a security that is having its initial listing on the Exchange that was traded in the OTC market immediately prior to its initial pricing on the Exchange.

The Exchange believes that it would be consistent with the protection of investors and the public interest for the Exchange, as a primary listing exchange, to have to authority to declare a regulatory halt for security that was previously traded in the OTC market prior to its initial pricing on the Exchange. An OTC market security that will be listed on a primary listing exchange will be removed from the OTC trading list on the day prior to its initial pricing on the Exchange. However, on the day of its initial listing, such security can trade on an unlisted trading permit (''UTP'') basis before the first transaction on the primary listing exchange. The Exchange believes that permitting the Exchange to declare a regulatory halt in such securities before trading on the Exchange begins would avoid potential price disparities or anomalies that may occur during any UTP trading before the first transaction on the primary listing exchange. More specifically, the Exchange believes that quoting and trading in the pre-market of an OTC transfer can be erratic and investors may be harmed if their securities trade during this period. The Exchange believes that the proposed limited authority to declare a regulatory halt in the hours prior to the OTC transfer pricing on the Exchange would mitigate any potential price disparities and contribute to a fair and orderly market once the security opens on the Exchange. The Exchange believes that such authority would be consistent with the protection of investors and the public interest.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Section 6(b)(5) of the Act,[4] 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.

The Exchange believes that the proposed amendment to Rule 123D to provide authority to declare a regulatory halt in a security that is an OTC transfer would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing the Exchange with authority to halt trading across all markets for a security that has traded in the OTC market and not previously listed on the Exchange, but for which a regulatory halt would promote fair and orderly markets. The Exchange believes that permitting the Exchange to declare a regulatory halt in such securities before trading on the Exchange begins would avoid potential price disparities or anomalies that may occur during any UTP trading before the first transaction on the primary listing exchange. More specifically, the Exchange believes that quoting and trading in the pre-market of an OTC transfer can be erratic and investors may be harmed if their securities trade during this period. The Exchange therefore believes that having the authority to declare a regulatory halt for a security that is the subject of an OTC transfer is consistent with the protection of investors and the public interest and would promote fair and orderly markets by helping to protect against volatility in pricing before the initial transaction on the primary listing exchange.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the benefit to investors to halt trading in a security that transfers from an OTC market to a primary listing exchange outweighs any burden on competition that may result from a regulatory halt in such security before the initial listing on the primary listing exchange. The proposed rule change is consistent with existing authority for the Exchange to declare a regulatory halt in trading of a security before the initial pricing on the Exchange and would extend that authority to a transfer from the OTC market.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2019–32 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2019–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit 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–2019–32, and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11799 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86006; File No. 013–00139]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 13, 2019, MS RPOOL ATS–6 filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 13, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

MS RPOOL ATS–6 was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] MS RPOOL ATS–6 filed an initial Form ATS–N on February 13, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on MS RPOOL ATS–6's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with MS RPOOL ATS–6 about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with MS RPOOL ATS–6. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with MS RPOOL ATS–6.

In the conversations between MS RPOOL ATS–6 and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and MS RPOOL ATS–6 have discussed a potential amendment to update MS RPOOL ATS–6's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by MS RPOOL ATS–6. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 11, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by MS RPOOL ATS–6 ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11872 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[5] 17 CFR 200.30–3(a)(12).

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85974; File No. 013–00127]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 11, 2019, The Barclays ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 11, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

The Barclays ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] The Barclays ATS filed an initial Form ATS–N on February 11, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on The Barclays ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with The Barclays ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with The Barclays ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with The Barclays ATS.

In the conversations between The Barclays ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and The Barclays ATS have discussed a potential amendment to update The Barclays ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by The Barclays ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 9, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by The Barclays ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11825 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85995; File No. 013–00096]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, CODA filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

CODA was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] CODA filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on CODA's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with CODA about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with CODA. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

review of the initial Form ATS–N disclosures and discussions with CODA.

In the conversations between CODA and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and CODA have discussed a potential amendment to update CODA's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by CODA. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by CODA ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11836 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86014; File No. 013–00108]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, Instinet BlockCross filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Instinet BlockCross was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Instinet BlockCross filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Instinet BlockCross's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Instinet BlockCross about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Instinet BlockCross. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Instinet BlockCross.

In the conversations between Instinet BlockCross and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Instinet BlockCross have discussed a potential amendment to update Instinet BlockCross's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Instinet BlockCross. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Instinet BlockCross ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11892 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85986; File No. SR–DTC–2019–003]**

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Reorganizations Service Guide

May 31, 2019.

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 May 21, 2019, The Depository Trust Company (''DTC'') 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. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] 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 by DTC would revise the Reorganizations Service Guide (''Guide'')[5] to: (1) Update its corporate action service by transitioning corporate action[6]

[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] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of DTC (''DTC Rules'') and in the Guide, *available at http://www.dtcc.com/legal/rules-and-procedures.aspx*.

[6] DTC offers an array of services for processing corporate action events. The services fall into three categories: (i) Distributions, such as cash and stock dividends, principal and interest, and capital gain distributions (collectively, ''Distributions''); (ii)

functions on its Participant Terminal System (''PTS'') and its Participant Browser Service (''PBS'') systems [7] for the processing of Reorganizations to its Corporate Action Web (''CA Web'') system; [8] and (2) restructure, streamline and clarify the Guide for enhanced transparency and clarity, as more fully described below.

## II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change by DTC would revise the Guide to: (1) Update its corporate action service by transitioning corporate action functions on its PTS and PBS systems for the processing of Reorganizations to its CA Web system; and (2) restructure, streamline and clarify the Guide for enhanced transparency and clarity, as more fully described below.

(i) Overview of the Proposed Rule Change

Transition of PTS/PBS Reorganizations Functions to CA Web

Beginning in 2011, DTC has filed a series of rule changes to update its corporate action services by migrating the corporate action functions for Distributions from PTS/PBS to CA Web, a then new browser user interface.[9] After a Participant testing phase, PTS/PBS functions for Distributions were retired in 2015, and the use of CA Web for processing Distributions became mandatory for all Participants.[10]

In 2016, DTC filed a rule filing to transition PTS/PBS functions for Redemptions to CA Web, and to update the Guide to add the appropriate references.[11] After a Participant testing phase, PTS/PBS functions for Redemptions were retired in 2017, and the use of CA Web for processing Redemptions became mandatory for all Participants.

Pursuant to the proposed rule change, DTC would transition PTS/PBS functions for Reorganizations to CA Web, and update the Guide to add the appropriate references.[12] A pilot testing period began in Q3 of 2018 and will conclude in Q2 of 2019, at which time Reorganizations activity within the following PTS and corresponding PBS functions would be retired and transitioned to CA Web: ADJI (Adjustment Inquiries), RIPS (Reorganization Inquiry for Participants), and SDAR Dept. R (Same Day Allocation Reporting).[13] DTC has been communicating this change to Participants through CA Web review sessions, Important Notices, and industry outreach.[14]

Restructure, Streamline and Clarify the Guide

DTC proposes to restructure, streamline and clarify the Guide for enhanced transparency and clarity as set forth below.

DTC would restructure the Guide into three parts. The first part would provide an introduction and background on reorganizations. The second part would address Reorganizations announcements (''Announcements''). The third part would address the processing of mandatory events and voluntary offerings, including, but not limited to, Participant instructions.

DTC would streamline the Guide as follows:

(1) The Guide currently contains contact numbers for information about different services described in the Guide. As a practical matter, the contact information for information about each of these services is the same. Therefore, the individual references to contact information for information about a service would be deleted and would be replaced by a single reference in the beginning of the Guide.

(2) Currently, each section of the Guide that describes a service contains a list of associated PTS and PBS functions. DTC is proposing to insert a table toward the beginning of the Guide that would contain a consolidated list of PTS/PBS functions that are associated with reorganization events generally, the parallel CA Web functionality, and the applicability to voluntary events, mandatory events, or proxy.

(3) Sections relating to procedures for the hard copy submission of Participant instructions in connection with different offerings would be clarified and consolidated into one proposed section that outlines the common procedure and set of requirements for the submission of instructions outside of the Automated Tender Offer Program (''ATOP'') and the Automated Subscription Offer Program (''ASOP'').[15]

(4) Currently, the Guide contains several sections titled ''Important Considerations'' in connection with different reorganization services. These sections contain a substantial amount of overlapping information. Therefore, DTC is proposing to consolidate these

redemptions such as full and partial calls, final paydowns, and maturities (collectively, ''Redemptions''); and (iii) reorganizations, which include both mandatory and voluntary reorganizations such as exchange offers, conversions, Dutch auctions, mergers, puts, reverse stock splits, tender offers, and warrant exercises (collectively, ''Reorganizations'').

[7] PTS and PBS are user interfaces for DTC's Settlement and Asset Services functions. PTS is mainframe-based and PBS is web-based with a mainframe back-end. Participants may use either PTS or PBS, as they are functionally equivalent. References to a particular PTS function in this rule filing include the corresponding PBS function.

[8] In PTS/PBS, corporate actions are announced using DTC proprietary codes to signify event types. CA Web replaces DTC's proprietary codes with market standard language. For example, a cash dividend payment that PTS/PBS identifies as a ''08'' function code is identified in CA Web as a ''Cash Dividend'' event. Additionally, CA Web incorporates the entire lifecycle of an event into one platform with a unique corporate action identifier that follows the event through its lifecycle. CA Web gives Participants the ability to customize screen displays and offers flexible methods for event search, neither of which is available in the PTS/PBS systems.

[9] *See* Securities Exchange Act Release No. 68114 (October 26, 2012), 77 FR 66497 (November 5, 2012) (SR–DTC–2012–08).

[10] *See* Securities Exchange Act Release No. 73864 (December 17, 2014), 79 FR 77063 (December 23, 2014) (SR–DTC–2014–12).

[11] *See* Securities Exchange Act Release No. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR–DTC–2016–014).

[12] As in the previous migrations of corporate action PTS/PBS functions to CA Web, corporate action functions relating to the submission of instructions by Participants will remain on PTS/PBS until a later date.

[13] *See* PTS/PBS Function Guides, *available at http://www.dtcc.com/settlement-and-asset-services/edl-ptspbs-function-guides.*

[14] *See* Important Notice B10792–19 (March 14, 2019); Important Notice B8760–18 (June 7, 2018), Important Notice B9072–18 (July 9, 2018) and Important Notice B9122–18 (July 26, 2018), *available at http://www.dtcc.com/legal/important-notices;* and DTC Corporate Actions Product Update to SIFMA (October 11, 2018), *available at https://www.sifma.org/wp-content/uploads/2017/05/SIFMA-CAS_DTCC-Corporate-Actions-Update_2018.pdf.*

[15] ATOP allows Participants to accept various voluntary offers, such as voluntary tender or exchange offers, in a book-entry environment. *See* Securities Exchange Act Release No. 33797 (March 22, 1994), 59 FR 14696 (March 29, 1994) (SR–DTC–93–11) (approving enhancements to ATOP). ASOP allows Participants to accept rights offers and receive the underlying securities within a fully automated book-entry environment. *See* Securities Exchange Act Release No. 35108 (December 16, 1994), 59 FR 67356 (December 29, 1994) (SR–DTC–94–15) (instituting ASOP).

sections into a single proposed ''Important Considerations'' section.

(5) Currently, the Guide contains several sections titled ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' in connection with different reorganization services. These sections contain a substantial amount of overlapping information. Therefore, DTC is proposing to consolidate these sections into a single proposed ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities'' section.

Finally, DTC would clarify and enhance the transparency of certain services and procedures by:

(1) Clarifying and simplifying language;

(2) Inserting additional background information and clarifying information;

(3) Replacing references to DTC's proprietary Computer-to-Computer Facility (''CCF'') announcement files with references to International Organization for Standardization (''ISO'') 20022 messaging in order to reflect the retirement and transition to ISO 20022 to communicate Reorganizations Announcements; [16] and

(4) Making the following ministerial changes to accurately reflect current terminology or to remove references to retired systems:

- For simplicity, consolidate each reference to CCF/CCF II files in a reference to CCF files, because CCF/CCF II files are collectively known as CCF Files.
- Remove references to MDH (Mainframe Dual Host) message format files, which are no longer supported.[17]
- References to ''product'' or ''program'' would be replaced by references to ''service,'' which is more appropriate for a service guide.
- References to ''relinquishment'' as an available put exercise would be deleted because they are no longer included as features of put bonds in the industry.
- References to ''hard copy'' reports, notifications, or instructions would be changed to refer more generally to any medium used by Participants for transmitting instructions to, or viewing messages from, DTC.
- Correct spelling, grammatical and typographical errors throughout.
- Update other text and contact information, such as addresses, phone numbers, website information, and email addresses.

(ii) Proposed Rule Change

DTC proposes to amend the Guide as follows:

(1) *Important Legal Information:* The copyright date would be updated from 2016 to 2019.

(2) *About Reorganization:* This heading would be changed to ''About Reorganization Services.''

a. *Introduction:* No change would be made to this title.

b. *Overview:* The ''Overview'' section would be modified to include references to CA Web and ISO 20022 messaging, and to explain how the functionality for reorganization services can be accessed. The word ''chapter'' would be replaced with the word ''guide'' to reflect that the overview addresses the reorganization services throughout the Guide. The second paragraph of the section would also be modified to remove the specific references to PTS/PBS functions that would cease to be available on PTS/PBS, since these functions would be already covered in the references to PTS and PBS in the amended first paragraph of the section. Further, the section would be modified to clarify a note about a Participant's obligation to check the accuracy of information regarding reorganization activities.

c. *Proposed* ''*Reorganization/Proxy Contact Number*'' *section:* The new proposed section, ''Reorganization/Proxy Contact Number,'' would be added to provide Participants with the contact information for information regarding any aspect of reorganization/proxy processing or a specific event. In connection with this proposed change, DTC is proposing to remove the sections of contact information that are repeated throughout the Guide in connection with each particular service.

d. *About Reorganizations:* The title would be changed to ''About the Reorganizations Service.'' The section would be modified to provide additional context for, and descriptions of, the Reorganizations service. The definition of ''agent,'' as used in the Guide, would be inserted into this section. In addition, the section would be modified to clarify what would occur if DTC is unable to fully support a Reorganizations event.

e. *Types of Reorganization Products:* The title of the section would be changed to ''Types of Reorganization Event Services.'' The list of services that are announced and processed by the Reorganization Department would be clarified and narrowed to the main event types: Voluntary Offerings, Mandatory Reorganizations, and Proxy. Pursuant to the restructuring of the Guide, the event subtypes would be addressed later in the Guide.

f. *Reorganization Envelopes:* The ''Reorganization Envelopes'' section would be removed because the relevant information about viewing Announcements would be included in the proposed section titled ''How to View Mandatory and Voluntary Reorganization Announcements.''

g. *Reorganization (RRG) Account/Contra-CUSIP Numbers:* This section would be amended and relocated within the Guide. The title would be changed to ''Reorganization (RRG) Segregated Account.'' The text at the end of the section, which reads: ''059 = the activity code of the RIPS envelope (in this case, rights)'' and ''01 = The sequence number of the RIPS envelope'' would be modified to remove the references to the RIPS envelope, to provide more generally that the information is viewable on other platforms, in addition to RIPS.

h. *Pledged Securities:* This section would be amended and relocated within the Guide. For clarity, the section would be modified to include the following sentence: ''There are specific processes for pledging on voluntary reorganization events detailed below.''

i. *Segregated Securities:* This section would be relocated within the Guide, as discussed below.

j. *Chills on Reorg Activities:* This section would be amended and relocated within the Guide. For additional clarity, the section would be modified to include the following sentence: ''The timing of the chills will vary depending upon the event type or security type such as book-entry only.''

k. *Frozen Letters:* This section would be amended and relocated within the Guide. The section would be amended to remove the list of items that are required for a frozen letter request and would reflect that a template request form (that reflects these requirements) is available. In addition, the section would be amended to replace the reference to ''the appropriate person at DTC'' with a specific email contact at *frozenletter@dtcc.com.*[18] Further, for accuracy, the following note would be removed: ''Note—DTC does not provide a specific

[16] *See* Securities Exchange Act Release Nos. 79746 (January 5, 2017), 82 FR 3372 (January 11, 2017) (SR–DTC–2016–014); 76811 (December 31, 2015), 81 FR 826 (January 7, 2016) (SR–DTC–2015–013); 68114 (October 26, 2012), 77 FR 66497 (November 5, 2012) (SR–DTC–2012–08); and 63886 (February 10, 2011), 76 FR 9070 (February 16, 2011) (SR–DTC–2011–02).

[17] As part of enhanced business continuity plans in the aftermath of the events of September 11, 2001, on or around 2005, MDH, a proprietary communications protocol, was retired by DTC. *See* Important Notice Z#0004 (October 2, 2002), *available at http://www.dtcc.com/~/media/Files/Downloads/Investment-Product-Services/Insurance-and-Retirement-Services/SMART_user_guide.pdf.*

[18] *See* Important Notice B3751–16 (June 29, 2016), *available at http://www.dtcc.com/~/media/Files/pdf/2016/6/29/3751-16.pdf.*

form for an indemnity clause. You must provide the indemnity clause in whatever format your own legal requirements dictate.'' The template request form includes an indemnity.[19]

l. *Preparing to Use the Products:* The title would be changed to ''Preparing to Use the Services.'' The list of technical requirements would be amended to (i) make ministerial corrections to the references to PTS and PBS, (ii) add references to CA Web and to ISO 20022 Messages via MQ and file protocols, and (iii) delete the references to CCF II and MDH. In addition, the table of PTS/PBS functions would be modified to insert parallel CA Web functionality. The table would be accompanied by a note that reads: ''Note that in 2019, the following PTS/PBS functions will no longer be available for current Reorganization activity and will be replaced with CA Web functionality as indicated. PTS/PBS functions will, however, be available for historical research purposes.'' Further, the section would be amended to add the following clarifying text: ''DTC offers a comprehensive overview of reorganization activity comprised of Announcements, Allocations, Adjustments and applicable alerts via CA Web's Reorganization dashboard which ''pushes'' data to users. Understanding the Reorganizations lifecycle and data model are important prerequisites for successful use of the Reorganizations service. DTC offers robust training resources available at its Asset Services Learning Center—*https://dtcclearning.com/products-and-services/asset-services.*'' Finally, the last sentence in the section would be changed to: ''Note: DTC also provides various reports, including on SMART/Search, and Participants have the ability to export data from CA Web to spreadsheets, for manipulation and analysis.'' The purpose of this modification to this general statement is to reflect that various reports are accessed through SMART/Search and CA Web data reports. In general, Participants no longer use, and therefore DTC no longer provides, hard copy reports.

m. *Reorganization Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

n. *Service Topics:* This heading would be deleted because it is not relevant to the proposed restructuring of the Guide.

o. *Allocations:* This entire section would be amended and relocated within the Guide.

(i) *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be replaced with ''About Allocations.'' The section would be amended to clarify that DTC will allocate cash and stock to Participant upon receipt of the confirmed position and entitlements from the agent. For enhanced transparency, the proposed section would include additional information on cash allocations, reorganization cash settlement reporting and stock allocations.

p. *Proposed ''How Reorganizations Work'' section:* DTC is proposing to insert a section containing basic information on the elements of Reorganizations that are relevant to the reorganization services. In particular, the section would discuss the types of event information that may be relevant to reorganization events, the types of entitlement options, the types of entitlement payouts, and the methods by which DTC might deliver entitlement information to Participants.

q. *Associated PTS/PBS Functions:* The table of PTS/PBS functions, which currently reflects PTS/PBS functions used in association with Allocations, would be modified to reflect a consolidated chart of PTS/PBS functions that are used in association with Reorganization events more generally, and to insert parallel CA Web functionality and applicability of the functions to voluntary events, mandatory events, and/or proxy. In addition, certain function descriptions would be revised for clarity. The section heading would be changed to ''Associated PTS/PBS and CA Web Functions.'' Further, the paragraphs beginning with ''PTOP (PTS)'' and ''PSOP (PTS)'' would be moved to the proposed ''Voluntary Reorganizations'' section later in the Guide.

r. *Allocations Contact Number:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(3) *Announcements:* There would be no changes to this heading.

a. *About the Product:* The title ''About the Product'' would be changed to ''About the Service.'' The section would be modified to replace a reference to ''product'' with ''service'' and to clarify the types of Reorganizations activities for which DTC provides Announcements. Further, the section would be updated to remove references to CCF, CCF II and MDH, and to insert references to CA Web and ISO 20022. For clarity, an additional note would be inserted, which would read: ''Note: For all the event/activity types listed, if the event involves a Canadian issue paying in Canadian dollars, DTC will announce either two events or one event with multiple options to include a U.S. dollar option.''

b. *How the Product Works:* The title ''How the Product Works'' would be replaced with ''How the Announcement Service Works.'' The section would be modified to remove inaccurate references to an internal database and newspapers as sources of reorganization information. Although DTC may track anticipated reorganization events in its internal database, it does not announce an event until it retrieves information from one of the listed sources. DTC does not retrieve reorganization information from newspapers because, in contrast to the other listed sources, the information is not directly issued by the issuer or agent.

c. *About the RIPS Function:* This section would be consolidated into and replaced by the proposed section titled ''How to View Mandatory and Voluntary Reorganization Announcements.''

d. *Proposed ''How to View Mandatory and Voluntary Reorganization Announcements'' section:* The proposed section would replace the ''Reorganization Envelopes'' and ''About the RIPS Function'' sections and would reflect the Reorganization Announcements functionality that would be available through CA Web and ISO 20022, and would be modified to reflect enhanced functionality offered by CA Web and ISO 20002.

e. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section at the beginning of the Guide.

f. *Announcements Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(4) *CD Early Redemptions:* This entire section, with the exception of ''Associated PBS/PTS functions'' and ''CD Early Redemptions Contact Numbers,'' would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The section

[19] *See* Important Notice B3751–16 (June 29, 2016), *available at http://www.dtcc.com/~/media/Files/pdf/2016/6/29/3751-16.pdf;* Important Notice B7348 (January 5, 2005), *available at www.dtcc.com/~/media/Files/pdf/2005/1/27/7348.pdf.*

would be modified to replace references to ''product'' with ''service.'' The modifications would include changing the title of the section ''About the Product'' to ''About the Service.''

b. *How the Product Works:* As noted above, this section would be amended and relocated within the Guide. The title ''How the Product Works'' would be changed to ''How the Service Works.''

c. *Exempt Instructions:* As noted above, this section would be relocated within the Guide.

d. *Non-Exempt Instructions:* As noted above, this section would be amended and relocated within the Guide. For transparency, it would be modified to note that ''[t]he documents must be received by DTC within five days of the instruction otherwise the instruction will drop off the system (*i.e.,* an incomplete instruction) and will have to be reentered into the system to re-initiate the process,'' which is the current process.

e. *Issuer Acceptance:* As noted above, this section would be relocated within the Guide.

f. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

g. *CD Early Redemptions Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(5) *Change Mode of Payment (CMOP):* This entire section, with the exception of ''Associated PBS/PTS functions'' and ''CMOP Contact Numbers,'' would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be changed to ''About the Service.''

b. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

c. *CMOP Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(6) *Conversions:* This entire section, with the exception of ''Associated PBS/PTS functions'' and ''Conversions Contact Numbers,'' would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be changed to ''About the Service.'' The section would be modified to clarify that (i) if entitlements of cash and/or securities is not yet determined at the time of the instruction, DTC may move a Participant's instructed position into a contra CUSIP until the entitlements are determined, and (ii) the entry on the Participant Daily Activity Statement for conversions is ''Conversions (Account #2222/4444).''

b. *About Conversion Features:* As noted above, this section would be relocated within the Guide. The section would be modified to add additional context and to reflect the trend in the industry to use market triggers as a conversion feature. In addition, DTC is proposing to add language that would explain the circumstances in which an entitlement amount would not be determined at the time of the Participant's instructions, and would further advise that, in these circumstances, Participants would input their instructions through ATOP, rather than the RCNV (PTS).[20]

c. *How the Product Works:* As noted above, this section would be relocated within the Guide. The title ''How the Product Works'' would be changed to ''How the Service Works.'' This section would be modified to provide further clarity with respect to circumstances where the amount of the entitlement is undetermined at the time of the Participant's instruction and to reflect the increased utilization of market triggers for convertibility. DTC is further proposing to delete the sentence ''DTC credits these shares to your general free account if an underlying issue is in an interim period. The additional shares are allocated on the due bill redemption date,'' because the concept is covered elsewhere in the Guide.

d. *Pledge and Transfer of Underlying Securities by Book Entry:* As noted above, this section would be relocated within the Guide. The section would be modified to clarify that the section relates to conversion instructions submitted to DTC via the PTS RCNV or PBS Reorg Conversion functions, as opposed to through ATOP. In addition, the section would be modified to (i) clarify that the conversion process does not complete until DTC receives the securities from the agent, and (ii) alert Participants that DTC will reverse the credits to a Participant's account for underlying securities if DTC does not receive the underlying securities from the agent promptly.

e. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

f. *Conversions Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(7) *Eurobond Conversions:* This entire section would be amended and relocated within the Guide, amended as discussed below.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be changed to ''About the Service.'' In addition, references to ''product'' would be replaced with ''service.''

b. *How the Product Works:* As noted above, this section would be amended and relocated within the Guide. The title ''How the Product Works'' would be changed to ''How the Service Works.'' For accuracy and because the list does not necessarily remain static, the section would be modified to replace the sentence ''A cumulative listing of the securities that qualify for the program appears in DTC's Monthly Reference Directory'' with ''To determine whether a security qualifies for the program, contact DTC's Customer Support Center at 1–888–382–2721 and follow the menu options.''

c. *Important Considerations:* This section would be consolidated with other ''Important Considerations'' sections into the proposed new ''Important Considerations'' section. The proposed ''Important Considerations'' section would reflect a modification to replace a reference to ''product'' with ''service.'' In addition, the proposed ''Important Considerations'' section would replace the statement ''DTC will make copy #4 of the Certification of Conversion form from the conversion agent available for you to pick up,'' with ''DTC will make available via email the agent's Certification of Conversion form.'' This modification would reflect that conversion agents no longer supply hard copy Certification of Conversion forms.

[20] RCNV is used to submit conversion instructions when the conversion rate(s) and/or new entitlements (securities) are known and the new securities are eligible for DTC services. Participants get immediate use of the securities. PTOP (ATOP) is used to submit conversion instructions when the rate(s) and or new entitlement(s) is cash, cash or securities or cash and securities, and is unavailable at the time of the instruction. Participants get credited with the entitlements upon receipt from the Issuer/Agent.

d. *Pledge and Transfer of Eurobond Underlying Securities by Book-Entry:* This section would be amended and relocated within the Guide. The section would be modified to (i) clarify that the conversion process does not complete until DTC receives the securities from the agent, and (ii) alert Participants that DTC will reverse credits to a Participant's account for underlying securities if DTC does not receive the underlying securities from the agent promptly. The section would also be revised to replace an enumeration of ''a, b, c, d, and e'' with ''1, 2, 3, 4, and 5'' to conform to the referenced list.

(8) *Hard Copy Procedure for Conversions/Submitting a Hard Copy Conversion Instruction:* These ''Hard Copy Procedure'' sections would be deleted and replaced by the proposed section ''Procedures for Submitting Instructions Outside of PTS/PBS,'' which would update and consolidate separate hard copy procedures for different event types. In addition, the proposed section would consolidate the ''Warning!'' statements that currently appear in the separate hard copy procedures sections. Finally, because the proposed section would apply to multiple event types, the section would include a new table that would list the forms for instructions to DTC outside of PTS/PBS. The new table would list the event types, the appropriate instruction form for each event, and the appropriate email address to which the form should be directed.

(9) *Hard Copy Procedure for Warrant Exercises/Exercising a Warrant via Hard Copy:* These ''Hard Copy Procedure'' sections would be deleted and replaced by the proposed section ''Procedures for Submitting Instructions Outside of PTS/PBS,'' which, as noted above, would update and consolidate separate hard copy procedures for different event types. In addition, the proposed section would consolidate the ''Warning!'' statements that currently appear in the separate hard copy procedures sections. Finally, because the proposed section would apply to multiple event types, the section would include a new table of forms for instructions to DTC outside of PTS/PBS. The new table would list the event types, the appropriate instruction form for each event, and the appropriate email address to which the form should be directed.

(10) *Hard Copy Procedures for Voluntary Offerings and Put Option Exercises/Overview, Accepting an Offer or Put Option Exercise, and Submitting a Notice of Guaranteed Delivery:* These ''Hard Copy Procedure'' sections would be deleted and replaced by the proposed section ''Procedures for Submitting Instructions Outside of PTS/PBS,'' which, as noted above, would update and consolidate separate hard copy procedures for different event types. In addition, the proposed section would consolidate the ''Warning!'' statements that currently appear in the separate hard copy procedures sections. Finally, because the proposed section would apply to multiple event types, the section would include a new table of forms for instructions to DTC outside of PTS/PBS. The new table would list the event types, the appropriate instruction form for each event, and the appropriate email address to which the form should be directed.

(11) *Hard Copy Procedures for Voluntary Offerings and Put Option Exercises/Accepting an Offer to Tender Securities by Sealed Bids, and Withdrawing an Acceptance:* These ''Hard Copy Procedure'' sections would be deleted and replaced by the proposed section ''Procedures for Submitting Instructions Outside of PTS/PBS,'' which would consolidate and update the separate hard copy procedures for different event types.

(12) *Mandatory Reorganizations:* This entire section, with the exception of ''Associated PBS/PTS functions'' and ''Mandatory Reorganization Contact Numbers,'' would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be changed to ''About the Service.'' The section would be modified for enhanced readability and to add transparency about situations when a mandatory corporate action may be set-up or processed differently.

b. *How the Product Works:* As noted above, this section would be amended and relocated within the Guide. The title ''How the Product Works'' would be changed to ''How the Service Works.''

c. *Various Types of Mandatory Reorganizations:* As noted above, this section would be amended and relocated within the Guide. This section would be modified to clarify that the activities that are listed are examples of Mandatory Reorganization events. In addition, the list of event types would be revised for clarity and consistency, and additional event types would be added for enhanced transparency.

d. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

e. *Mandatory Reorganization Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(13) *Proxy:* For clarity, the title of the section would be changed to ''Proxy Announcements.''

a. *About the Product:* The title ''About the Product'' would be changed to ''About the Service.'' The section would be modified to change a reference to ''product'' with ''service,'' and to update the name of the service. For enhanced clarity, the section would be modified to include general and extraordinary meetings as issuer communications that are supported by Proxy Announcements. In addition, for accuracy, the bullet points for Bankruptcies, Legal notices, and Appraisal or dissenters' rights would be deleted. Announcements for those events are handled by the Reorganizations Announcements group, and not by the proxy announcements group.

b. *How the Product Works:* The title ''How the Product Works'' would be changed to ''How the Service Works.'' The paragraphs of the section would be reordered. The section would also be modified to (i) add references to CA Web and ISO 20022, (ii) to make ministerial clarifying changes, (iii) to remove a reference to bankruptcy announcement, because bankruptcies would have its own section in the revised Guide, and (iv) remove the sentences ''DTC also offers election processing for consent solicitation events via its ATOP (Automated Tender Offer Program) service. Under this service, DTC allows participant instruction on consent solicitation events to be accepted via ATOP and transmitted electronically to balloting agents,'' because consent solicitations are not processed as part of the proxy service, but rather as part of voluntary reorganization services. In addition, the section would be revised to reflect that Omnibus Proxies are available through DTC's Securities Position Report (''SPR'') service for those issuers that are registered for the service. Further, the section would be modified to provide a reminder to Participants that they should make sure that their proxy contact information is up-to-date. Finally, a note about voting securities registered to Cede & Co. that have been withdrawn on or before record date would be updated from requiring microfilm copies of the front and back of the certificate to requiring images (*i.e.,* scanned copies of the front and back of the certificate).

(14) *Proposed ''Processing'' section:* As part of the proposed restructuring of the Guide, DTC is proposing that the ''Processing'' section follow the proposed ''Proxy Announcements'' section in the Guide.

(15) *Proposed ''Mandatory Reorganizations'' section:* The entire Mandatory Reorganizations section, amended as discussed above, would be moved under the ''Processing'' heading.

(16) *Proposed ''Voluntary Offerings'' section:* The Voluntary Offerings section, which appears later in the Guide, would be moved up to follow the proposed Mandatory Reorganization section. The Voluntary Offerings section would be modified, as discussed below.

(17) *About Legal Notices:* This section would be modified for clarity and to remove references to LENP and the PBS Legal Notice System, because those platform-based functions were superseded by the web-based Legal Notice System (''LENS'').[21] In addition, the section would be modified to clarify that the LENS service is available to both Participants and non-Participants.

(18) *Other Shareholder or Bondholder Services:* This section would be modified to accurately reflect the services offered. Specifically, DTC has not offered ''Ratification of Assertion of appraisal of Dissenter's Rights,'' as a discrete service and therefore this language would be deleted. DTC is proposing to add ''Confirmation of a position,'' as this is a specific service provided by DTC as a part of the shareholder or bondholder service offerings. The section would also be revised to add clarifying language and to provide a website address at which template instructions and letters may be found. Finally, contact information would be deleted, because, as discussed above, contact information would be provided at the beginning of the Guide.

(19) *Dissenters' Rights/Appraisal Rights:* This section would be revised to state that stockholders may be required to present (and not deposit) share certificates (or in the case of Direct Registration Service (DRS) only securities, a DRS Statement) in connection with their dissent. The purpose of this revision would be to clarify that this is not a DTC requirement, but, rather, may be a required action pursuant to the terms of the merger. The section would also be modified to remove the requirement of an ''appraisal rights questionnaire or dissenters' rights questionnaire.'' An ''appraisal rights questionnaire or dissenters' rights questionnaire'' is substantively similar to the required instruction letter and is therefore no longer required. In addition, DTC is proposing to add a note providing a website address at which template instructions and letters may be found.

(20) *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

(21) *Proxy Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(22) *Puts:* This entire section, except for ''Associated PTS/PBS Functions'' and ''Puts Contact Numbers,'' would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to change a reference to ''product'' with ''service.'' In addition, the reference to exercising relinquishments would be deleted. In addition, the provision referencing a relinquishment, ''[n]on-option securities based on your position in the contra (relinquishment) security,'' would be deleted.

b. *About Puts:* This section would be relocated within the Guide, where it would proceed the proposed ''Puts/About the Product'' section.

c. *Types of Put Options:* This section would be amended and relocated within the Guide, and would be amended to remove the reference to ''Relinquishment'' and to add a line item for ''Put (Survivor Option).'' ''Put (Survivor Option)'' would be described as ''Issue has an early redemption feature. This feature allows the holder to elect to sell bonds back to the issuer on a predetermined basis (excluding monthly) according to specific priorities.''

d. *Exercising Put Options:* This section would be relocated within the Guide. The section would be amended to clarify that ''[e]xcept with respect to put options that have an offer to purchase with no withdrawal privilege, you can submit exercise instructions via the PTS PUTS or PBS Put Option Bonds functions. Instructions relating to put options that have an offer to purchase with a withdrawal privilege can be submitted through the PTS PTOP or PBS Voluntary Tenders and Exchanges functions.''

e. *Withdrawing Put Option Instructions:* This section would be relocated within the Guide, and would be amended to include CA Web and to further clarify that the event details would be available on PTS RIPS, PBS Redemptions and Reorganizations or CA Web.

f. *Rejection of Withdrawal of Put Option Instructions:* This section would be relocated within the Guide, and would be modified to remove the specific reference to how DTC would communicate the rejection, because there are different ways for a Participant to access this information.

g. *Proration of a Repayment Option:* This section would be relocated within the Guide. The text of the section would be deleted and would be replaced by an instruction to refer to ''the proration details found in the Proration of an Offer section of the About DTC's Automated Tender Offer Program (ATOP) topic of this guide.''

h. *Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities:* This section would be consolidated with ''About ATOP/Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' and ''Warrant Exercises/Interest Payments, Dividends, Distributions, and Voting Rights,'' into a single proposed section, ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' which would appear later in the Guide. The proposed section would reflect the consolidation, and would enumerate the different types of tendered securities for which Cede & Co. may receive property or rights to distribute to Participants. References to specific offer options would be genericized (*e.g.,* the reference to a specific ''repayment option period'' would be replaced with a more general reference to ''corporate action,'' and replace a reference to the terms ''of a repayment option'' with the terms ''of an offer'').

i. *Important Considerations:* This section would be consolidated with other ''Important Considerations'' sections the proposed ''Important Considerations'' section that would be inserted in the proposed ''Instructions/Expirations'' section. The eighth bullet, ''No legal deposits of the subject security will be accepted from the date of the PTS RIPS or PBS Reorganizations and Redemptions announcement for the duration of the put exercise period'' would be deleted because it is inaccurate.[22] The ninth bullet would be removed because it would be covered in the Chills on Reorg Activities section.

[21] *See* Securities Exchange Act Release No. 62686 (August 10, 2010), 75 FR 50032 (August 16, 2010) (SR–DTC–2010–10).

[22] DTC cannot prevent submission of legal deposits during the put exercise period because the target CUSIP is not chilled for deposits.

The tenth bullet would be deleted because the necessary information would appear in the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section. The proposed section would also eliminate a reference to ''relinquishment.'' The proposed section would reflect the substance of the consolidated sections, and would, where appropriate, replace the references to specific tenders and designated PTS/PBS functions with generic references.

j. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

k. *Puts Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/ Proxy Contact Number.''

(23) *Rejection by DTC or the Agent:* This entire section would be relocated within the Guide, as noted above.

a. *Rejection by DTC:* As noted above, this section would be relocated within the Guide.

b. *Rejection by the Agent:* As noted above, this section would be relocated within the Guide.

(24) *Rights Subscriptions:* This entire section, except for ''Associated PTS/PBS Functions,'' ''Rights Subscriptions Contact Numbers,'' ''Distribution of Underlying Securities,'' ''Distribution of Sale Proceeds,'' ''Cancellation of Rights Offer,'' and ''About the Rights Subscription Instructions PTS/PBS Backup Form,'' which would be deleted, would be amended and relocated within the Guide.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be changed to ''About the Service.'' The section would be modified to change a reference to ''product'' with ''service,'' and to update the name of the service. In addition, for accuracy and clarity, the section would be amended to replace a reference to ''underlying securities'' with ''entitlements,'' and note that DTC would also allocate refunds when applicable. Further, the final sentence in the section would be updated to add a reference to CA Web.

b. *About Rights:* As noted above, this section would be amended and relocated within the Guide. The last sentence in this section would be updated to add references to CA Web and ISO 20022.

c. *Relevant Terms:* As noted above, this section would be amended and relocated within the Guide. For enhanced clarity, the term ''Cover of Protect,'' which refers to ''The surrendering of rights for which a previous protect had been submitted as a guarantee of delivery'' would be added to the table of relevant terms. For consistency, DTC is proposing to refer to ''agent,'' rather than a specific type of agent, and would therefore delete the definition of ''Subscription Agent (or Issuer's Agent).''

d. *About DTC's Automated Subscription Offer Program (ASOP):* As noted above, this section would be amended and relocated within the Guide.

e. *General Information Regarding ASOP:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to include references to CA Web Announcements and ISO 20022.

f. *Subscription Instructions:* As noted above, this section would be amended and relocated within the Guide. The following paragraph would be deleted because DTC would be adding the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section, which would be applicable to Subscription Instructions: ''No hardcopy instructions are accepted by DTC unless specifically authorized in advance by the appropriate DTC Reorganization department or Relationship Manager. In the event of a PTS or PBS outage, a backup hard copy form (Rights Subscription Instructions PTS/PBS Backup Form) is available for the purpose of instructing DTC to surrender rights and the required subscription payment (see About the Rights Subscription Instructions PTS/ PBS Backup Form). If you experience a PTS or PBS outage, you can alternatively execute and submit the required Notice of Guaranteed Delivery document and subscription payment directly to the agent; a DTC backup hard copy form is not available for this purpose.''

g. *Subscription Payments:* As noted above, this section would be amended and relocated within the Guide. The last sentence in the section would be amended to include references to CA Web and ISO 20022 messages.

h. *Payments with Notices of Guaranteed Delivery:* As noted above, this section would be amended and relocated within the Guide. The last sentence in the section would be amended to include references to CA Web and ISO 20022 messages.

i. *Movement of Underlying Securities:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to add references to contra-CUSIPs, which may, in certain circumstances be applicable. For clarity, the sentences in the first paragraph of the section would be reordered.

j. *Subscription Sub-Accounts:* As noted above, this section would be amended and relocated within the Guide. The last sentence of this section would be modified to include a reference to CA Web.

k. *Schedule for Submitting Instructions:* As noted above, this section would be amended and relocated within the Guide. The first paragraph of the section would be modified to include references to CA Web Announcements and ISO 20022 messaging. In addition, the table of instructions and PSOP times would be modified to remove the row relating to ''Notices of Guaranteed Delivery on the last day of the offer, with deferred subscription payments,'' because the information already appears in the note below.

l. *Inquiring About ASOP-Eligible Offers:* As noted above, this section would be amended and relocated within the Guide and would be modified to (i) include references to CA Web and ISO 20022 messaging, and (ii) replace a reference to a ''hard copy notice'' with ''email alert,'' as hard copy notices are no longer provided. The section would also be amended to clarify that ''[w]ith certain rights subscription events you may be directed to submit your instructions through PTOP.''

m. *Accepting an ASOP-Eligible Offer:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to clarify that ''[i]nstructions being submitted to DTC after the DTC cutoff must be approved by, and delivered to, the agent handling the event, prior to submission to DTC.'' In addition, the section would be amended to add a reference to CA Web.

n. *Checklist for Submitting an Acceptance:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to clarify, with respect to special representations, that a Participant's ability to input these representations in specific fields on the PTS PSOP or PBS Rights Subscriptions screen, or in the Comments field, would be based on the terms of the offer. In addition, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.''

o. *Submitting a Protect for an ASOP-Eligible Offer:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to clarify that a Participant can cover its protect by ''on or before the end of the period, by either delivering securities [the Participant has] on deposit with DTC or having another participant deliver on [the Participant's] behalf to the agent via the PTS PSOP or PBS Rights Subscriptions function.'' In addition, references to ''hard copy instructions'' would be replaced with ''instructions,'' so as to include emails, faxes, and other methods of instructions outside of PTS PSOP or the PBS Rights Subscriptions function. In addition, the section would be modified to instruct Participants that ''[i]f you intended to submit a protect instruction via PSOP but missed the cutoff for submitting the protect via PSOP it is your responsibility to contact the agent and determine if they will accept an email submission directly. If accepted, the agent will notify DTC and the Participant should submit a Protect Submission Form to DTC via email. DTC will then input the protect submission on behalf of the Participant. The Participant must confirm the protect submission input by DTC is accurate. The Participant will be able to cover the protect opened by DTC.'' Further, the section would be amended to include CA Web as a source for viewing a notice of an offer.

p. *Checklist for Submitting a Protect:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to clarify, with respect to special representations, that a Participant's ability to input these representations in specific fields on the PTS PSOP or PBS Rights Subscriptions screen, or in the Comments field, would be based on the terms of the offer. The section would also be amended to remove the statement that ''(The field available for this message is 150 characters in length.)'' because it is not directly relevant to the process and is subject to change. In addition, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.''

q. *Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions for an ASOP-Eligible Offer:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to clarify that a Participant ''cannot subsequently deliver the securities to the Agent via the PTS PSOP or PBS Rights Subscriptions function unless the instruction was subsequently input by DTC.'' In addition, the warning that states ''Warning! To be able to cover a protect via PTS PSOP or PBS Rights Subscriptions you must submit protect instructions for ASOP-eligible offers via PTS PSOP or PBS Rights Subscriptions; except as noted in Subscription Instructions, hard copy instructions will not be accepted by DTC on ASOP-eligible offers and, if submitted, will be rejected. DTC may attempt to notify you of the rejection, but DTC has no liability for any failure to notify'' would be replaced with a warning that states ''Warning! You must accept ASOP-eligible offers via PTS PSOP or PBS Rights Subscriptions; except as noted in Subscription Instructions, instructions outside of PTS/PBS will not be accepted by DTC on ASOP-eligible offers during the period when instructions can be input via PTS PSOP or PBS Rights Subscriptions for ASOP eligible offers and, if submitted, will be rejected. If possible, DTC will attempt to notify you of the rejection, but DTC cannot guarantee such notification.'' The purpose of this change would be to clarify that, unless otherwise noted, no instruction would be accepted by DTC while the instruction window is open in PSOP. Finally, the section would be amended to include CA Web as a source for viewing a notice of an offer.

r. *Checklist for Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to remove the first step that reads ''submit a Notice of Guaranteed Delivery and the required subscription payment to the subscription agent via PTS PSOP or PBS Rights Subscriptions before the offer expires,'' because this is a prerequisite to submitting a cover of protect and is not part of the actual process. DTC is proposing that the first step for a Participant would be to ''[v]erify that a Notice of Guaranteed Delivery and the required subscription payment to the agent via PTS PSOP or PBS Rights Subscriptions was submitted and accepted,'' so it confirms that the prerequisite occurred prior to submission of the cover. For clarity, the second step would be simplified to instruct a Participant to ''[r]etrieve the specific protect instruction you want to cover.'' In step four, the sentence stating ''See Submitting Cover Protect Instructions Via PTS PSOP or PBS Rights Subscriptions'' would be deleted, as it is duplicative. Step five would be modified to clarify that a Participant can submit more than one instruction to cover the Notice of Guaranteed Delivery as long as the quantity of rights indicated in those instructions does not exceed the original Notice of Guaranteed Delivery quantity, with the total of all cover of protect instructions equaling the amount of the protect submission. Step eight would be amended to replace ''PTS POS or PBS Security Position functions'' with ''Settlement Web'' because the POS function has been retired and the functionality is currently available on the Settlement Web. The ninth step would be deleted because a Participant should make its own determination about its document retention procedures.

s. *Submitting a Cover of Protect on Behalf of another Participant:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to add a clarifying warning to Participants that states: ''Warning! To be able to cover a protect via PTS PSOP or PBS Rights Subscriptions on behalf of another participant you must submit protects on ASOP-eligible offers via PTS PSOP or PBS Rights Subscriptions or have had a protect submitted directly to the agent via email and subsequently communicated to DTC and input to PSOP by DTC; cover of protect instructions outside of PTS/PBS will not be accepted by DTC on ASOP-eligible offers and, if submitted, will be rejected. If possible, DTC will attempt to notify you of the rejection, but cannot guarantee such notification.'' Further, the section would be amended to include CA Web as a source for viewing a notice of an offer.

t. *Checklist for Submitting a Cover of Protect on Behalf of another Participant:* As noted above, this section would be amended and relocated within the Guide. The section would be modified to amend the second step in the checklist to clarify that a Participant should enter and transmit an instruction to surrender rights and cover the protect via PTS PSOP or PBS Rights Subscriptions ''during the period when cover of protect submissions can be input.'' The fifth step would be amended for clarity and readability. The sixth step would be deleted because a Participant should make its own determination about its document retention procedures. Further, with respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report

(CAST) will be able to verify instructions status on the message.''

u. *Surrendering Rights for Sale via ASOP:* As noted above, this section would be amended and relocated within the Guide. The section would be amended to include CA Web as a source for viewing a notice of an offer.

v. *Checklist for Submitting Sell Instructions:* As noted above, this section would be amended and relocated within the Guide. The section would be amended by modifying the seventh step in the checklist for clarity and readability, and to provide that, with respect to an acknowledgement message regarding the acceptance, ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.'' The eighth step would be deleted because a Participant should make its own determination about its document retention procedures.

w. *Rejection of Acceptances, Covers of Protects, or Sell Instructions:* As noted above, this section would be relocated within the Guide.

x. *Distribution of Underlying Securities:* This section would be deleted because it would be addressed in the proposed Allocations section.

y. *Distribution of Sale Proceeds:* This section would be deleted because it would be addressed in the proposed Allocations section.

z. *Cancellation of Rights Offer:* This section would be deleted because it would be addressed in the proposed Allocations section.

aa. *About the Rights Subscription Instructions PTS/PBS Backup Form:* As discussed above, the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' would replace the ''Hard Copy Procedure for Conversions/Submitting a Hard Copy Conversion Instruction,'' ''Hard Copy Procedure for Warrant Exercises/Exercising a Warrant via Hard Copy,'' ''Hard Copy Procedures for Voluntary Offerings and Put Option Exercises,'' and ''About the Rights Subscription Instructions PTS/PBS Backup Form'' sections.

bb. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

cc. *Rights Subscriptions Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(25) *Voluntary Offerings:* This entire section would be amended and relocated within the Guide, as discussed above.

a. *About the Product:* As noted above, this section would be amended and relocated within the Guide. The title ''About the Product'' would be replaced with ''About the Service.'' The section would be modified to streamline language and to reference CA Web as a source of information on voluntary offers. Further, the section would be modified to delete references to specific types of voluntary reorganizations in the first paragraph and provide a new table of various examples of voluntary reorganizations and descriptions of each. In addition, the last two paragraphs of the section would be deleted because one of the paragraphs is inaccurate, and the second because it is always the responsibility of a Participant to confirm that their transactions were properly processed and recorded. Finally, the section would be modified to insert the following language for additional context: ''Voluntary offerings are in the form of either (1) issuer or third party offers (*e.g.,* tender, exchange, merger with elections), (2) offers that reflect the attributes of the security (*e.g.,* Right, Convertible Security, Put Bond or Warrant) and (3) certain consent-only solicitations (which do not require securities being forwarded to the agent and may not include collecting and allocating proceeds to you). In addition, this service may require certifications as part of the acceptance of an offer (instruction process) and could include provisions such as conditional tenders and odd-lots.''

b. *Proposed ''Additional Processes Associated with Reorganization Events'' heading:* For clarity, DTC is proposing to insert the heading ''Additional Processes Associated with Reorganization Events.''

c. *Proposed ''Pledged Securities'' section:* The ''Pledged Securities'' section, amended as discussed above, would be moved under the proposed ''Additional Processes Associated with Reorganization Events'' heading.

d. *Proposed ''Segregated Securities'' section:* The ''Segregated Securities'' section, amended as discussed above, would be moved under the proposed ''Pledged Securities'' section.

e. *Proposed ''Reorganization (RRG) Segregated Account'' section:* The ''Reorganization (RRG) Segregated Account'' section, amended as discussed above, would be moved under the proposed ''Segregated Securities'' section.

f. *About Contra-CUSIPs:* No change.

g. *Pledge of Contra-Securities:* The section would be amended to clarify that, for the purpose of its pledge, the contra-securities represent a Participant's rights through DTC to receive from the agent the cash ''and/or security'' payments based on the ''rate or accepted'' bid and/or the return of some or all of the surrendered securities in accordance with the terms of the offer.

h. *Solicitation Fees and Transfer Taxes:* This section would be relocated within the Guide. The section would be modified to include references to CA Web Announcements and ISO 20022 messaging.

i. *Proposed ''Chills on Reorg Activities'' section:* The ''Chills on Reorg Activities'' section, amended as discussed above, would be moved under the ''Pledge of Contra-Securities'' section.

j. *Proposed ''Frozen Letters'' section:* The ''Frozen Letters'' section, amended as discussed above, would be moved under the proposed ''Chills on Reorg Activities'' section.

k. *Proposed ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities'' section:* The ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities'' section, amended as discussed above and below, would be moved under the proposed ''Frozen Letters'' section.

(26) *Proposed ''INSTRUCTIONS/EXPIRATIONS'' section:* As part of the proposed restructuring of the Guide, DTC is proposing that a ''INSTRUCTIONS/EXPIRATIONS'' section follow the ''Voluntary Offerings'' section in the Guide.

a. *Relevant Terms:* As discussed above, for consistency, DTC is proposing to refer to ''agent,'' rather than a specific type of agent, and would therefore delete the definitions of ''Tender Agent'' and ''Information Agent.''

b. *Proposed ''Important Considerations'' section:* As discussed above and below, the other ''Important Considerations'' sections, including the proposed amendments, would be consolidated into the proposed ''Important Considerations'' section, which would be inserted under the ''Relevant Terms'' section.

c. *About DTC's Automated Tender Offer Program (ATOP):* This section would be modified to replace a reference to ''product'' with ''service,'' and to delete references to CCF II and MDH. The section would also be modified to clarify that ATOP allows a Participant to submit instructions on Consent Solicitation events for transmission to balloting agents. Further, the section would be amended

to include CA Web as a source for viewing information about an offer.

d. *Inquiring About ATOP-Eligible Offers:* This section would be modified to (i) include references to CA Web and ISO 20022 messaging, (ii) delete a reference to a ''hard copy notice,'' as hard copy notices are no longer provided, and add ''email alert,'' and (iii) delete the bullet ''A PTS RIPS or PBS Reorganizations and Redemptions notice through CCF,'' because CCF corporate action announcement files were retired as of December 31, 2018. The section would also be amended to remind Participants that they should take note of (i) any special conditions of the offer, such as the existence of odd-lot preference or the ability to submit a conditional acceptance, and the price range and permissible increments on bid price tenders, as well as ''early expirations associated with a premium or consent,'' and ''If a withdrawal of a previously submitted instruction is part of the offer and the timeframes for requesting the withdrawal.''

e. *Accepting an ATOP-Eligible Offer:* The reference to ''Submitting a VOI'' would be deleted because that section does not appear in the Guide. In addition, the warning in this section would be modified to clarify that DTC will not accept any instructions outside of ATOP during the period when the instruction window is open on ATOP. Further, the section would be amended to include CA Web as a source for viewing a notice of an offer. Finally, the reference to ''Hard Copy Procedures for Voluntary and Put Options'' would be replaced with ''Submitting a Protect for an ATOP-Eligible Offer,'' in order to conform to other proposed changes.

f. *Checklist for Submitting an Acceptance:* The section would be amended to clarify, with respect to the second step regarding special representations, that a Participant's ability to input these representations in specific fields on the PTS PTOP or PBS Voluntary Tenders and Exchanges screen, or in the Comments field, would be based on the terms of the offer. With respect to comments, the statement that ''[t]he field available for this message is 67 characters in length'' would be deleted because it is not directly relevant to the process and is subject to change. The third step would be modified to clarify that a Participant should enter and transmit the acceptance via PTS PTOP or PBS Voluntary Tenders and Exchanges ''during the period when submissions can be input via PTS or PBS for ATOP eligible offers.'' The reference to ''Submitting a VOI'' would be deleted because that section does not appear in the Guide. In the fourth step, a reference to the Viewing VOI Details section would be deleted because that section does not appear in the Guide. In the fifth step, the reference to a ''PTS/PBS'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message on various platforms. In addition, in respect to an acknowledgement message regarding the acceptance of an instruction, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.'' Finally, in the sixth step, the reference to a ''PTS PTOP or PBS Voluntary Tenders and Exchanges'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message through various platforms.

g. *Submitting a Protect for an ATOP-Eligible Offer:* The section would be amended to clarify that (i) an offer has to include a guaranteed delivery option in order for a Participant to submit a protect, and (ii) a Participant can cover its protect ''on or before the end of the period, by either delivering securities [the Participant has] on deposit with DTC or having another participant deliver on [the Participant's] behalf to the subscription agent via the PTS PTOP or PBS Voluntary Tenders and Exchanges functions.'' Further, the warning would be amended to clarify the parameters of submitting an email submission to DTC. The reference to the ''Submitting a Protect'' section would be replaced with a reference to the ''Submitting a Cover of Protect.'' The warning would state: ''Warning! You must submit Notices of Guaranteed Delivery on ATOP-eligible offers via PTS PTOP or PBS Voluntary Tenders and Exchanges; hard copy instructions outside of PTS/PBS will not be accepted by DTC on ATOP-eligible offers during the period when protect submissions can be input via PTOP for ATOP eligible offers and, if submitted during this period, will be rejected. If possible, DTC will attempt to notify you of the rejection, but cannot guarantee such notification. If you intended to submit a protect instruction via PTOP but missed the cutoff for submitting the protect via PTOP, it is your responsibility to contact the agent and determine if they will accept an email submission directly. If accepted, the agent will notify DTC and the Participant should email a Protect Submission Form to DTC. DTC will then input the protect submission on behalf of the Participant. The Participant must confirm the protect submission input by DTC is accurate.'' In addition, references to ''hard copy instructions'' would be replaced with ''instructions,'' in order to include emails, faxes, and other methods of instructions outside of PTS PTOP or the PBS Voluntary Tenders and Exchanges function. In addition, the section would be amended to include CA Web as a source for viewing information about an offer.

h. *Checklist for Submitting a Protect:* The section would be amended to clarify, with respect to special representations, that a Participant's ability to input these representations in specific fields on the PTS PTOP or PBS Voluntary Tenders and Exchanges screen, or in the Comments field, would be based on the terms of the offer. In addition, with respect to comments, the statement that ''[t]he field available for this message is 67 characters in length'' would be deleted because it is not directly relevant to the process and is subject to change. The section would be modified to amend the second step to clarify that a Participant should enter and transmit an instruction to surrender rights and cover the protect via PTS PTOP or PBS Voluntary Tenders and Exchanges functions ''during the period when cover of protect submissions can be input.'' Further, a reference to the Viewing VOI Details section would be deleted because that section does not appear in the Guide. In addition, the references to a ''PTS/PBS'' or ''PTS PTOP or PBS Voluntary Tenders and Exchanges'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message on various platforms. Finally, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.''

i. *Submitting a Cover of Protect via PTS PTOP or PBS Voluntary Tenders and Exchanges for an ATOP-Eligible Offer:* The section would be modified to replace a reference to ''hard copy instructions'' with the generic ''instructions,'' to conform the language with the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section. The section would also be modified to clarify that instructions outside of PTS PTOP or the PBS Voluntary Tenders and Exchanges function would not be accepted while the instruction window is open. In addition, the section would be amended

to include CA Web as a source for viewing information about an offer.

j. *Checklist for Submitting a Cover of Protect via PTS PTOP or PBS Voluntary Tenders and Exchanges:* The section would be modified to remove the first step that reads ''Submit a Notice of Guaranteed Delivery to the tender agent via PTOP before the offer expires,'' because this is a prerequisite to submitting a cover of protect and is not part of the actual process. DTC is proposing that the first step state that a Participant ''[v]erify that a protect instruction was submitted and accepted,'' so that a Participant confirms that the prerequisite occurred prior to submission of the cover. The section would be amended to add a step that would remind Participants to ''[v]erify the existence of sufficient position being available to cover the protect instruction position.'' For clarity, the following step would be simplified to instruct a Participant to ''[r]etrieve the specific protect instruction you want to cover.'' The next step would be amended to clarify that a Participant should ''[e]nter and transmit an instruction to surrender securities and cover the protect via PTS PTOP or PBS Voluntary Tenders and Exchanges during the period when cover of protect submissions can be input,'' and would add a reference to the Cover of Protect on Behalf of Another Participant section, if another participant is covering the protect on the Participant's behalf. Further, a reference to the Viewing VOI Details section would be deleted because that section does not appear in the Guide. In the subsequent steps, the reference to a ''PTS/PBS,'' ''PBS,'' or ''PTOP'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message on various platforms. In addition, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.'' Finally, in the sixth step, the reference to a ''PTS PTOP or PBS Voluntary Tenders and Exchanges'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message through various platforms.

k. *Submitting a Cover of Protect via PTS PTOP or PBS Voluntary Tenders and Exchanges on Behalf of Another Participant:* The section would be modified to replace a reference to ''hard copy instructions'' with the generic ''instructions,'' to conform the language with the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section. In addition, the warning language would be amended to conform with existing practice. The proposed warning would read: ''Warning! To be able to cover a protect via PTS PTOP or PBS Voluntary Tenders and Exchanges on behalf of another participant you must submit protects on ATOP-eligible offers via PTS PTOP or PBS Voluntary Tenders and Exchanges; hard copy or have had a protect submitted directly to the agent via email and subsequently communicated to DTC and input to PTOP by DTC; cover of protect instructions outside of PTS/PBS will not be accepted by DTC on ATOP-eligible offers and, if submitted, will be rejected. If possible, DTC will attempt to notify you of the rejection, but cannot guarantee such notification.'' Further, the section would be amended to include CA Web as a source for viewing a notice of an offer.

l. *Checklist for Submitting a Cover of Protect via PTS PTOP or PBS Voluntary Tenders and Exchanges on Behalf of Another Participant:* The section would be modified by deleting a reference to the Viewing VOI Details section because that section does not appear in the Guide. In addition, references to a ''PTS/PBS'' or ''PBS'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message on various platforms. In addition, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.''

m. *Withdrawing an Acceptance of an ATOP-Eligible Offer:* The section would be modified to replace a reference to ''hard copy instructions'' with the generic ''instructions,'' to conform the language with the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section. In addition, the warning language would be amended for clarification. The proposed warning would read: ''Warning! You must submit withdrawals of acceptances on ATOP-eligible offers via PTS PTOP or PBS Voluntary Tenders and Exchanges; withdrawals outside PTS/PBS will not be accepted by DTC on ATOP-eligible offers during the period when withdrawal of instructions can be input, and, if submitted, will be rejected. If possible, DTC will attempt to notify you of the rejection, but cannot guarantee such notification.''

n. *Checklist for Withdrawing an Acceptance:* The section would be modified by deleting references to the Viewing VOI Details section because that section does not appear in the Guide. In addition, references to a ''PTS/PBS'' or ''PTS PTOP or PBS Voluntary Tenders and Exchanges'' message would be replaced by a generic reference to a ''message'' because Participants can access the acknowledgement message on various platforms. Further, in respect to an acknowledgement message regarding the acceptance, the section would be modified to provide that ''Participants that subscribe to the ISO 20022 Instruction Statement Report (CAST) will be able to verify instructions status on the message.''

o. *About Rejections of Acceptances and Covers of Protects:* This section would be retitled ''About Rejections of Instructions'' in order to encompass acceptances via Notices of Guaranteed Delivery.

p. *Proration of an Offer:* This section would be modified to enhance transparency of the process and to clarify what would happen to unaccepted positions.

q. *Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities:* As discussed above, this section would be consolidated with ''Puts/Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' and ''Warrant Exercises/Interest Payments, Dividends, Distributions, and Voting Rights,'' into a single proposed section by the same name, ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' which would appear later in the Guide.

r. *Available Reports:* This section would be modified to delete references to CCF II and MDH, and to include references to CA Web and ISO 20022 Announcement messages. The sentence ''Allocation information is available through all of the normal cash and position inquiries such as the PBS functions PTS SDAR or PBS Reorg/Redemptions/Dividend Allocations, PTS POS or PBS Security Position, PTS PART or Participant Activity Research and PTS ART or PBS Activity Research Tool'' would be replaced with the following sentence: ''Allocation information is available through the Reorganization Cash/Stock Settlement Lists and the Participant Daily Activity Statement.'' The purpose of this proposed change is to remove references to functions (PTS POS or PBS Security Position and PTS ART or PBS Activity

Research Tool) that have been migrated to the Settlement Web.[23]

s. *Important Considerations:* This section would be consolidated with the other ''Important Considerations'' sections into the proposed ''Important Considerations'' section that would be inserted in the proposed ''Instructions/Expirations'' section, as discussed above. The proposed section would reflect the substance of the consolidated sections, and would, where appropriate, replace references to specific tenders and designated PTS/PBS functions with generic references.

t. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

u. *Voluntary Offerings Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

v. *Proposed ''Voluntary Offers Representing Attributes of the Security (processed via various functions)'' section:* This proposed section would be added in order to provide direction as to which PTS function to use for submitting voluntary instructions in connection with securities with specific attributes.

(27) *Proposed ''Conversions'' section, including the proposed ''About the Service,'' ''About Conversion Features,'' ''How the Service Works,'' and ''Pledge and Transfer of Underlying Securities by Book-Entry'' sections:* These proposed sections, as discussed above, would be inserted after the proposed ''Voluntary Offers Representing Attributes of the Security (processed via various functions)'' section.

(28) *Proposed ''Eurobond Conversions'' section, including the proposed ''About the Service,'' ''How It Works,'' ''Important Considerations,'' and ''Pledge and Transfer of Eurobond Underlying Securities by Book-Entry'' sections:* These proposed sections, as discussed above, would be inserted after the proposed ''Conversions'' sections.

(29) *Proposed ''Puts'' section, including the proposed ''About Puts,'' ''About the Service,'' ''Types of Put Options,'' ''Exercising Put Options,'' ''Withdrawing Put Options,'' ''Rejection of Withdrawal of Put Option Instructions,'' and ''Proration of Repayment Option'' sections:* These proposed sections, as discussed above, would be inserted after the proposed ''Eurobond Conversions'' sections.

(30) *Proposed ''Rejection by DTC or Agent'' section, including the proposed ''Rejection by DTC,'' and ''Rejection by the Agent'' sections:* These proposed sections, as discussed above, would be inserted after the proposed ''Puts'' sections.

(31) *Proposed ''Rights Subscriptions,'' including the proposed ''About the Service,'' ''About Rights,'' ''Relevant Terms,'' ''About DTC's Automated Subscription Offer Program (ASOP),'' ''General Information Regarding ASOP,'' ''Subscription Instructions,'' ''Subscription Payments,'' ''Payments with Notices of Guaranteed Delivery,'' ''Movement of Underlying Securities,'' ''Subscription Sub-Accounts,'' ''Schedule for Submitting Instructions,'' ''Inquiring About ASOP-Eligible Offers,'' ''Accepting an ASOP-Eligible Offer,'' ''Checklist for Submitting an Acceptance,'' ''Submitting a Protect for an ASOP-Eligible Offer,'' ''Checklist for Submitting a Protect,'' ''Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions for an ASOP-Eligible Offer,'' ''Checklist for Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions,'' ''Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions on Behalf of Another Participant,'' ''Checklist for Submitting a Cover of Protect via PTS PSOP or PBS Rights Subscriptions on Behalf of Another Participant,'' ''Surrendering Rights for Sale via ASOP,'' ''Checklist for Submitting Sell Instructions,'' and ''Rejection of Acceptances, Covers of Protects, or Sell Instructions'' sections:* These proposed sections, as discussed above, would be inserted after the proposed ''Rejection by DTC or Agent'' section.

(32) *Warrant Exercises:* No changes would be made to this title.

a. *About the Product:* This section would be retitled ''About the Service'' and references to ''product'' would be replaced with ''service.'' The section would also be modified to (i) clarify that warrants could be exercised as a cash or cashless exercise, if part of the relevant offer, and to make conforming changes, and (ii) delete the bullets for ''Notify you of upcoming expirations and record dates for warrant exercises'' because it would be covered by the proposed bullet ''Announce key terms and dates related to the warrant as provided by the issuer and/or agent.''

b. *Interest Payments, Dividends, Distributions, and Voting Rights:* As discussed above, this section would be consolidated with the ''Puts/Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities'' section and the ''About ATOP/Interest Payments, Dividends, Distributions, and Voting Rights'' section into a single proposed section, also named ''Interest Payments, Dividends, Distributions, and Voting Rights for Tendered Securities,'' which would appear later in the Guide.

c. *About Warrants:* No changes would be made to this section.

d. *How the Product Works:* The section would be retitled ''How the Service Works.'' In addition, a reference to the ''Hard Copy Procedure for Warrant Exercises'' section would be replaced by a reference to the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section.

e. *Pledge and Transfer of Underlying Securities by Book-Entry:* Ministerial changes only.

f. *Interest Payments, Dividends, Distributions, and Voting Rights:* This section would be deleted because it is duplicative of the earlier ''Warrant Exercises/Interest Payments, Dividends, Distributions, and Voting Rights'' section.

g. *Associated PTS/PBS Functions:* This section would be deleted because the information would be updated and included in the proposed ''Associated PTS/PBS and CA Web Functions'' section in the beginning of the Guide.

h. *Warrant Exercises Contact Numbers:* This section would be deleted because contact information would be provided in the proposed section, ''Reorganization/Proxy Contact Number.''

(33) *Proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' section:* As discussed above, the proposed ''Procedures for Submitting Instructions Outside of PTS/PBS'' would replace the ''Hard Copy Procedure for Conversions/Submitting a Hard Copy Conversion Instruction,'' ''Hard Copy Procedure for Warrant Exercises/Exercising a Warrant via Hard Copy,'' ''Hard Copy Procedures for Voluntary Offerings and Put Option Exercises,'' and ''About the Rights Subscription Instructions PTS/PBS Backup Form'' sections.

(34) *Reorganization Presentments for MMI Issues:* Ministerial changes only.

(35) *Proposed ''CD Early Redemptions'' section, including the proposed ''About the Service,'' ''How the Service Works,'' ''Exempt Instructions,'' ''Non-Exempt Instructions,'' and ''Issuer Acceptance'' sections:* These proposed sections, as discussed above, would be inserted after under the Reorganization Presentments for MMI Issues section.

(36) *Proposed ''Change Mode of Payment (CMOP)'' section, including the*

[23] *See* Securities Exchange Act Release No. 63936 (February 22, 2011), 76 FR 10628 (February 25, 2011) (SR–DTC–2011–03).

*proposed ''About the Service'' section:* The Change Mode of Payment (CMOP)/About the Product sections, amended as discussed above, would be moved under the Proposed ''CD Early Redemptions/Issuer Acceptance'' section.

(37) *Proposed ''Allocations'' section, including the proposed ''About Allocations'' section:* These proposed sections, as discussed above, would be inserted under the proposed ''Change Mode of Payment (CMOP)/About the Service'' section.

(38) *Proposed ''Solicitation Fees and Transfer Taxes'' section:* This section, as discussed above, would be inserted after under the proposed ''About Allocations'' section.

2. Statutory Basis

DTC believes that this proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. Specifically, DTC believes that this proposal is consistent with Section 17A(b)(3)(F) [24] of the Act and Rule 17Ad–22(e)(23)(i),[25] as promulgated under the Act, for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the DTC Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions.[26] DTC believes that the proposed rule change with respect to the migration of Reorganizations processing functions from PTS/PBS to CA Web is consistent with this provision of the Act because it would migrate Reorganizations functions to a more flexible interface that utilizes market standard language and incorporates the entire lifecycle of an event into one platform. By providing Participants with more efficient access to reorganization services and a broader view of a reorganization event, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions relating to Reorganizations, consistent with Section 17A(b)(3)(F) of the Act.[27]

DTC believes that the proposed rule change with respect to the restructuring, streamlining, and clarification of the Guide is consistent with Section 17A(b)(3)(F) of the Act.[28] DTC believes that the proposed rule change would enhance the clarity and transparency of the Guide, which would allow a Participant to more efficiently conduct its business in connection with processing reorganization events. Therefore, DTC believes that the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions related to Reorganizations, consistent with Section 17A(b)(3)(F) of the Act.[29]

Rule 17Ad–22(e)(23)(i) under the Act requires, *inter alia,* that DTC establish, implement, maintain and enforce written policies and procedures reasonably designed to publicly disclose all relevant rules and material procedures.[30] DTC believes that the proposed rule change with respect to the restructuring, streamlining, and clarification of the Guide would enhance the transparency and clarity of the Guide. Having clear and transparent provisions about the DTC Reorganizations services would enable Participants to better understand the processes and provide Participants with increased predictability and certainty regarding their rights and obligations with respect to their use of the services. Therefore, DTC believes that the proposed rule changes with respect to the restructuring, streamlining, and clarification of the Guide are consistent with Rule 17Ad–22(e)(23)(i) under the Act, cited above.

*(B) Clearing Agency's Statement on Burden on Competition*

DTC believes that the proposed rule change with respect to the migration of Reorganizations processing functions from PTS/PBS to CA Web may have an impact on competition, because it would facilitate a more efficient process for communicating and processing Reorganizations information.[31] Having a more efficient process could promote competition by potentially reducing Participants' operating costs. In addition, CA Web is an existing DTC platform that all Participants are required to use to access other types of services, including Distributions and Redemptions processing, and so would not affect the rights and obligations of any Participant. Therefore, DTC believes that the proposed rule change with respect to the migration of functions from PTS/PBS to CA Web may promote competition but would not create a burden on competition.[32]

DTC believes that the proposed rule changes with respect to restructuring, streamlining, and clarifying the Guide would not have an impact on competition.[33] The proposed rule change would enhance the clarity and transparency of the Guide to better reflect DTC's Reorganizations services and practices. Improving the clarity and transparency of the DTC Rules and Procedures, including the Guide, would help Participants to better understand their rights and obligations regarding DTC services, and so would not affect the rights and obligations of any Participant or other interested party.

*(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. DTC will notify the Commission of any written comments received by DTC.

## III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [34] and paragraph (f) of Rule 19b–4 thereunder.[35] 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–DTC–2019–003 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2019–003. This file number should be included on the

[24] 15 U.S.C. 78q–1(b)(3)(F).
[25] 17 CFR 240.17Ad–22(e)(23)(i).
[26] 15 U.S.C. 78q–1(b)(3)(F).
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] 17 CFR 240.17Ad–22(e)(23)(i).
[31] 15 U.S.C. 78q–1(b)(3)(I).
[32] *Id.*
[33] *Id.*
[34] 15 U.S.C. 78s(b)(3)(A).
[35] 17 CFR 240.19b–4(f).

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 DTC 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–DTC–2019–003 and should be submitted on or before June 27,2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11802 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86003; File No. 013–00112]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, Luminex ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Luminex ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Luminex ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Luminex ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Luminex ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Luminex ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Luminex ATS.

In the conversations between Luminex ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Luminex ATS have discussed a potential amendment to update Luminex ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Luminex ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Luminex ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11869 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86015; File No. 013–00105]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, Instinet CBX filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Instinet CBX was operating pursuant to an initial operation report on Form ATS on file with the Commission as of

[36] 17 CFR 200.30–3(a)(12).

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

January 7, 2019.[1] Instinet CBX filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Instinet CBX's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Instinet CBX about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Instinet CBX. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Instinet CBX.

In the conversations between Instinet CBX and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Instinet CBX have discussed a potential amendment to update Instinet CBX's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Instinet CBX. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Instinet CBX ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11893 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85980; File No. 013–00118]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 11, 2019, CrossStream filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 11, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

CrossStream was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] CrossStream filed an initial Form ATS–N on February 11, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on CrossStream's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with CrossStream about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with CrossStream. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with CrossStream.

In the conversations between CrossStream and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and CrossStream have discussed a potential amendment to update CrossStream's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by CrossStream. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 9, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by CrossStream ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11838 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85973; File No. 013–00121]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, SIGMA X2 filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

SIGMA X2 was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] SIGMA X2 filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on SIGMA X2's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with SIGMA X2 about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with SIGMA X2. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with SIGMA X2.

In the conversations between SIGMA X2 and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and SIGMA X2 have discussed a potential amendment to update SIGMA X2's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by SIGMA X2. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by SIGMA X2 ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11829 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85989; File No. SR–CboeEDGX–2019–032]**

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Qualified Contingent Cross Orders (''QCC Orders'') With More Than One Option Leg (''Complex QCC Orders'')

May 31, 2019.

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 May 22, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to permit qualified contingent cross orders (''QCC Orders'') with more than one option leg (''Complex QCC Orders''). The text of the proposed rule change is provided below and in Exhibit 1.

(additions are *italicized;* deletions are [bracketed])

* * * * *

**Rules of Cboe EDGX Exchange, Inc.**

* * * * *

Rule 21.1. Definitions

The following definitions apply to Chapter XXI for the trading of options listed on EDGX Options.

(a)–(c) No change.

(d) The term ''Order Type'' shall mean the unique processing prescribed for designated orders, subject to the restrictions set forth in paragraph (j) below with respect to orders and bulk messages submitted through bulk ports, that are eligible for entry into the System, and shall include:

(1)–(9) No change.

(10) A ''Qualified Contingent Cross Order'' *or* ''*QCC Order*'' is comprised of an originating order to buy or sell at least 1,000 standard option contracts *(or 10,000 mini-option contracts)* that is identified as being part of a qualified contingent trade, as that term is defined in *sub*paragraph (A) below, coupled with a contra-side order or orders totaling an equal number of contracts. *If a QCC Order has more than one option leg (a ''Complex QCC Order''), each option leg must have at least 1,000 standard option contracts (or 10,000 mini-option contracts).* See Rule 21.20

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

for a definition of a QCC with Stock Order. For purposes of this order type:

(A) No change.

(B) [Qualified Contingent Cross]*QCC* Orders *with one option leg* may execute automatically on entry without exposure [provided]*if* the execution: (i) is not at the same price as a Priority Customer Order resting in the EDGX Options Book; and (ii) is at or between the NBBO. Rule 22.12, related to exposure of orders on EDGX Options, does not apply to [Qualified Contingent Cross]*QCC* Orders *(including Complex QCC Orders).*

*(C) Complex QCC Orders may execute automatically on entry without exposure if: (i) each option leg executes at a price that complies with Rule 21.20(c)(1)(C), provided that no option leg executes at the same price as a Priority Customer Order in the Simple Book; (ii) each option leg executes at a price at or between the NBBO for the applicable series; and (iii) the execution price is better than the price of any complex order resting in the COB, unless the Complex QCC Order is a Priority Customer Order and the resting complex order is a non-Priority Customer Order, in which case the execution price may be the same as or better than the price of the resting complex order.*

([C]*D*) [Qualified Contingent Cross]*QCC* Orders *(including Complex QCC Orders)* will be cancelled if they cannot be executed.

([D]*E*) [Qualified Contingent Cross]*QCC* Orders *with one option leg* may only be entered in the standard increments applicable to the options class under Rule 21.5*, and Complex QCC Orders may be entered in the increments applicable to complex orders set forth in Rule 21.20(c)(1).*

([E]*F*) Users may not submit bulk messages as [Qualified Contingent Cross]*QCC* Orders.

* * * * *

Rule 21.5. Minimum Increments

(a)–(c) No change.

*(d) Complex Orders. The minimum increment for bids and offers on complex orders is set forth in Rule 21.20(c)(1).*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (''Cboe Global''), which is the parent company of Cboe Exchange, Inc. (''Cboe Options'') and Cboe C2 Exchange, Inc. (''C2''), acquired the Exchange, Cboe EDGA Exchange, Inc. (''EDGA''), Cboe BZX Exchange, Inc. (''BZX or BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with C2, Cboe Options, the Exchange, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). The Cboe Affiliated Exchanges are working to align certain system functionality, retaining only intended differences between the Cboe Affiliated Exchanges, in the context of a technology migration. Cboe Options intends to migrate its technology to the same trading platform used by the Exchange, C2, and BZX Options in the fourth quarter of 2019. The proposal set forth below is intended to add certain functionality to the Exchange's System that is available on Cboe Options in order to ultimately provide a consistent technology offering for market participants who interact with the Cboe Affiliated Exchanges. Although the Exchange intentionally offers certain features that differ from those offered by its affiliates and will continue to do so, the Exchange believes that offering similar functionality to the extent practicable will reduce potential confusion for Users.

The Exchange proposes to make QCC Order functionality available for complex orders (''Complex QCC Orders''). A QCC order is comprised of an originating order to buy or sell at least 1,000 contracts [5] that is identified as being part of a QCT,[6] coupled with a contra-side order or orders totaling an equal number of contracts. QCC orders may execute without exposure provided the execution (1) is not at the same price as a public customer order resting in the electronic book and (2) is at or between the national best bid or offer (''NBBO'').[7] QCC orders will be cancelled if they cannot be executed.[8] QCC Orders may only be entered in the standard increments applicable to the options class under Rule 21.5. A QCT may consist of one or more components, and thus may include multiple option legs.

The proposed Complex QCC Order functionality facilitates the execution of the option component (which option component is a ''Qualified Contingent Cross Order'' or ''QCC Order'') [9] of qualified contingent trades (''QCTs'') when the option component consists of more than one option leg.[10] The proposed rule change requires each leg of a Complex QCC Order to consist of at least 1,000 standard option contracts (or 10,000 mini-option contracts).[11] This is consistent with the current requirement that a QCC order must

[5] The proposed rule change also provides that a QCC Order consisting of mini-option contracts would need to be comprised of at least 10,000 mini-option contracts, which is the equivalent of 1,000 standard option contracts, as mini-option contracts are 1/10th the size of standard option contracts. *See* proposed Rule 21.1(d)(10); *see also* Cboe Options Rule 6.53(u) and Nasdaq ISE LLC (''ISE'') Rule 504, Supplementary Material .13(e). This is consistent with current functionality and is merely adding detail to the Rule. *See* Rule 19.6, Interpretation and Policy .07 (which permits the listing of mini-options).

[6] *See* Rule 21.1(d)(10). A ''qualified contingent trade'' is a transaction consisting of two or more component orders, executed as agent or principal, where: (1) At least one component is an NMS stock, as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) all components are effected with a product or price contingency that either has been agreed to by all the respective counterparties or arranged for by a broker-dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined by the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or cancelled; and (6) the transaction is fully hedged (without regard to any prior existing position) as a result of other components of the contingent trade. The proposed rule change amends Rule 21.1(d)(10) to add a cross-reference to the proposed definition of a QCC with Stock Order in Rule 21.20.

[7] *See* Rule 21.1(d)(10).

[8] *Id.*

[9] The proposed rule change amends Rule 21.1(d)(10) to provide that a Qualified Contingent Cross Order may also be referred to in the Rules as a QCC Order.

[10] *See also* Cboe Options Rule 6.53(u) and Regulatory Circular RG13–102 (July 19, 2013); ISE Rule 721(d); and Miami International Securities Exchange LLC (''MIAX'') Rule 515(h)(4) (which rules describe similar complex QCC order functionality).

[11] *See* proposed Rule 21.1(d)(10).

consist of at least 1,000 standard option contracts (or 10,000 mini-option contracts).

Complex QCC Orders will execute in a similar manner as QCC Orders currently execute. A QCC Order (with one option leg) may only execute automatically upon entry if the execution is not at the same price as a priority customer order resting in the EDGX Options Book, and is at or between the NBBO. The proposed rule change mirrors these execution price requirements for simple QCC Orders by providing that a Complex QCC Order may execute automatically on entry without exposure if: (1) Each option leg executes at a price that complies with Rule 21.20(c)(1)(C),[12] provided that no option leg executes at the same price as a Priority Customer Order in the Simple Book; (2) each option leg executes at a price at or between the NBBO for the applicable series; and (3) the execution price is better than the price of any complex order resting in the complex order book (''COB''), unless the Complex QCC Order is a priority order customer [sic] and the resting complex order is a non-priority customer order, in which case the execution price may be the same as or better than the price of the resting complex order.[13] Complex QCC Orders will be cancelled if they cannot be executed.[14] The purpose of these requirements is to ensure that priority customer orders on the COB in the same complex strategy and the Simple Book in the individual option series are protected.

The proposed rule change provides that Complex QCC Orders may be entered in the increments applicable to complex orders set forth in Rule 21.20(c)(1).[15] Rule 21.20(c)(1) permits the entry of legs of a complex order in $0.01 increments (regardless of the standard trading increment applicable to the options class of each leg). The nature of the pricing of a complex order, whether it is a QCC Order or otherwise, is such that the pricing is based on the relative price of one option versus another (as opposed to the outright price of a single option). For this reason, the standard increment of trading of the individual option legs of a complex order (whether a QCC Order or otherwise) is less relevant to the pricing of the complex order. While there are differences between Complex QCC Orders and other complex orders, this rationale applies to both. The Exchange therefore believes that, as the legs of non-QCC complex orders can be entered in $0.01 increments (regardless of the standard trading increment applicable to the options class of each leg), and a QCC Order with multiple legs is a form of a complex order, QCC Orders with multiple legs should also be able to be entered in $0.01 increments. This change would put the trading of Complex QCC Orders on the same footing as the trading of other types of complex orders.

The Exchange requires an Options Member that submits a QCC Order to provide certain information to the Exchange regarding the execution of the stock component, including the stock price, quantity, and execution time, and will require this same information from Options Members with respect to Complex QCC Orders.[16]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will promote just and equitable principles of trade because it will provide Users with optional functionality to facilitate a QCT with multiple option components, similar to functionality currently available to facilitate a QCT with one option component, which may provide for increased opportunities for the execution of complex orders. Complex QCC Orders will execute in a similar manner to QCC Orders. As described above, the proposed pricing requirements for Complex QCC Orders align with the current pricing requirements for QCC Orders and are consistent with current principles of customer priority. The proposed rule change will protect investors, because it will protect priority customer complex orders in the same strategy, and will prevent a component of a Complex QCC Order from being executed at the same price as a priority customer order in any component on the Simple Book.[20] Therefore, the proposed pricing requirements establish a limited exception to the general principle of exposure and retain the general principle of customer priority in the options markets in accordance with prior Securities and Exchange Commission (''Commission'') approvals of QCC Order functionality.[21] Furthermore, not only must a Complex QCC Order be part of a QCT by satisfying each of the six underlying requirements of the QCT exemption, the requirements that a Complex QCC Order be for a minimum size of 1,000 contracts per leg provides another limit to its use by ensuring only transactions of significant size may avail themselves of this order type.[22]

As the Commission noted in its order approving the original QCT exemption, the parties to a contingent trade are focused on the spread or ratio between the transaction prices for each of the component instruments (*i.e.,* the net price of the entire contingent trade), rather than on the absolute price of any single component.[23] Pursuant to the

[12] Rule 21.20(c)(1)(C) states a complex order will not be executed at a net price that would cause any component of the complex strategy to be executed (i) at a net price of zero; or (ii) ahead of a Priority Customer Order on the Simple Book without improving the best bid or offer (BBO) of at least one component of the complex strategy.

[13] *See* proposed Rule 21.1(d)(10)(C).

[14] *See* proposed Rule 21.1(d)(10)(D).

[15] *See* proposed Rule 21.1(d)(10)(E); *see also* Cboe Options Rule 6.53(u) and Regulatory Circular RG13–102 (July 19, 2013); ISE Rule 721(d); and MIAX Rule 515(h)(4). The proposed rule change also amends Rule 21.5 to provide that the minimum increment for bids and offers on complex orders is set forth in Rule 21.20(c)(1).

[16] *See* EDGX Regulatory Circular 17–002 (March 3, 2017). The Exchange intends to issue an updated Regulatory Circular to notify market participants that these reporting requirements will apply to Complex QCC Orders.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] *See* Securities Exchange Act Release No. 34–81891 (October 17, 2017), 82 FR 49058, 49066 (October 23, 2017) (SR–BatsEDGX–2017–29) (order granting approval of proposed rule change to adopt rules governing the trading of complex orders on the Exchange).

[21] *See supra* note 15; *see also* Securities Exchange Act Release No. 34–81131 (July 12, 2017), 82 FR 32900, 32903 (July 18, 2017) (SR–MIAX–2017–19) (order approving complex QCC order functionality).

[22] *See id.*

[23] Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006) (''QCT Exemption'').

requirements of the QCT Exemption, the spread or ratio between the relevant instruments must be determined at the time the order is placed, and this spread or ratio stands regardless of the market prices of the individual orders at their times of execution. The Commission further noted ''the difficulty of maintaining a hedge, and the risk of falling out of hedge, could dissuade participants from engaging in contingent trades, or at least raise the cost of such trades.'' [24] Thus, the Commission found that, if each stock leg of a QCT were required to meet the trade-through provision of Rule 611 of Regulation NMS, such trades could become too risky and costly to be employed successfully and noted that the elimination or reduction of this trading strategy potentially could remove liquidity from the market. This is also true for Complex QCC Orders, and thus the Exchange believes its proposal is consistent with the QCT Exemption.

The proposed rule change will also provide Users who enter Complex QCC Orders with the same trading increment as those who enter other types of complex orders. This change would put the trading of Complex QCC Orders on the same footing as the trading of other types of complex orders.

The proposed clarification to state that the minimum size requirement for QCC Orders applies to the corresponding number of mini-option contracts (*i.e.,* 10,000 mini-option contracts) protects investors, because it is consistent with current functionality. Rule 19.6, Interpretation and Policy .07 permits the listing of mini-options, which is an option with a 10 share deliverable of the underlying security rather than 100 share deliverable of the underlying security (which is the standard deliverable for a standard option contract). The proposed change to state that the 1,000 standard option contracts minimum size of a QCC Order (or each leg of a Complex QCC Order) is consistent with 10,000 mini-option contracts is consistent with this definition of mini-options. This provides transparency to investors that QCC Order functionality is available for mini-options as well as standard options. The proposed clarification also promotes just and equitable principles of trade, because the minimum size requirement applies in the same manner to an equivalent number of contracts in a standard option and a mini-option.

The proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and promote competition, which benefits investors, as other options exchange provide similar complex QCC order functionality.[25]

The proposed rule change is generally intended to align system functionality currently offered by the Exchange with Cboe Options functionality in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. A consistent technology offering, in turn, will simplify the technology implementation, changes, and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. The Exchange believes this consistency will promote a fair and orderly national options market system. When Cboe Options migrates to the same technology as that of the Exchange and other Cboe Affiliated Exchanges, Users of the Exchange and other Cboe Affiliated Exchanges will have access to similar functionality on all Cboe Affiliated Exchanges. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because Complex QCC Order functionality is optional and available to all Users. Complex QCC Orders of all Users will be subject to the same requirements and will execute in the same manner pursuant to the proposed rule change. The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because other options exchange provide similar functionality.[26]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [27] and Rule 19b–4(f)(6) [28] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–032 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–2019–032. This file number should be included on the subject line if email is used. To help the Commission process and review your

[24] *Id.*

[25] *See, e.g.,* Cboe Options Rule 6.53(u) and Regulatory Circular RG13–102; ISE Rules 504, Supplementary Material .13(e) and 721(d); and MIAX Rule 515(h)(4).

[26] *See id.*

[27] 15 U.S.C. 78s(b)(3)(A).

[28] 17 CFR 240.19b–4(f)(6).

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–2019–032 and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11800 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85983; File No. 013–00078]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, Liquidnet H2O ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Liquidnet H2O ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Liquidnet H2O ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Liquidnet H2O ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Liquidnet H2O ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Liquidnet H2O ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Liquidnet H2O ATS.

In the conversations between Liquidnet H2O ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Liquidnet H2O ATS have discussed a potential amendment to update Liquidnet H2O ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Liquidnet H2O ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Liquidnet H2O ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11841 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85981; File No. SR–FINRA–2019–016]**

## Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

May 31, 2019.

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 May 21, 2019, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of

[29] 17 CFR 200.30–3(a)(12).

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to July 20, 2020 the implementation of FINRA Rule 4240. FINRA Rule 4240 implements an interim pilot program with respect to margin requirements for certain transactions in credit default swaps that are security based swaps.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,[4] which implements an interim pilot program (the ''Interim Pilot Program'') with respect to margin requirements for certain transactions in credit default swaps (''CDS'').[5] On June 11, 2018, FINRA filed a proposed rule change for immediate effectiveness extending the implementation of FINRA Rule 4240 to July 18, 2019.[6]

As explained in the Approval Order, FINRA Rule 4240, coterminous with certain Commission actions, was intended to address concerns arising from systemic risk posed by CDS, including, among other things, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.[7] On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'') was signed into law.[8] Title VII of the Dodd-Frank Act established a comprehensive new regulatory framework for swaps and security-based swaps,[9] including certain CDS. The legislation was intended, among other things, to enhance the authority of regulators to implement new rules designed to reduce risk, increase transparency, and promote market integrity with respect to such products.

The Commission and the CFTC have proposed or adopted rules with respect to swaps and security-based swaps pursuant to Title VII of the Dodd-Frank Act.[10] FINRA believes it is appropriate to extend the Interim Pilot Program for a limited period, to July 20, 2020, in light of the continuing development of the CDS business and ongoing regulatory developments. FINRA is considering proposing additional amendments to the Interim Pilot Program.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be July 18, 2019. The proposed rule change will expire on July 20, 2020.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[11] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the Act because, in light of the continuing development of the CDS business and ongoing regulatory developments, extending the implementation of the margin requirements as set forth by FINRA Rule 4240 will help to stabilize the financial markets.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA believes that extending the implementation of FINRA Rule 4240 for a limited period, to July 20, 2020, in light of the continuing development of the CDS business and ongoing regulatory developments, helps to promote stability in the financial markets and regulatory certainty for members.

### *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

[4] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Order Approving File No. SR–FINRA–2009–012) (''Approval Order'').

[5] In March 2012, the SEC approved amendments to FINRA Rule 4240 that, among other things, limit at this time the rule's application to credit default swaps that are security-based swaps. *See* Securities Exchange Act Release No. 66527 (March 7, 2012), 77 FR 14850 (March 13, 2012) (Order Approving File No. SR–FINRA–2012–015).

[6] *See* Securities Exchange Act Release No. 83474 (June 20, 2018), 83 FR 29840 (June 26, 2018) (Notice of Filing and Immediate Effectiveness of File No. SR–FINRA–2018–025).

[7] *See* Approval Order, 74 FR at 25588–89.

[8] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[9] The terms ''swap'' and ''security-based swap'' are defined in Sections 721 and 761 of the Dodd-Frank Act. The Commodity Futures Trading Commission (''CFTC'') and the Commission jointly have approved rules to further define these terms. *See* Securities Exchange Act Release No. 67453 (July 18, 2012), 77 FR 48208 (August 13, 2012) (Joint Final Rule; Interpretations; Request for Comment on an Interpretation: Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping). *See also* Securities Exchange Act Release No. 66868 (April 27, 2012), 77 FR 30596 (May 23, 2012) (Joint Final Rule; Joint Interim Final Rule; Interpretations: Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant'').

[10] *See, e.g.,* Securities Exchange Act Release No. 84991 (January 25, 2019), 84 FR 863 (January 31, 2019) (Order Granting a Limited Exemption From the Exchange Act Definition of ''Penny Stock'' for Security-Based Swap Transactions Between Eligible Contract Participants; Granting a Limited Exemption From the Exchange Act Definition of ''Municipal Securities'' for Security-Based Swaps; and Extending Certain Temporary Exemptions Under the Exchange Act in Connection With the Revision of the Definition of ''Security'' To Encompass Security-Based Swaps); Securities Exchange Act Release No. 68071 (October 18, 2012), 77 FR 70214 (November 23, 2012) (Proposed Rule: Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers). *See also* Securities Exchange Act Release No. 71958 (April 17, 2014), 79 FR 25194 (May 2, 2014) (Proposed Rule: Recordkeeping and Reporting Requirements for Security-Based Swap Dealers, Major Security-Based Swap Participants, and Broker-Dealers; Capital Rule for Certain Security-Based Swap Dealers).

[11] 15 U.S.C. 78*o*–3(b)(6).

become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2019–016 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2019–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2019–016and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11798 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, as required under Rule 19b–4(f)(6)(iii), FINRA provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change, or such shorter time as designated by the Commission.

[14] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85991; File No. 013–00109]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 8, 2019, JPB–X filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

JPB–X was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] JPB–X filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on JPB–X's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with JPB–X about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with JPB–X. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with JPB–X.

In the conversations between JPB–X and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and JPB–X have discussed a potential amendment to update JPB–X's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by JPB–X. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

Form ATS–N submitted by JPB–X ineffective.

By the Commission.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–11822 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85979; File No. 013–00141]**

### Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 13, 2019, XE filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 13, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

XE was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] XE filed an initial Form ATS–N on February 13, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on XE's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with XE about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with XE. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with XE.

In the conversations between XE and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and XE have discussed a potential amendment to update XE's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by XE. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 11, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by XE ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11837 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 33497; 812–14915]**

### Cresset Private Markets Opportunity Fund and Cresset SPG, LLC

May 31, 2019.

**AGENCY:** Securities and Exchange Commission (''Commission'').

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act, and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

**SUMMARY OF APPLICATION:** Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest with varying sales loads and to impose asset-based distribution and/or service fees.

**APPLICANTS:** Cresset Private Markets Opportunity Fund (the ''Initial Fund'') and Cresset SPG, LLC (the ''Adviser'').

**FILING DATES:** The application was filed on June 6, 2018, and amended on February 1, 2019.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 25, 2019, 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 writing to the Commission's Secretary.

**ADDRESSES:** Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants, 444 W Lake Street, Suite 4700, Chicago, IL 60606.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 551–6871, 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 for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

**Applicants' Representations**

1. The Initial Fund is a Delaware statutory trust that is registered under the Act as a non-diversified, closed-end management investment company. The Initial Fund's primary investment objective will be to generate appropriate risk-adjusted long-term returns by investing in a diversified portfolio of private equity investments.

2. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). The Adviser will serve as investment adviser to the Initial Fund.

3. Applicants seek an order to permit the Initial Fund to issue multiple classes of shares of beneficial interest with varying sales loads and to impose asset-based distribution and/or service fees and early repurchase fees.

4. Applicants request that the order also apply to any continuously offered registered closed-end management investment company that has been previously organized or that may be organized in the future for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, or any successor in interest to any such entity,[1] acts as investment adviser and which provides periodic liquidity with respect to its shares pursuant to rule 13e–4 under the Securities Exchange Act of 1934 (each, a ''Future Fund'' and together with the Initial Fund, the ''Funds'').[2]

5. The Initial Fund initially will register a single class of shares (the ''Initial Class''). Shares of the Initial Fund will be sold only to persons who are ''accredited investors,'' as defined in Regulation D under the Securities Act of 1933, and ''qualified clients,'' as defined in the Advisers Act. The Funds will offer their Shares continuously at a price based on net asset value. Shares of the Funds will not be listed on any securities exchange nor quoted on any quotation medium. The Funds do not expect there to be a secondary trading market for their shares.

6. If the requested relief is granted, the Initial Fund intends to redesignate the Initial Class as ''Class I Shares.'' Additionally, if the requested relief is granted, the Initial Fund currently intends to continuously offer at least one additional class of shares, currently contemplated to be named ''Class A Shares.'' Each of the Class I Shares and Class A shares will have its own fee and expense structure. Additional offerings by any Fund relying on the order may be on a private placement or public offering basis.

7. Applicants state that, from time to time, the Initial Fund may create additional classes of shares, the terms of which may differ between Class I Shares and Class A Shares pursuant to and in compliance with rule 18f–3 under the Act.

8. Applicants state that shares of a Fund may be subject to an early repurchase fee (''Early Repurchase Fee'') at a rate of no greater than 2% of the shareholder's repurchase proceeds if the interval between the date of purchase of the shares and the valuation date with respect to the repurchase of those shares is less than one year.[3] Any Early Repurchase Fee will apply equally to all classes of shares of a Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent a Fund determines to waive, impose scheduled variations of, or eliminate any Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act as if the Early Repurchase Fee were a CDSL and as if the Fund were an open-end investment company and the Fund's waiver of, scheduled variation in, or elimination of, any such Early Repurchase Fee will apply uniformly to all shareholders of the Fund regardless of class. Applicants state that the Initial Fund intends to impose an Early Repurchase Fee of 2%.

9. Applicants represent that any asset-based service and/or distribution fees for each class of shares of the Funds will comply with the provisions of the FINRA Rule 2341(d) (''FINRA Sales Charge Rule'').[4] Applicants also represent that each Fund will disclose in its prospectus the fees, expenses and other characteristics of each class of shares offered for sale by the prospectus, as is required for open-end multiple class funds under Form N–1A. As is required for open-end funds, each Fund will disclose its expenses in shareholder reports, and describe any arrangements that result in breakpoints in or elimination of sales loads in its prospectus.[5] In addition, applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[6]

10. Each of the Funds will comply with any requirements that the Commission or FINRA may adopt regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding prospectus disclosure of sales loads and revenue sharing arrangements, as if those requirements applied to the Fund. In addition, each Fund will contractually require that any distributor of the Fund's shares comply with such requirements in connection with the distribution of such Fund's shares.

**Applicants' Legal Analysis**

*Multiple Classes of Shares*

1. Section 18(a)(2) of the Act provides that a closed-end investment company may not issue or sell a senior security that is a stock unless certain requirements are met. Applicants state that the creation of multiple classes of shares of the Funds may violate section 18(a)(2) because the Funds may not meet such requirements with respect to a class of shares that may be a senior security.

2. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of shares of the Funds may be prohibited by section 18(c), as a class may have priority over another class as to payment of dividends because shareholders of different classes would pay different fees and expenses.

3. Section 18(i) of the Act provides that each share of stock issued by a

[1] A successor in interest is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Fund relying on this relief in the future will do so in compliance with the terms and conditions of the application. Applicants represent that each entity presently intending to rely on the requested relief is listed as an applicant.

[3] Applicants state that an Early Repurchase Fee charged by a Fund is not the same as a contingent deferred sales load (''CDSL'') assessed by an open-end fund pursuant to rule 6c–10 under the Act, as CDSLs are distribution-related charges payable to a distributor, whereas the Early Repurchase Fee is payable to the Fund to compensate long-term shareholders for the expenses related to shorter term investors, in light of the Fund's generally longer-term investment horizons and investment operations.

[4] Any reference to the FINRA Sales Charge Rule includes any successor or replacement to the FINRA Sales Charge Rule.

[5] *See* Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release) (requiring open-end investment companies to disclose fund expenses in shareholder reports); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release) (requiring open-end investment companies to provide prospectus disclosure of certain sales load information).

[6] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) and 27399 (Jun. 20, 2006) (adopting release). *See* also Rules 12d1–1, *et seq.* of the Act.

registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that multiple classes of shares of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

4. 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 provision of the Act, or from any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) from sections 18(a)(2), 18(c) and 18(i) to permit the Funds to issue multiple classes of shares.

5. Applicants submit that the proposed allocation of expenses relating to distribution and voting rights among multiple classes is equitable and will not discriminate against any group or class of shareholders. Applicants submit that the proposed arrangements would permit a Fund to facilitate the distribution of its securities and provide investors with a broader choice of shareholder services. Applicants assert that the proposed closed-end investment company multiple class structure does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures that are permitted by rule 18f–3 under the Act. Applicants state that each Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

*Asset-Based Distribution and/or Service Fees*

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order under section 17(d) and rule 17d–1 under the Act to the extent necessary to permit the Fund to impose asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies, which they believe will resolve any concerns that might arise in connection with a Fund financing the distribution of its shares through asset-based distribution fees.

3. For the reasons stated above, applicants submit that the exemptions requested under section 6(c) are necessary and appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants also state that the Funds' imposition of asset-based distribution and/or service fees is consistent with the provisions, policies and purposes of the Act and does not involve participation on a basis different from or less advantageous than that of other participants.

**Applicants' Condition**

Applicants agree that any order granting the requested relief will be subject to the following condition:

Each Fund relying on the order will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, 22d–1, and, where applicable, 11a–3 under the Act, as amended from time to time, as if those rules applied to closed-end management investment companies, and will comply with the FINRA Sales Charge Rule, as amended from time to time, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11793 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85978; File No. 013–00140]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 13, 2019, Virtu MatchIt ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 13, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Virtu MatchIt ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Virtu MatchIt ATS filed an initial Form ATS–N on February 13, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Virtu MatchIt ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Virtu MatchIt ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Virtu MatchIt ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Virtu MatchIt ATS.

In the conversations between Virtu MatchIt ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Virtu MatchIt ATS have discussed a potential amendment to update Virtu MatchIt ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Virtu MatchIt ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 11, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Virtu MatchIt ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11839 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85988; File No. SR–CboeEDGX–2019–033]**

## Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 21.7 Concerning the Opening Auction Process

May 31, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX Options'') proposes to amend Rule 21.7. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change makes enhancements to the Exchange's opening auction process. The Exchange recently adopted an opening auction process, which the Exchange intends to implement on June 24, 2019.[5] The Exchange intends to implement the enhancements proposed in this rule filing at that time.

First, the proposed rule change amends the definition of Composite Market in Rule 21.7(a). The term ''Composite Market'' means the market for a series comprised of (1) the higher of the then-current best appointed Market-Maker bulk message bid on the Queuing Book and the away best bid (''ABB'') (if there is an ABB) and (2) the lower of the then-current best appointed Market-Maker bulk message offer on the Queuing Book and the away best offer (''ABO'') (if there is an ABO).[6] The Queuing Book means the book into which Users may submit orders and quotes (and onto which good-til-cancelled and good-til-day orders remaining on the Book from the previous trading session or trading day, as applicable, are entered) during the Queuing Period for participation in the applicable opening rotation. The Queuing Period means the time period prior to the initiation of an opening rotation during which the System accepts orders and quotes for participation in the opening rotation for the applicable trading session. Therefore, in an All Sessions Class (*i.e.,* a class that trades during both the Global Trading Hours (''GTH'') and Regular Trading Hours (''RTH'') trading sessions), the Composite Market will be based on the appointed Market-Maker bulk message bids and offers in the RTH Queuing Book (available from 7:30 a.m. through the opening of trading). It currently will not consider any appointed Market-Maker bulk message bids and offers in that class in the GTH book (on which trading will be occurring in that class from 8:30 a.m. through 9:15 a.m.).

Market-Makers are generally responsible for pricing the markets in

[5] *See* Securities Exchange Act Release No. 85797 (May 7, 2019), 84 FR 20920 (May 13, 2019), SR–CboeEDGX–2019–027. The changes in SR–CboeEDGX–2019–027 are currently effective but not yet operative; however, the proposed rule text in this rule filing assume operativeness of those effective changes.

[6] The term ''Composite Bid (Offer)'' means the bid (offer) used to determine the Composite Market.

their appointed classes, which is why the Exchange considers Market-Makers' bulk message bids and offers when determining the Composite Market in connection with the opening auction process. For that reason, the price protection measures applied during the opening auction process (the Maximum Composite Width check and the Opening Collar) are based on the Composite Market. The Exchange believes it would be beneficial, and may lead to more accurate pricing during the opening auction process, for the Composite Market to be used for the RTH opening auction process to incorporate all available bulk message bids and offers from appointed Market-Makers, including any in the GTH book. Therefore, the proposed rule change amends the definition of Composite Market to provide that it will be comprised of the higher (lower) of the then-current best appointed Market-Maker bulk message bid (offer) on the Exchange (which includes both the RTH Queuing Book and the GTH book), rather than just the Queuing Book.

Second, the proposed rule change amends Rule 21.7(e)(1) to provide that a series is not eligible to open if the Composite Market is crossed (*i.e.,* the Composite Bid is higher than the Composite Offer). A series will be eligible to open if the Composite Width is less than or equal to the Maximum Composite Width, or is greater than the Maximum Composite Width but there are no non-M Capacity market orders or buy (sell) limit orders with prices higher (lower) than the Composite Bid (Offer) and no orders or quotes marketable against each other (*i.e.,* locked or crossed).[7] The Maximum Composite Width Check is a price protection measure intended to prevent orders from executing at extreme prices at the open. A crossed market is generally unreliable, and opening with a crossed Composite Market may create price risk for any executions that may occur during the opening rotation (pursuant to subparagraph (e)(3)). Therefore, the proposed rule change enhances the Maximum Composite Width check price protection to provide that the Composite Market may not be crossed for a series to be eligible to open.

Third, the proposed rule change harmonizes how the opening auction process will be used following all trading halts. Current Rule 21.7(g) provides that if there is a Regulatory Halt,[8] the Queuing Period begins immediately when the Exchange halts trading in the class. If the Exchange declares any other type of halt in a class (*i.e.,* a non-Regulatory Halt), there will be no Queuing Period. Additionally, if there is a Regulatory Halt, the System queues a User's open orders or quotes, unless the User entered instructions to cancel its open resting orders and quotes, but if there is a non-Regulatory Halt, the System cancels a User's open orders and quotes. The Exchange has determined to eliminate the distinction between how the opening auction process applies following a Regulatory Halt and a non-Regulatory Halt. The proposed rule change provides that the opening auction process following any trading halt will apply in the manner it currently applies following a Regulatory Halt. In other words, following a non-Regulatory Halt, there will be a Queuing Period during the trading halt. Additionally, in the event of a non-Regulatory Halt, the System will queue a User's orders and quotes resting on the book at the time of the trading halt for participation in the opening rotation following the trading halt, unless the User entered instructions to cancels its resting orders and quotes. This will provide Users with the ability to decide how its resting orders and quotes should be handled in the event of a non-Regulatory Halt, as they are currently able to do in the event of a Regulatory Halt. The Exchange also believes elimination of this distinction will eliminate potential investor confusion regarding how the System will handle orders and quotes in the event of a trading halt.[9]

Finally, the proposed rule change makes several nonsubstantive changes in Rule 21.7:

- The proposed rule change makes a grammatical change in subparagraph (b)(2).
- The proposed rule change adds the word ''process'' in subparagraph (b)(2)(E) after the term ''opening auction,'' as it was inadvertently omitted (throughout Rule 21.7, the entire opening is referred to as the ''opening auction process'').

The proposed rule change updates subparagraph (e)(2) to clarify when the System will and will not be able to determine an Opening Trade Price. The System determines an Opening Trade Price if there are orders and quotes marketable against each other at a price not outside the Opening Collar (this is consistent with the current rule, which states there is no Opening Trade Price if there are no locked or crossed orders or quotes (*i.e.,* marketable orders and quotes) at a price not outside the Opening Collar). The proposed rule change merely modifies the language, which the Exchange believes is clearer, and makes corresponding changes to the paragraph numbering and lettering. Additionally, the proposed rule change adds the defined term ''VMIM price'', which is the price determined by the process described in current subparagraphs (e)(2)(A)(i) through (iii) (proposed subparagraphs (e)(2)(A) through (3)). The proposed rule change does not modify the process used to determine that price.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[12] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed revision to the definition of Composite Market will remove impediments to and perfect the mechanism of a free and open market and a national market system and protect investors, because it will ensure the price protection measures used during the opening auction process, which are based on the Composite Market, for the RTH opening in an All Sessions Class will incorporate all available pricing information on the Exchange from appointed Market-

[7] The proposed rule change makes a nonsubstantive change to this language in Rule 21.7(e)(1)(B). Once a series satisfies the conditions in the Maximum Composite Width Check, the System will determine an Opening Trading Price pursuant to Rule 21.7(e)(2), and then open the series pursuant to Rule 21.7(e)(3).

[8] If the primary market for the applicable underlying security declares a regulatory trading halt, suspension, or pause with respect to such security, it is referred to as a ''Regulatory Halt.''

[9] The proposed rule change also makes nonsubstantive changes to paragraph (g).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

Makers in that class. The Exchange believes this may lead to a more accurate Opening Trade Price. The proposed rule change to not open a series if the Composite Market is crossed will promote just and equitable principles of trade and protect investors, because crossed markets are generally unreliable. The Exchange believes not opening a series if the Composite Market is crossed may reduce the risk of erroneously priced executions during the opening rotation. The proposed rule change to harmonize the opening auction process following all types of trading halts will protect investors by eliminating potential confusion regarding how the Exchange will open series following trading halts, and by providing Users with flexibility regarding how the System will handle their orders and quotes following a non-Regulatory Halt (as they currently have following a Regulatory Halt). The proposed nonsubstantive changes will benefit investors by providing additional clarity to the Rules.

*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 will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to the price protection measures used during the opening auction process will apply in the same manner to all orders and quotes of all Users. All Users will have the same flexibility regarding how the System will handle their orders and quotes following non-Regulatory Halts, which is the same flexibility currently available to Users following Regulatory Halts. If a User wants its orders and quotes to be handled following a non-Regulatory Halt in the manner they are today, that User can instruct the Exchange to do so. The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes to the price protections used during the opening auction process only impact how series will open on the Exchange prior to the opening of trading. The proposed changes are intended to enhance the price protections used during the opening process and are not intended as competitive changes, and to provide Users with flexibility with respect to the handling of their orders and quotes following a non-Regulatory Halt. The proposed nonsubstantive changes do not impact trading, and thus have no competitive impact; they merely provide additional clarity to the Rules.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2019–033 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–2019–033. 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–2019–033 and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11797 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86013; File No. 013–00116]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, IntelligentCross ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

IntelligentCross ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] IntelligentCross ATS filed an initial Form ATS–N on June 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on IntelligentCross ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with IntelligentCross ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with IntelligentCross ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with IntelligentCross ATS.

In the conversations between IntelligentCross ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and IntelligentCross ATS have discussed a potential amendment to update IntelligentCross ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by IntelligentCross ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by IntelligentCross ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11891 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–86004; File No. 013–00120]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

June 3, 2019.

On February 8, 2019, Magma ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 8, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

Magma ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] Magma ATS filed an initial Form ATS–N on February 8, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on Magma ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with Magma ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with Magma ATS. Extending the initial Form ATS–N Commission review period for an

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with Magma ATS.

In the conversations between Magma ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and Magma ATS have discussed a potential amendment to update Magma ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by Magma ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), October 6, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by Magma ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11870 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85972; File No. 013–00031]**

## Initial Form ATS–N Filing; Notice of Extension of Commission Review Period

May 31, 2019.

On February 1, 2019, BIDS ATS filed an initial Form ATS–N (''Form ATS–N'') with the Securities and Exchange Commission (''Commission''). Pursuant to Rule 304 under the Securities and Exchange Act of 1934 (''Act''), the Commission may, after notice and an opportunity for hearing, declare an initial Form ATS–N ineffective no later than 120 days from the date of filing with the Commission, or, if applicable, the extended review period. June 1, 2019 is 120 calendar days from the date of filing. Pursuant to Rule 304(a)(1)(iv)(B), the Commission may extend the initial Form ATS–N review period for up to an additional 120 calendar days if the initial Form ATS–N is unusually lengthy or raises novel or complex issues that require additional time for review.

BIDS ATS was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019.[1] BIDS ATS filed an initial Form ATS–N on February 1, 2019. During the initial 120 calendar day review period, the Commission staff has been reviewing the disclosures on BIDS ATS's initial Form ATS–N. In addition, the staff has been engaged in ongoing discussions with BIDS ATS about its disclosures and manner of operations, as well as the requirements of Form ATS–N, to facilitate complete and comprehensible disclosures that reflect the complexities of those operations.

Form ATS–N requires NMS Stock ATSs to file with the Commission, and disclose to the public for the first time, certain information, including descriptions by the NMS Stock ATSs of their fees, the trading activities by their broker-dealer operators and their affiliates in the NMS Stock ATSs, their use of market data, their written standards for granting access to trading on the NMS Stock ATSs, and their written safeguards and procedures for protecting their subscribers' confidential trading information required by revised Rule 301(b)(10) of Regulation ATS. The initial Form ATS–N disclosures and discussions with Commission staff have revealed complexities about the operations of Legacy NMS Stock ATSs including, among other things, matching functionalities, means of order entry, order interaction and execution procedures, conditional order processes, segmentation of orders, and counterparty selection protocols. The Commission staff needs additional time to review novel and complex issues such as these, which Commission staff has discussed with BIDS ATS. Extending the initial Form ATS–N Commission review period for an additional 120 calendar days will provide Commission staff an opportunity to continue its review of the initial Form ATS–N disclosures and discussions with BIDS ATS.

In the conversations between BIDS ATS and Commission staff about the initial Form ATS–N disclosures and the ATS operations, Commission staff and BIDS ATS have discussed a potential amendment to update BIDS ATS's disclosures regarding the complexities of its operations. Extending the review period will enable the NMS Stock ATS to amend its disclosures, if appropriate, and allow Commission staff to conduct a thorough review of amendments to the initial disclosures provided on the initial Form ATS–N.

For the reasons given above, the Commission is extending the review period of the initial Form ATS–N submitted by BIDS ATS. Accordingly, pursuant to Rule 304(a)(1)(iv)(B), September 29, 2019 is the date by which the Commission may declare the initial Form ATS–N submitted by BIDS ATS ineffective.

By the Commission.

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11816 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

[1] An NMS Stock ATS (as defined in Rule 300(k) of Regulation ATS) that was operating pursuant to an initial operation report on Form ATS on file with the Commission as of January 7, 2019 is a ''Legacy NMS Stock ATS.'' 17 CFR 242.301(b)(2)(viii).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85985; File No. SR–CboeBZX–2019–046]**

## Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 21.7 Concerning Openings Following Trading Halts

May 31, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2019, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX Options'') proposes to amend Rule 21.7. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The proposed rule change harmonizes how the opening auction process will be used following all trading halts. Currently, the Exchange opens trading following a Regulatory Halt (as defined below) in a different manner than it opens trading following a non-Regulatory Halt. Specifically, current Rule 21.7(a) provides that the Exchange will accept market and limit orders and quotes for inclusion in the opening process (the ''Opening Process'') immediately upon trading being halted in an option series due to the primary listing market for the applicable underlying security declaring a regulatory trading halt, suspension, or pause with respect to such security (a ''Regulatory Halt''), with respect to equity options. For equity options, where a User has entered instructions not to cancel its open orders upon a halt pursuant to Rule 20.3(b), such orders will be queued for participation in the Opening Process for a Regulatory Halt or will be cancelled for a halt that is not a Regulatory Halt. Where trading is halted pursuant to Rule 20.3, but it is not due to a Regulatory Halt, there will be no Order Entry Period and trading shall be resumed upon the determination by the Exchange that the conditions which led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading.

The Exchange has determined to eliminate the distinction between how the opening auction process applies following a Regulatory Halt and a non-Regulatory Halt. The proposed rule change provides that the opening auction process following any trading halt will apply in the manner it currently applies following a Regulatory Halt. In other words, following a non-Regulatory Halt, there will be an Order Entry Period that begins immediately when the Exchange halts trading in a class. Additionally, in the event of a non-Regulatory Halt, the System will queue a User's orders and quotes resting on the book at the time of the trading halt for participation in the Opening Process following the trading halt, unless the User entered instructions to cancels its resting orders and quotes. This will provide Users with the ability to decide how its resting orders and quotes should be handled in the event of a non-Regulatory Halt, as they are currently able to do in the event of a Regulatory Halt. The Exchange also believes elimination of this distinction will eliminate potential investor confusion regarding how the System will handle orders and quotes in the event of a trading halt.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. In particular, the proposed rule change will protect investors by eliminating potential confusion regarding how the Exchange will open series following trading halts, and by providing Users with flexibility regarding how the System will handle their orders and quotes following a non-Regulatory Halt (as they currently have following a Regulatory Halt).

### *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 will not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Users will have the same flexibility regarding how the System will handle their orders and quotes following non-Regulatory Halts, which is the same flexibility currently available to Users following Regulatory Halts. If a User wants its orders and quotes to be handled following a non-Regulatory Halt in the manner they are today, that User can instruct the Exchange to do so. The proposed rule change will not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change only impacts how the Exchange will open series following a non-Regulatory Halt. The proposed change is not intended to be a competitive change, but rather to provide Users with flexibility with respect to the handling of their orders and quotes following a non-Regulatory Halt.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

[5] The proposed rule change also makes conforming changes throughout Rule 21.7, and other nonsubstantive changes to Rule 21.7.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 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

Continued

If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2019–046 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–2019–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2019–046 and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11804 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–85987; File No. SR–NASDAQ–2019–046]**

## Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Relocate the Order Audit Trail System Rules

May 31, 2019.

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 May 23, 2019, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to (a) rename the title of Equity 5 ''Order Audit Trail Services'' under the Exchange's rulebook (''Rulebook'') shell structure[3] to Equity 5 ''Order Audit Trail System''; (b) relocate its current Rule 7000A Series concerning the Order Audit Trail System (''OATS'') to Equity 5 ''Order Audit Trail System'' (as renamed by this proposal); and (c) make conforming cross-reference changes in Rules 5320A and IM–9216.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to (a) rename the title of Equity 5 ''Order Audit Trail Services'' under the Rulebook shell structure to Equity 5 ''Order Audit Trail System''; (b) relocate its current Rule 7000A Series concerning OATS to Equity 5 ''Order Audit Trail System'' (as renamed by this proposal); and (c) make conforming cross-reference changes in Rules 5320A and IM–9216, as detailed below.

1. Rename the Title of Equity 5

The title of Equity 5 is currently ''Order Audit Trail Services.'' The word ''Services'' was erroneously inserted when adopting the shell. The accurate word is ''System,'' which reflects the name of the FINRA Order Audit Trail System to which the rules thereunder apply. Consequently, the Exchange is making a corrective change to the name of the rule.

2. Relocation of the OATS Rules

The Exchange, as part of its continued effort to promote efficiency and the conformity of its rule structure with those of the Affiliated Exchanges,[4] and the goal of harmonizing and making its rule structure uniform, proposes to relocate the OATS rules, currently under the Rule 7000A Series, into Equity 5 ''Order Audit Trail System'' of the shell structure. Specifically, the Exchange will add the word ''Section''

of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In 2017, the Exchange added a shell structure to its Rulebook with the purpose of improving efficiency and readability and to align its rules closer to those of its five sister exchanges, Nasdaq BX, Inc. (''BX''); Nasdaq PHLX LLC (''Phlx''); Nasdaq ISE, LLC; Nasdaq GEMX, LLC; and Nasdaq MRX, LLC (''Affiliated Exchanges''). *See* Securities Exchange Act Release No. 82175 (November 29, 2017), 82 FR 57494 (December 5, 2017) (SR–NASDAQ–2017–125). This proposed change is the first of a total of three, which will move the OATS rules of Nasdaq, BX, and Phlx to their respective shell structures.

[4] *See* footnote 3.

and renumber the Rule 7000A Series as detailed in the table below:

| 7000A Series | Equity 5 |
|---|---|
| 7000A | Deleted. |
| 7400A | Equity 5. |
| 7410A | Section 1. |
| 7420A | Section 2. |
| 7430A | Section 3. |
| 7440A | Section 4. |
| 7450A | Section 5. |
| 7460A | Section 6. |
| 7470A | Deleted. |

The Exchange believes that the relocation of the OATS rules will facilitate the use of the Rulebook by Members [5] of the Exchange, including BX and Phlx members, and other market participants. Moreover, the proposed changes are of a non-substantive nature and they will not amend the relocated rules, other than to update their numbers as previously detailed.

3. Cross-Reference Updates

In connection with the changes described above, the Exchange proposes to update all internal and external cross-references in the Rulebook that direct the reader to the current placement of the OATS rules and/or any of their subsections. Specifically, the Exchange will update a cross-reference in Nasdaq Rule 5320A to OATS Rule 7440A, which will be renumbered Equity 5, Section 4. Similarly, the Exchange proposes to update the cross-reference in IM–9216 (Violations Appropriate for Disposition Under Plan Pursuant to SEC Rule 19d–1(c)(2)) that currently points to ''Rules 6954 and 6955.'' Rules 6954 and 6955 were respectively renumbered as OATS Rules 7440A and 7450A in 2012.[6] This cross-reference will be updated as Equity 5, Sections 4 and 5.

The Exchange also proposes to correct a cross-reference in current OATS Rule 7460A (to be renumbered Equity 5, Section 6) that points to Nasdaq Rule 2110. Rule 2110 (Standards of Commercial Honor and Principles of Trade) was renumbered as Nasdaq Rule 2010A and, therefore, its cross-reference in the Equity 5, Section 6 will be updated accordingly.[7]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by promoting efficiency and structural conformity of the Exchange's rules with those of the Affiliated Exchanges and to make the Exchange's Rulebook, in the present case, the OATS rules, easier to read and more accessible to its Members, including BX and Phlx members, and market participants. The Exchange believes that the correction to Equity 5's title, relocation of the OATS rules, and cross-reference updates are of a non-substantive nature.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes do not impose a burden on competition because, as previously stated, they (i) are of a non-substantive nature, (ii) are intended to harmonize the structure of the Exchange's rules with those of its Affiliated Exchanges, and (iii) are intended to organize the Rulebook in a way that it will ease the Members', including BX and Phlx members, and market participants' navigation and reading of the rules.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [12] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [13] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. Waiver of the operative delay would allow the Exchange to promptly relocate the OATS rules and continue to reorganize its Rulebook to promote efficiency and structural consistency between the Exchange's rules and those of BX and Phlx. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2019–046 on the subject line.

[5] Exchange Rule 0120(i).

[6] *See* Securities Exchange Act Release No. 68153 (November 5, 2012), 77 FR 67409 (November 9, 2012) (SR–NASDAQ–2012–124).

[7] *Id.*

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 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.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

*Paper Comments*

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2019–046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2019–046 and should be submitted on or before June 27, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

**Eduardo A. Aleman,**

*Deputy Secretary.*

[FR Doc. 2019–11801 Filed 6–5–19; 8:45 am]

**BILLING CODE 8011–01–P**

## DEPARTMENT OF STATE

**[Public Notice: 10786]**

### Bureau of Political-Military Affairs; Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

**AGENCY:** Department of State.

**SUMMARY:** Notice is hereby given that the Department of State has imposed statutory debarment under the International Traffic in Arms Regulations (''ITAR'') on persons convicted of violating, or conspiracy to violate, section 38 of the Arms Export Control Act (AECA).

**DATES:** Debarment imposed as of June 6, 2019.

**FOR FURTHER INFORMATION CONTACT:** Jae E. Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State. (202) 632–2107.

**SUPPLEMENTARY INFORMATION:** Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), restricts the Department of State from issuing licenses for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including section 38 of the AECA. The Department refers to this restriction as a limitation on ''export privileges,'' and implements it through section 127.11 of the ITAR. The statute and regulations permit the President to make certain exceptions to the restriction on export privileges on a case-by-case basis. Section 127.7(b) of the ITAR also provides for ''statutory debarment'' of any person who has been convicted of violating or conspiring to violate the AECA. Under this policy, persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are regulated by the ITAR.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States court, and as such the administrative debarment procedures outlined in part 128 of the ITAR are not applicable.

It is the policy of the Department of State that statutory debarment as described in section 127.7 of the ITAR lasts for a three year period following the date of conviction. Reinstatement from the policy of statutory debarment is not automatic, and in all cases the debarred person must submit a request to the Department of State and be approved for reinstatement from statutory debarment before engaging in any activities subject to the ITAR.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement from statutory debarment beginning one year after the date of the debarment. In response to a request for reinstatement from statutory debarment, the Department may determine to rescind the statutory debarment pursuant to section 127.7(b), or rescind the statutory debarment policy pursuant to section 127.7(b) and reinstate export privileges as described in section 127.11 of the ITAR. See 84 FR 7,411 for discussion on the Department's policy regarding reinstatement of export privileges and rescission of statutory debarment. The reinstatement of export privileges can be made only after the statutory requirements of section 38(g)(4) of the AECA have been satisfied.

Certain exceptions, known as transaction exceptions, may be made to this debarment determination on a case-by-case basis. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement from statutory debarment.

Pursuant to section 38(g)(4) of the AECA and section 127.7(c) of the ITAR, the following persons, having been convicted in a U.S. District Court, are denied export privileges and are statutorily debarred as of the date of this notice (Name; Date of Judgment; Judicial District; Case No.; Month/Year of Birth):

(1) Acosta-Moctezuma, Rogelio; May 22, 2018; Southern District of Texas; 7:16–cr–00712; December, 1978.

(2) Arredondo, Arnoldo Antonio; December 19, 2017; Southern District of Texas; 7:16–cr–00712; November, 1968.

(3) Barbieri, Frederik; July 20, 2018; Southern District of Florida; 1:18–cr–20060; July, 1971.

(4) Campos-Flores, Jose Jesus; October 16, 2017; District of Arizona; 4:17–cr–00159; December, 1995.

(5) De La Rosa, Juan Jesus; September 12, 2018; Southern District of Texas; 7:15–cr–00289; October, 1990.

(6) Inzunza, Shirley Trinity; January 22, 2018; District of Arizona; 4:16–cr–01503; January, 1994.

(7) Lerma, Luis Manuel; January 25, 2018; Southern District of Texas; 7:16–cr–00712; September, 1993.

(8) Luque, Barbara Jo; January 10, 2019; District of Arizona; 4:17–cr–01221; May, 1957.

[15] 17 CFR 200.30–3(a)(12).

(9) Morgovsky, Irina; November 5, 2018; Northern District of California; 3:16–cr–00411; August, 1951.

(10) Morgovsky, Naum; December 13, 2018; Northern District of California; 3:16–cr–00411; September, 1949.

(11) Nedoviz, Volodymyr; January 11, 2018; Eastern District of New York; 1:17–cr–00338; August, 1984.

(12) Padilla-Cruz, Ledis Omar (a.k.a. Omar Padilla); March 6, 2018; Western District of North Carolina; 3:17–cr–00233; January, 1979.

(13) Roberts, John Parker; December 14, 2017; Middle District of Tennessee; 3:16–cr–00199; January, 1990.

(14) Rezvanov, Eldar: July 24, 2018; Eastern District of Virginia; 1:18–cr–00206; May, 1990.

(15) Sydykov, Tengiz T.; January 11, 2019; Eastern District of Virginia; 1:18–cr–00212; June, 1989.

(16) Vazquez, Eduard Roel; April 16, 2018; Southern District of Texas; 7:17–cr–01768; June, 1992.

(17) Verma, Bharat; August 24, 2018; Northern District of Illinois; 1:15–cr–00018; July, 1940.

(18) Verma, Urvashi; August 24, 2018; Northern District of Illinois; 1:15–cr–00018; November, 1974.

(19) Vibgyor Optical Systems, Inc.; August 24, 2018; Northern District of Illinois; 1:15–cr–00018.

(20) Vlachos, Alexis; September 4, 2018; 2:15–cr–00006; District of Vermont; March, 1977.

(21) Wilson, Cory (a.k.a Jason Cory Wilson); January 11, 2018; Middle District of Tennessee; 3:16–cr–00199; July, 1974.

(22) Yassine, Fadi; August 3, 2017; Northern District of Iowa; 1:17–cr–00011; October, 1974.

(23) Zannoni, Giovanni; February 22, 2018; Eastern District of New York; 1:17–cr–00565; May, 1982.

At the end of the three-year period following the date of this notice, the above named persons/entities remain debarred unless a request for reinstatement from statutory debarment is approved by the Department of State.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see *e.g.,* sections 120.1(c) and (d), and 127.11(a)). Also, under section 127.1(d) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled transaction where such ineligible person may obtain benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and any export from or temporary import into the United States of defense articles, technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

**Stanley L. Brown,**

*Senior Bureau Official, Bureau of Political Military Affairs, U.S. Department of State.*

[FR Doc. 2019–11901 Filed 6–5–19; 8:45 am]

**BILLING CODE 4710–25–P**

## DEPARTMENT OF STATE

**[Public Notice: 10785]**

### Notice of Determinations; Culturally Significant Object Imported for Exhibition—Determinations: "Leonardo da Vinci's Saint Jerome" Exhibition

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that a certain object to be included in the exhibition ''Leonardo da Vinci's Saint Jerome,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at The Metropolitan Museum of Art, New York, New York, from on or about July 8, 2019, until on or about October 6, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

**Marie Therese Porter Royce,**

*Assistant Secretary, Educational and Cultural Affairs, Department of State.*

[FR Doc. 2019–11844 Filed 6–5–19; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Docket No. FAA–2019–0396]**

### Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Application for Employment With the Federal Aviation Administration; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice is a Correction to the notice published on May 14, 2019, due to invalid Docket number, updated comment deadline, as well as clarification for Respondents and their Frequency.

In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves an automated application process for employment with the Federal Aviation Administration. Applicants access an online form that is presented with requests for certain information.

The information collected is necessary to determine basic eligibility for employment and potential eligibility for Veteran's Preference, Veteran's Readjustment Act, and People with Disability appointments. In addition, there are specific occupation questions that assist the FAA Office of Human Resource Management (AHR) in determining candidates' qualifications in order that the best-qualified candidates are hired for the many FAA occupations.

**DATES:** Written comments should be submitted by August 5, 2019.

**ADDRESSES:** Please send written comments:

*By Electronic Docket: www.regulations.gov* (Enter docket number into search field).

*By mail:* Toni Main-Valentin, FAA Mike Monroney Aeronautical Center, Office of Human Resource Management,

P.O. Box 25082, Headquarters Bldg1, Oklahoma City, OK 73125.

*By fax:* 405–954–5766.

**FOR FURTHER INFORMATION CONTACT:** Toni Main-Valentin by email at: *toni.main-valentin@faa.gov;* phone: 405–954–0870.

**SUPPLEMENTARY INFORMATION:**

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120–0597.

*Title:* Application for Employment with the Federal Aviation Administration.

*Form Numbers:* FAA–3330–76.

*Type of Review:* Renewal of an information collection.

*Background*: Under the provisions of Public Law 104–50, the Federal Aviation Administration (FAA) was given the authority and the responsibility for developing and implementing its own personnel system without regard to most of the provisions of Title 5, United States Code, exceptions being those concerning veteran's preference and various benefits.

The OPM developed a suite of forms for use in automated employment processes: all under a single OMB approval. The FAA AHR has the same OMB approval for its automated application for employment. By automating processes for employment application and the evaluation of candidates, AHR has markedly improved the service it provides to the public as well as its ability to locate and hire the best-qualified applicants. Lastly, via this process, applicants are provided on-line results immediately upon submitting their application questionnaires.

The Agency is requesting certain information necessary to determine basic eligibility for employment and potential eligibility for Veteran's Preference, Veteran's Readjustment Act, and People with Disability appointments. In addition, occupation specific questions assist AHR in determining candidates' qualifications in order that the best-qualified candidates are hired for the many FAA occupations. The system currently in use for this collection is the Automated Vacancy Information Access Tool for Online Referral (AVIATOR). This system cannot be directly accessed. Applicants are transferred to the AVIATOR system from OPM's USAJOBS website during the application process.

*Respondents:* Over 180,000 US citizens identified as applicants for employment with the Federal Aviation Administration.

*Frequency:* On occasion/as interested.

*Estimated Average Burden per Response:* 1 hour.

*Estimated Total Annual Burden:* 180,000 hours.

Approximately 180,000 respondents will complete an application form on as needed basis. Based on this sample size, it will take the average applicant approximately 1 hour to read the instructions and complete the form. The estimated total burden is 180,000 hours annually.

Issued in Washington, DC, on May 16, 2019.

**Alpha Woodson-Smith,**

*Information Technology Project Manager, Finance and Management (AFN), Information and Technology Services (AIT), Enterprise Program Management Service (AEM–320).*

[FR Doc. 2019–11820 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Opportunity for Public Comment on a Request To Release Surplus Property at the Vidalia Regional Airport, Vidalia, Georgia

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** FAA is considering a request from the City of Vidalia to waive the requirement that 6.11 acres of surplus property located at the Vidalia Regional Airport be used for aeronautical purposes. Currently, the ownership of the property provides for the protection of FAR Part 77 surfaces and compatible land use which would continue to be protected with deed restrictions required in the transfer of land ownership. The land is owned and operated by the airport, but not currently in use or planned for aeronautical use.

**DATES:** Comments must be received on or before July 8, 2019.

**ADDRESSES:** Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Attn: Rob Rau, Planning Team Lead, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Nick Overstreet, City Manager, City of Vidalia at the following address: 114 Jackson Street, Vidalia, GA 30475.

**FOR FURTHER INFORMATION CONTACT:** Rob Rau, Planning Team Lead, Atlanta Airports District Office, 1701 Columbia Ave., Suite 220, Atlanta, GA 30337–2747, (404) 305–6799. The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA is reviewing a request to release 6.11 acres of surplus property at the Vidalia Regional Airport (VDI) under the provisions of 49 U.S.C. 47151(d). On May 1, 2019, the City of Vidalia requested the FAA release 6.11 acres of surplus property for economic development purposes. The FAA has determined that the proposed property release at the Vidalia Regional Airport, as submitted by the City, meets the procedural requirements of the FAA and release of the property does not and will not impact future aviation needs at the airport. The location of the land relative to existing or anticipated aircraft noise contours greater than 65 ldn are not considered to be an issue. The FAA may approve the request, in whole or in part, no sooner than thirty days after the publication of this notice. In accordance with 49 U.S.C. 47107(c)(2)(B)(i) and (iii), the airport will receive fair market value for the property, which will be subsequently reinvested in another eligible airport improvement project for aviation facilities at the Vidalia Regional Airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Vidalia Regional Airport.

Issued in Atlanta, Georgia, on May 31, 2019.

**Parks Preston,**

*Assistant Manager, Atlanta Airports District Office, Southern Region.*

[FR Doc. 2019–11899 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. FAA–2019–22]**

### Petition for Exemption; Summary of Petition Received; NetJets Aviation, Inc.

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

**ACTION:** Notice.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before June 26, 2019.

**ADDRESSES:** Send comments identified by docket number FAA–2019–0242 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

*Privacy:* 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 *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

*Docket:* Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Brittany Newton (202) 267–6691, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on May 14, 2019.

**Lirio Liu,**

*Executive Director, Office of Rulemaking.*

### PETITION FOR EXEMPTION

*Docket No.:* FAA–2019–0242.

*Petitioner:* NetJets Aviation, Inc. (NJA).

*Section(s) of 14 CFR Affected:* § 91.511(d).

*Description of Relief Sought:* To allow the use of a single long-range communication system (LRCS) utilizing voice communications as defined in 14 CFR Par 1.1. Any LRCS used to satisfy the requirements of the exemption, shall be a system authorized for use in the DXTK401D Management Specifications. If granted, this relief from 14 CFR 91.511(d) shall apply to any aircraft operated in the NJA Fractional Program (DXTK401D) under 14 CFR part 91 subpart k, within the U.S. NAS and international airspace. NJA extended overwater operations occur outside the U.S. NAS.

[FR Doc. 2019–11824 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[Docket No. FHW–2018–0046]**

### Executed Memorandum of Understanding Assigning FHWA's Environmental Review Responsibilities to the State of Arizona Under the Surface Transportation Project Delivery Program

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This notice announces the execution of the Memorandum of Understanding (MOU) and approval of the application from the Arizona Department of Transportation (State) requesting participation in the Surface Transportation Project Delivery Program (Program). It also summarizes and responds to the comments received on the draft MOU.

**FOR FURTHER INFORMATION CONTACT:** Neel Vanikar, Office of Project Development & Environmental Review, Federal Highway Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–2068, *neel.vanikar@dot.gov.*

David Sett, Office of Chief Counsel, Federal Highway Administration, U.S. Department of Transportation, 60 Forsyth Street 8M5, Atlanta, GA 30303, (404) 562–3676, *david.sett@dot.gov.*

Anthony Sarhan, Assistant Division Administrator, Federal Highway Administration Arizona Division, 4000 N. Central Avenue, Ste. 1500, Phoenix, AZ 85012–3500, (602) 379–3646, *anthony.sarhan@dot.gov.*

Steven Olmsted, NEPA Assignment Manager, Arizona Department of Transportation, Environmental Planning, 1611 West Jackson, Mail Drop EM02, Phoenix, AZ 85007, (602) 712–6421, *solmsted@azdot.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register**'s home page at *http://www.archives.gov* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

#### Background

Section 327 of Title 23, United States Code (23 U.S.C. 327), allows the Secretary of the DOT, to assign, and a State to assume, the Secretary's National Environmental Policy Act of 1969 (NEPA) responsibilities and all or part of the Secretary's responsibilities for environmental review, consultation, or other actions required under any other Federal environmental law with respect to one or more Federal-aid highway projects. The FHWA is authorized to act on behalf of the Secretary with respect to these matters.

The State has submitted application materials requesting to participate in this Program. The FHWA has reviewed these application materials, which include public and Agency comments on the application, and has determined them complete. The FHWA and the State developed a draft MOU outlining how the State will implement the Program and how FHWA will oversee the State's implementation as required by 23 U.S.C. 327. The FHWA published a notice in the **Federal Register** on February 11, 2019, at 84 FR 3275,

providing the public an opportunity to comment on the preliminary decision to approve the State's application and public and Agency comments on the MOU.

The FHWA received 51 comments in response to the **Federal Register** Notice. Nine comments were in support of the application and the State's readiness for this assignment. An additional 42 comments expressed concern for the State's ability to assume FHWA's responsibilities for a particular project or generally for the Program. The comments in opposition mentioned concerns for the State's ability to manage the environmental review process for the Interstate 11 (I–11) and Sonoran Corridor Tier II Environmental Impact Statements (EIS).

The FHWA has considered these comments and offers the following responses. The FHWA notes that by signing the MOU and the State accepting the jurisdiction of the Federal courts in cases that involve the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State pursuant to the MOU, the State has taken on both the responsibility and liability for meeting all environmental laws under NEPA. Under the Program, the State will make the project-level decisions in relation to NEPA on highway projects within the State; however, other Federal agencies will continue to make decisions respective to their own project-level responsibilities. In the State's application, the State describes its procedures, manuals, and a Quality Assurance/Quality Control plan that will guide the State in fulfilling its NEPA responsibilities under the MOU. Furthermore, FHWA will oversee the State's compliance with the terms of the MOU through auditing and monitoring. The FHWA will make the results of all audits available to the public through notices in the **Federal Register**.

With the execution of the MOU, the State becomes responsible for project-level environmental review decisions for projects, including those not excluded from assignment, for which review began prior to this date. The FHWA excluded the Tier 1 EIS studies for I–11 and the Sonoran Corridor from assignment to the State since they are both nearing completion. However, FHWA assigned the responsibilities for the Tier-2 EISs for these corridors because the State has the capacity and ability to complete the EISs without FHWA's involvement in the process.

The FHWA Arizona Division, in consultation with FHWA Headquarters, has reviewed all the comments received and determined that the State's application meets all regulatory requirements. Pursuant to the MOU, FHWA assigns and the State assumes FHWA's environmental review responsibilities under NEPA, and all or part of FHWA's responsibilities for environmental review, consultation, or other actions required under any Federal environmental law with respect to one or more Federal-aid highway projects within the State. The executed MOU specifies the assignments and assumptions of NEPA responsibilities and scope of environmental review, consultation and other activities. This notice in the **Federal Register** makes the executed MOU available to the public.

A copy of the proposed MOU may be viewed on the online docket, as described above, or may be obtained by contacting FHWA or the State at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 327; 42 U.S.C. 4331, 4332; 23 CFR 771.101–139; 23 CFR 773.109; 40 CFR 1507.3; and 49 CFR 1.85.

**Nicole R. Nason,**

*Administrator, Federal Highway Administration.*

[FR Doc. 2019–11900 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket No. DOT–MARAD–2019–0096]**

### Request for Comments of a Previously Approved Information Collection

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 1, 2019.

**DATES:** Comments must be submitted on or before July 8, 2019.

**ADDRESSES:** Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Michael Pucci, Office of Maritime Programs, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE, W26–494, Washington, DC 20590, 202–366–5167.

**SUPPLEMENTARY INFORMATION:**

*Title:* Requirements for Establishing U.S. Citizenship—46 CFR 355.

*OMB Control Number:* 2133–0012.

*Type of Request:* Renewal of a Previously Approved Information Collection.

*Background:* In accordance with 46 CFR part 355, shipowners, charterers, equity owners, ship managers, etc., seeking benefits provided by statute are required to provide on an annual basis, an Affidavit of U.S. Citizenship to the Maritime Administration (MARAD) for analysis. The Affidavits of U.S. Citizenship filed with MARAD will be reviewed to determine if the Applicants are eligible to participate in the programs offered by the agency.

*Respondents:* Shipowners, charterers, equity owners, ship managers.

*Affected Public:* Business or other for profit.

*Total Estimated Number of Responses:* 500.

*Frequency of Collection:* Annually.

*Estimated time per Respondent:* 5 hours.

*Total Estimated Number of Annual Burden Hours:* 2,500.

*Public Comments Invited:* Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93) * * *.

Dated: June 3, 2019.

By Order of the Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2019–11904 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–81–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**[Docket No. NHTSA–2017–0012; Notice 2]**

### BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** BMW of North America, LLC (BMW), has determined that certain model year (MY) 2017 BMW 330i and 330i xDrive motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/ Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.* BMW filed a noncompliance report dated January 26, 2017, and subsequently petitioned NHTSA on February 17, 2017, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of BMW's petition.

**FOR FURTHER INFORMATION CONTACT:** Kerrin Bressant, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–1110, facsimile (202) 366–3081.

**SUPPLEMENTARY INFORMATION:**

*I. Overview:* BMW has determined that certain MY 2017 BMW 330i and 330i xDrive motor vehicles do not fully comply with paragraphs S4.3(c) and S4.3(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/ Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less* (49 CFR 571.110). BMW filed a noncompliance information report dated January 26, 2017, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* BMW subsequently petitioned NHTSA on February 17, 2017, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of BMW's petition was published in the **Federal Register** (82 FR 7511) with a 30-day public comment period, on April 11, 2017. No comments were received. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) website at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2017–0012.''

*II. Vehicles Involved:* Approximately 3,300 MY 2017 BMW 330i and 330i xDrive motor vehicles, manufactured between August 1, 2016, and December 1, 2016, are potentially involved.

*III. Noncompliance:* BMW explains that the noncompliance is that the vehicle placard on the subject vehicles states that the vehicles were equipped with 18-inch tires when in fact the subject vehicles were actually equipped with 17-inch tires. The vehicle placard also states that the cold tire inflation pressure for the rear tires is 240 kPa/35 psi when it should read 220 kPa/32 psi. Thus, the subject vehicles do not fully comply with paragraphs S4.3(c) and (d) of FMVSS No. 110.

*IV. Rule Text:* Paragraphs S4.3(c) and (d) of FMVSS No. 110 include the requirements relevant to this petition:

- Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in paragraph S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in paragraph S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and with two doors on the driver's side of the vehicle opening in opposite directions, the placard shall be affixed on the forward edge of the rear side door.
- Vehicle manufacturers' recommended cold tire inflation pressure for the front, rear and spare tires are subject to the limitations of paragraph S4.3.4. For full-size spare tires, the statement ''see above'' may, at the manufacturer's option, replace manufacturer's recommended cold tire inflation pressure. If no spare tire is provided, the word ''none'' must replace the manufacturer's recommended cold tire inflation pressure.
- Tire size designation, indicated by the headings ''size'' or ''original tire size,'' and ''spare tire'' or ''spare,'' for the tires installed at the time of first purchase for purposes other than resale. For full-size spare tires, the statement ''see above'' may, at the manufacturer's option, replace the tire size designation. If no spare tire is provided, the word ''none'' must replace the tire size designation; . . .

*V. Summary of BMW's Petition:* BMW described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, BMW submitted the following reasoning:

*1. Overview of Tire Information Placards for 17-inch Tires and 18-inch Tires:* Although affected vehicles were properly equipped with 17-inch tires, the FMVSS No. 110 tire information placard states that the vehicles were equipped with 18-inch tires. The placard includes the manufacturer's recommended cold tire inflation pressure and tire size designation for the 18-inch tires.

Additionally, affected vehicles were equipped with a tire information placard intended for the BMW 320i model, although affected vehicles are the BMW 330i and 330i xDrive models.

Notably, the tire information placard for the 18-inch rear tires denotes a cold tire inflation pressure value of 35 psi, whereas the placard for the 17-inch rear tire denotes a cold tire inflation pressure value of 32 psi. This will not result in a vehicle overload condition as explained in further detail below.

*2. Using Tire Information Placard to Set Tire Pressure:* If a vehicle operator uses the tire information placard to set the tire pressures, the tire pressures will be set at 32 psi and 35 psi for the front and for the rear tires, respectively. This will not lead to a vehicle overload condition as explained below:

For the front tires, the tire information placard displays the manufacturer's recommended cold tire inflation pressure value which is identical to that which is required for the tires equipped on the vehicles.

For the rear tires, the tire information placard displays the manufacturer's recommended cold tire inflation pressure value, which is larger than that which is required for the tires equipped on the vehicle.

Therefore, a vehicle operator would not inflate the front and rear tires to a tire pressure which is lower than that which is required. In other petitions in which there exists the possibility to inflate tires to a tire pressure value which is lower than the required value, calculations can be performed to show that even in those cases, the equipped tires at the lower tire pressure value still have sufficient load carrying capacity, and therefore will not lead to a vehicle overload condition. Such calculations can be performed using either axle load limits or using individual tire load limits.

However, for the vehicles that are the subject of this petition, that possibility

does not exist. The vehicle operator would not underinflate the front tires or the rear tires; therefore, such calculations are not necessary for this petition.

*3. Using Other Information Sources to Set Tire Pressure:* If a vehicle operator notices that the tires depicted on the tire information placard do not correspond to the tires equipped on the vehicle, there are a number of information sources and services available, which can be used to identify the correct tire pressure and, therefore, achieve the proper inflation level for the tires equipped on the vehicle.

- *Sources That Point to the Vehicle Owner's Manual*
  - —FMVSS No. 110 paragraph S4.3(f) requires that the tire information placard contain the following statement: ''See Owner's Manual for Additional Information''. Therefore, the tire information placard will help point the vehicle operator to the Owner's Manual in order to identify the correct tire inflation pressures for use on the vehicle.
  - —FMVSS No. 138 paragraph S4.5(a) requires that the Owner's Manual contain the following text:

''Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (*If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, you should determine the proper tire inflation pressure for those tires.*)''

Vehicle Operators who attempt to check the vehicle's tire pressure on a routine schedule (*e.g.,* monthly, as noted above), or when necessary, would be pointed to the Owner's Manual for additional clarifying information. Therefore, after reviewing this information, it is likely that they would inflate the tires to the recommended cold tire inflation pressure. This is explained in further detail below.

A vehicle operator could check the specific tires installed on the vehicle which, in this case, are 17-inch tires. The information that is stamped onto the sidewall of the tires identifies the tire size. Subsequent to checking and identifying the installed tires, the vehicle operator could consult the vehicle Owner's Manual, or contact BMW Roadside Assistance™, BMW Assist™, or BMW Customer Relations, for further information in order to set the correct tire pressure. This is explained in further detail below.

- *Owner's Manual*

The vehicle Owner's Manual contains information pertaining to the various tire sizes and tire pressures available for use on the affected vehicles.

Affected vehicles contain a tire information placard denoting 18-inch tires having a front, and rear, tire pressure of 32 psi and 35 psi. However, affected vehicles (BMW 330i, 330i xDrive) were equipped with 17-inch tires in which a front, and a rear, tire pressure should be 32 psi. Therefore, a vehicle operator would be able to check the Owner's manual, identify the correct tires equipped on the vehicle, and then set the tire inflation pressures to the correct levels.

Additionally, affected vehicles are also equipped with an in-vehicle electronic Owner's Manual accessed through the iDrive™ controller containing the same information as in the hardcopy Owner's Manual.

Furthermore, the electronic Owner's Manual also contains contact information for BMW Roadside Assistance™, and if equipped also BMW Assist™, and BMW Customer Relations. Vehicle operators can use these additional information sources and services to identify the correct tires equipped on the vehicle and then set the tire inflation pressures to the correct levels.

- *BMW Roadside Assistance*™

BMW Roadside Assistance™ (available 24 hours/day) representatives have information available indicating by vehicle model and model year, all of the available tire sizes and specifications for the affected vehicles. All affected vehicles contain a reference to, and instructions for contacting, BMW Roadside Assistance™ in the vehicle Owner's Manual. Therefore, if contacted, BMW Roadside Assistance™ would be able to help the vehicle operator determine the correct tire pressure for use on the vehicle.

Vehicle operators are able to contact BMW Roadside Assistance™ using the toll-free telephone number located:

- —On the BMW Roadside Assistance™ Card located in the vehicle's portfolio
- —on one, or more, BMW Roadside Assistance™ specific Labels in the vehicle
- —within the vehicle's Quick Reference Guide
- —within the vehicle's Service and Warranty Book

Vehicle Operators are also able to contact BMW Roadside Assistance™ using the:

- —In-vehicle iDrive™ controller and menu option for BMW Roadside Assistance™.
- —in-vehicle emergency call button on the overhead console.

- *BMW Assist*™

BMW Assist™ (available 24 hours/day) representatives have information available indicating by vehicle model and model year, all of the available tire sizes and specifications for the affected vehicles. All affected vehicles contain a reference to, and instructions for contacting, BMW Assist™ in the vehicle Owner's Manual. Therefore, if contacted, BMW Assist™ would be able to help the vehicle operator determine the correct tire pressures for use on the vehicle.

Vehicle Operators are able to contact BMW Assist™ by using the:

- —In-vehicle iDrive™ controller and menu option for BMW Assist™
- —in-vehicle emergency call button on the overhead console

Vehicles with BMW Assist™ contain a BMW Assist™ Book located in the vehicle's portfolio with contact information for BMW Assist™, BMW Roadside Assistance™, and BMW Customer Relations.

- *BMW Customer Relations*

If a vehicle operator contacts BMW Customer Relations and provides the Vehicle Identification Number, a Customer Relations Representative will be able to inform the vehicle operator of the specific vehicle configuration. Therefore, if contacted, BMW Customer Relations would be able to help the vehicle operator determine the correct tire pressures for use on the vehicle.

Vehicle Operators are able to contact BMW Customer Relations by:

- —Using the toll-free telephone number located in the vehicle Owner's Manual and the Service and Warranty Book
- —using the in-vehicle iDrive™ controller and menu option for BMW Customer Relations
- —contacting BMW Assist™ who can, if necessary, transfer the vehicle operator to BMW Customer Relations

*4. Field Experience:*

**Owner Contacts to BMW Customer Relations**

BMW Customer Relations has not received any contacts from vehicle owners regarding this issue. Therefore, BMW is unaware that any vehicle owner has encountered this issue.

**Accidents/Injuries**

BMW is unaware of any accidents or injuries that have occurred as a result of this issue.

*5. Prior NHTSA Grants to Manufacturer Petitions:* NHTSA has

previously granted petitions for inconsequential noncompliance regarding FMVSS No. 110 involving vehicles whereby the tire information placard contained tire size and tire pressure information which did not match the tires equipped on the vehicle. In particular, it was shown that although the tire information placard displayed the manufacturer's recommended cold tire inflation pressure which was a smaller value than that which was required for the tires equipped on the vehicle, the load carrying capacity of the equipped tires, at this smaller tire pressure, was still sufficient and would not lead to a vehicle overload condition.

For the affected vehicles that are the subject of this petition, the FMVSS No. 110 tire information placard displays the manufacturer's recommended cold tire inflation pressure value for the *front* tires which is identical to that which is required for the tires equipped on the vehicle and, displays the manufacturer's recommended cold tire inflation pressure value for the *rear* tires which is larger than the value which is required for the tires equipped on the vehicle. Consequently, there is no risk of an underinflated tire, the load carrying capacity of the equipped tires is still sufficient and, therefore, there is no risk of a vehicle overload condition.

Nevertheless, as a reference, and for comparison to this petition, NHTSA has granted petitions from manufacturers in cases where the tire information placard displayed a tire inflation pressure value which was smaller than that which was required for the tires equipped on the vehicle. (See BMW, 81 FR 62970, September 13, 2016; BMW, 78 FR 76408, December 17, 2013; and Volkswagen, 78 FR 28287, May 14, 2013)

*6. Vehicle Production:* Vehicle production has been corrected to conform to FMVSS No. 110 paragraphs S4.3(c) and S4.3(d).

BMW concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

*VI. NHTSA Analysis:* BMW explains that the noncompliance is that the subject vehicles were equipped with 17-inch tires, although, the vehicle placard (referred to as the tire and information placard by BMW) states that the vehicles were equipped with 18-inch tires and includes the manufacturer's recommended cold tire inflation pressure and tire size designation for the 18-inch tires. Therefore, the affected vehicles do not conform to FMVSS 110 paragraphs S4.3(c) and 4.3(d).

The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires appropriate to handle maximum vehicle loads and to prevent overloading.

FMVSS No. 110 requires that the original tires installed on a vehicle and the tires listed on the vehicle placard be the same size and that the tires, at the manufacturer recommended inflation pressure, be appropriate for the designed vehicle maximum load conditions. If a customer were to look at the vehicle placard to determine recommended inflation pressure values they would see values intended for the 18-inch tire and not the 17-inch tire. If the customer does not notice that their vehicle has 17-inch tires installed they may use the 18-inch tire inflation pressure values, which are the same for the tires on the front axle but larger for the tires on the rear axle. If this were the case, calculations show that the 17-inch tire load carrying capacity of the rear tires at the 18-inch tire delineated pressure is appropriate for the subject vehicle's rear GAWR. Specifically, if a vehicle owner inflated their tires to the inflation pressure listed for the 18-inch tires, the result would be an increase to 240 kPa/35 psi for the rear tires and a net increase in load capacity for the vehicle overall. Alternatively, if the vehicle owner installed 18-inch tires on the subject vehicle, those tires at the listed cold inflation pressure would also be appropriate, as required by FMVSS No. 110, for the subject vehicle's front and rear GAWRs.

The agency agrees with BMW that the subject noncompliance is inconsequential to motor vehicle safety and that there is no risk of possible underinflating or overloading of the tires and should a vehicle owner question the correct tire size or corresponding recommended cold tire inflation pressures for the their vehicle, this information is available in other locations such as the sidewall markings and the owner's manual.

*VII. NHTSA's Decision:* In consideration of the foregoing analysis, NHTSA finds that BMW has met its burden of persuasion that the subject FMVSS No. 110 noncompliance in the subject vehicles is inconsequential to motor vehicle safety.

Accordingly, BMW's petition is hereby granted and BMW is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that BMW no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW notified them that the subject noncompliance existed.

**Authority:** 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2019–11791 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2019–0100]**

### Hazardous Materials Safety: Notice of Availability of the Draft Environmental Assessment for a Special Permit Request for Liquefied Natural Gas by Rail

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Notice.

**SUMMARY:** PHMSA announces the availability for public review and comment of the draft environmental assessment for a special permit request to transport ''Methane, Refrigerated Liquid'' (*i.e.,* liquefied natural gas) by rail tank car.

**DATES:** Comment must be received by July 8, 2019. To the extent possible, PHMSA will consider late-filed comments.

**ADDRESSES:** Comments should reference the Docket number for this notice and may be submitted in the following ways:

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

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Instructions:* All submissions must include the agency name and Docket Number (PHMSA–2019–0100) for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS) and will include any personal information you provide. If sent by mail, comments must be submitted in duplicate. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

*Docket:* For access to the dockets to read associated documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

*Privacy Act:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its process. DOT posts these comments, without change, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

**FOR FURTHER INFORMATION CONTACT:** Ryan Paquet by telephone at 202–366–4511, or email at *specialpermits@dot.gov.*

**SUPPLEMENTARY INFORMATION:** PHMSA received a request for special permit from Energy Transport Solutions, LLC seeking authorization to transport ''Methane, Refrigerated Liquid'' (UN1972), commonly known and liquefied natural gas (LNG), in a rail tank car. Specifically, the request is to authorize shipment of LNG in a DOT specification 113C120W tank car subject to certain operational conditions. We invite interested persons to review and provide comment on the ''draft environmental assessment'' for this special permit request. Please include comment on potential safety, environmental, and any additional impacts that should be considered. The document is available at *http://www.regulations.gov* under Docket number PHMSA–2019–0100. PHMSA has also included the draft special permit in the docket for this notice as further reference material. Before issuing a final decision on the special permit request, PHMSA will evaluate all comments and consider each relevant comment we receive in making our decision to grant or deny the request for special permit.

Issued in Washington, DC, on June 3, 2019, under authority delegated in 49 CFR 1.97.

**William S. Schoonover,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2019–11882 Filed 6–5–19; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Credit for Renewable Electricity Production and Refined Coal Production, and Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2019

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice.

**SUMMARY:** The 2019 inflation adjustment factor and reference prices are used in determining the availability of the credit for renewable electricity production and refined coal production under section 45. As of October 2, 2018, the credit period for small irrigation power electricity production expired.

**FOR FURTHER INFORMATION CONTACT:** Martha M. Garcia, CC:PSI:6, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, (202) 317–6853 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Publication of inflation adjustment factor and reference prices for calendar year 2019 as required by sections 45(e)(2)(A) (26 U.S.C. 45(e)(2)(A)) and 45(e)(8)(C) (26 U.S.C. 45(e)(8)(C)) of the Internal Revenue Code.

The 2019 inflation adjustment factor and reference prices apply to calendar year 2019 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources and to 2019 sales of refined coal produced in the United States or a possession thereof.

*Inflation Adjustment Factor:* The inflation adjustment factor for calendar year 2019 for qualified energy resources and refined coal is 1.6396.

*Reference Prices:* The reference price for calendar year 2019 for facilities producing electricity from wind is 5.18 cents per kilowatt hour. The reference prices for fuel used as feedstock within the meaning of section 45(c)(7)(A) (relating to refined coal production) are $31.90 per ton for calendar year 2002 and $49.23 per ton for calendar year 2019. The reference prices for facilities producing electricity from closed-loop biomass, open-loop biomass, geothermal energy, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy have not been determined for calendar year 2019.

*Phaseout Calculation:* Because the 2019 reference price for electricity produced from wind (5.18 cents per kilowatt hour) does not exceed 8 cents multiplied by the inflation adjustment factor (1.6396), the phaseout of the credit provided in section 45(b)(1) does not apply to such electricity sold during calendar year 2019. Because the 2019 reference price of fuel used as feedstock for refined coal ($49.23) does not exceed $88.92 (which is the $31.90 reference price of such fuel in 2002 multiplied by the inflation adjustment factor (1.6396) and 1.7), the phaseout of the credit provided in section 45(e)(8)(B) does not apply to refined coal sold during calendar year 2019. Further, for electricity produced from closed-loop biomass, open-loop biomass, geothermal energy, municipal solid waste, qualified hydropower production, and marine and hydrokinetic renewable energy, the phaseout of the credit provided in section 45(b)(1) does not apply to such electricity sold during calendar year 2019.

*Credit Amount by Qualified Energy Resource and Facility and Refined Coal:* As required by section 45(b)(2), the 1.5 cent amount in section 45(a)(1) and the $4.375 amount in section 45(e)(8)(A) are each adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount is rounded to the nearest multiple of 0.1 cent. In the case of electricity produced in open-loop biomass facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities, section 45(b)(4)(A) requires the amount in effect under section 45(a)(1) (before rounding to the nearest 0.1 cent) to be reduced by one-half. Under the calculation required by section 45(b)(2), the credit for renewable electricity production for calendar year 2019 under section 45(a) is 2.5 cents per kilowatt hour on the sale of electricity produced from the qualified energy

resources of wind, closed-loop biomass, and geothermal energy, and 1.2 cents per kilowatt hour on the sale of electricity produced in open-loop biomass facilities, landfill gas facilities, trash facilities, qualified hydropower facilities, and marine and hydrokinetic renewable energy facilities. Under the calculation required by section 45(b)(2), the credit for refined coal production for calendar year 2019 under section 45(e)(8)(A) is $7.173 per ton on the sale of qualified refined coal.

**Christopher T. Kelley,**

*Special Counsel (Passthroughs and Special Industries).*

[FR Doc. 2019–11810 Filed 6–5–19; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### Solicitation of Nominations for Appointment to the Advisory Committee on Minority Veterans

**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA), Center for Minority Veterans (CMV), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on Minority Veterans (''the Committee'').

**DATES:** Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on July 15, 2019.

**ADDRESSES:** All nominations should be mailed to the Center for Minority Veterans, Department of Veterans Affairs, 810 Vermont Ave. NW (00M), Washington, DC 20420 or faxed to (202) 273–7092.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Sagudan and/or Mr. Dwayne Campbell, Center for Minority Veterans, Department of Veterans Affairs, 810 Vermont Ave. NW (00M), Washington, DC 20420, Telephone (202) 461–6191. A copy of the Committee charter and list of the current membership can be obtained by contacting Mr. Sagudan or Mr. Campbell or by accessing the website managed by CMV at *www.va.gov/centerforminorityveterans/Advisory_Committee.asp.*

**SUPPLEMENTARY INFORMATION:** In carrying out the duties set forth, the Committee responsibilities include, but are not limited to:

(1) Advising the Secretary and Congress on VA's administration of benefits and provisions of healthcare, benefits, and services to minority Veterans.

(2) Providing an Annual report to congress outlining recommendations, concerns and observations on VA's delivery of services to minority Veterans.

(3) Meeting with VA officials, Veteran Service Organizations, and other stakeholders to assess the Department's efforts in providing benefits and outreach to minority Veterans.

(4) Making periodic site visits and holding town hall meetings with Veterans to address their concerns.

Management and support services for the Committee are provided by the Center for Minority Veterans (CMV).

*Authority:* The Committee was established in accordance with 38 U.S.C. 544 (Pub. L. 103–446, Sec 510). In accordance with 38 U.S.C. 544, the Committee advises the Secretary on the administration of VA benefits and services to minority Veterans; assesses the needs of minority Veterans with respect to such benefits; and evaluates whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee makes recommendations to the Secretary regarding such activities. Nominations of qualified candidates are being sought to fill upcoming vacancies on the Committee.

*Membership Criteria:* CMV is requesting nominations for upcoming vacancies on the Committee. The Committee is currently composed of 12 members, in addition to ex-officio members. As required by statute, the members of the Committee are appointed by the Secretary from the general public, including:

(1) Representatives of Veterans who are minority group members;

(2) Individuals who are recognized authorities in fields pertinent to the needs of Veterans who are minority group members;

(3) Veterans who are minority group members and who have experience in a military theater of operations;

(4) Veterans who are minority group members and who do not have such experience and;

(5) Women Veterans who are minority group members recently separated from active military service.

Section 544 defines ''minority group member'' as an individual who is Asian American, Black, Hispanic, Native American (including American Indian, Alaska Native, and Native Hawaiian); or Pacific-Islander American.

In accordance with § 544, the Secretary determines the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any member for additional terms of service.

*Professional Qualifications:* In addition to the criteria above, VA seeks—

(1) Diversity in professional and personal qualifications;

(2) Experience in military service and military deployments (please identify Branch of Service and Rank);

(3) Current work with Veterans;

(4) Committee subject matter expertise;

(5) Experience working in large and complex organizations;

*Requirements for Nomination Submission:* Nominations should be type written (one nomination per nominator). Nomination package should include: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae, and (4) a summary of the nominee's experience and qualification relative to the *professional qualifications* criteria listed above.

Individuals selected for appointment to the Committee shall be invited to serve a two-year term. Committee members will receive a stipend for attending Committee meetings, including per diem and reimbursement for travel expenses incurred.

The Department makes every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, males & females, racial and ethnic minority groups, and the disabled are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: May 31, 2019.

**Jelessa M. Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2019–11786 Filed 6–5–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF VETERANS AFFAIRS

### Advisory Committee Charter Renewals

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Advisory Committee charter renewals.

**SUMMARY:** In accordance with the provisions of the Federal Advisory Committee ACT (FACA) and after consultation with the General Services Administration, the Secretary of Veterans Affairs has determined that the following Federal advisory committee is vital to the mission of the Department of Veterans Affairs (VA) and renewing its charter would be in the public interest. Consequently, the charter for the following Federal advisory committee is renewed for a two-year period, beginning on the dates listed below:

| Committee name | Committee description | Charter renewed on |
|---|---|---|
| Cooperative Studies Scientific Evaluation Committee. | Provides advice on VA cooperative studies, multi-site clinical research activities, and policies related to conducting and managing these efforts and ensures that new and ongoing projects maintain high quality, are based upon scientific merit, and are efficiently and economically conducted. | May 14, 2018. |
| Health Services Research and Development Service Scientific Merit Review Board. | Provides advice on the fair and equitable selection of the most meritorious research projects for support by VA research funds; ensures the high quality and mission relevance of VA's legislatively mandated research and development program; advises on the scientific and technical merit, originality, feasibility, and mission relevance of individual research proposals; and advises on the adequacy of protection of human and animal subjects. | May 14, 2018. |
| Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board. | Provides advice on the scientific quality, budget, safety, and mission relevance of investigator-initiated research proposals submitted for VA merit review consideration. | May 14, 2018. |
| Rehabilitation Research and Development Service Scientific Merit Review Board. | Provides advice on the fair and equitable selection of the most meritorious research projects for support by VA research funds; provides advice for research program officials on program priorities and policies; and ensures that the VA Rehabilitation and Development program promotes functional independence and improves the quality of life for impaired and disabled Veterans. | May 14, 2018. |

The Secretary also determined that the following Federal advisory committee is vital to VA and reestablished its charter:

| Committee name | Committee description | Charter renewed on |
|---|---|---|
| Department of Veterans Affairs Voluntary Service National Advisory Committee. | Provides advice on how to coordinated and promote volunteer activities within VA health care facilities. | March 7, 2019. |

The Secretary has also renewed the charter for the following statutorily authorized Federal advisory committee for a two-year period, beginning on the date listed below:

| Committee name | Committee description | Charter renewed on |
|---|---|---|
| Advisory Committee on Former Prisoners of War ... | Provides advice on the administration of benefits for Veterans who are former prisoners of war, their survivors, and the needs of such Veterans and their families in the areas of service-connected compensation, dependency and indemnification compensation, health care, and rehabilitation. | June 21, 2018. |
| Geriatrics and Gerontology Advisory Committee ..... | Provides advice on all matters pertaining to geriatrics and gerontology. | July 16, 2018. |
| Research Advisory Committee on Gulf War Veterans' Illnesses. | Provides advice on proposed research studies, research plans, or research strategies relating to the health effects of military service in Southwest Asia during Gulf War. | January 30, 2019. |
| Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities. | Provides advice on structural safety in the construction and remodeling of VA facilities, and to recommend standards for use by VA in the construction and alteration of facilities. | March 12, 2019. |
| Veterans' Advisory Committee on Education ..... | Provides advice on the administration of education and training programs for Veterans and Servicepersons, Reservists, and dependents of Veterans under Chapters 30, 32, 35, and 36 of Title 38, and Chapter 1606 of Title 10, United States Code. | March 12, 2019. |

| Committee name | Committee description | Charter renewed on |
| --- | --- | --- |
| National Research Advisory Council | Provides advice on research and development sponsored and/or conducted by the Veterans Health Administration, to include policies and programs of the Office of Research and Development. | May 14, 2019. |
| Veterans' Family, Caregiver, and Survivor Advisory Committee. | Provides advice related to Veterans' families, caregivers, and survivors across all generations, relationships, and Veteran status; the use of VA care and benefits services by Veterans' families, caregivers, and survivors, and possible expansion of such are and benefits services; Veterans' family, caregiver, and survivor experiences, and VA policies, regulations, and administrative requirements related to the transition of Service members from the Department of Defense to enrollment in VA that impact Veterans' families, caregivers, and survivors; and factors that influence access to, quality of, and accountability for services and benefits for Veterans' family, caregivers, and survivors. | May 15, 2019. |

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Moragne, Committee Management Office, Department of Veterans Affairs, Advisory Committee Management Office (00AC), 810 Vermont Avenue NW, Washington, DC 20420; telephone (202) 266–4660; or email at *Jeffrey.Moragne@va.gov.* To view a copy of a VA Federal advisory committee charters, please visit *http://www.va.gov/advisory.*

Dated: June 3, 2019.

**Jelessa M. Burney,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2019–11867 Filed 6–5–19; 8:45 am]

**BILLING CODE P**

# FEDERAL REGISTER

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Part II

## Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Parts 340 and 372

Movement of Certain Genetically Engineered Organisms; Proposed Rules

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Parts 340 and 372

**[Docket No. APHIS–2018–0034]**

**RIN 0579–AE47**

## Movement of Certain Genetically Engineered Organisms

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to revise our regulations regarding the movement (importation, interstate movement, and environmental release) of certain genetically engineered organisms in response to advances in genetic engineering and our understanding of the plant pest risk posed by them, thereby reducing regulatory burden for developers of organisms that are unlikely to pose plant pest risks. This proposed rule, which would mark the first comprehensive revision of the regulations since they were established in 1987, would provide a clear, predictable, and efficient regulatory pathway for innovators, facilitating the development of new and novel genetically engineered organisms that are unlikely to pose plant pest risks.

**DATES:** We will consider all comments that we receive on or before August 5, 2019.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0034*.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0034, 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-2018-0034* 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. Alan Pearson, Assistant Deputy Administrator, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 98, Riverdale, MD 20737–1238; (301) 851–3944.

**SUPPLEMENTARY INFORMATION:**

### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) administers the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe are Plant Pests'' (referred to below as the regulations).

These regulations govern the introduction (importation, interstate movement, or release into the environment) of certain genetically engineered (GE) organisms.

Along with the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA), APHIS is responsible for the oversight and review of GE organisms. In 1986, the Coordinated Framework for Regulation of Biotechnology (Coordinated Framework) [1] was published by the Office of Science and Technology Policy. It describes the comprehensive Federal regulatory policy for ensuring the safety of biotechnology research and products and explains how Federal agencies use existing federal statutes to ensure public health and environmental safety while maintaining regulatory flexibility to avoid impeding the growth of the biotechnology industry. The Coordinated Framework explains the regulatory roles and authorities for APHIS, EPA, and the FDA.

APHIS first issued these regulations in 1987 under the authority of the Federal Plant Pest Act of 1957 and the Plant Quarantine Act of 1912, two acts that were subsumed into the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) in 2000, along with other provisions. Since 1987, APHIS has amended the regulations six times, in 1988, 1990, 1993, 1994, 1997, and 2005, to institute exemptions from the requirement for permits to conduct activities for certain microorganisms and *Arabidopsis,* to institute the current notification process and petition procedure, and to exclude plants engineered to produce industrial compounds from the notification process. Under APHIS' current regulations, a GE organism is considered to be a regulated article if the donor organism, recipient organism, vector, or vector agent [2] is a plant pest or if the Administrator has reason to believe the GE organism is a plant pest. A *plant pest* is defined in current § 340.1 as ''Any living stage (including active and dormant forms) of insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof; viruses; or any organisms similar to or allied with any of the foregoing; or any infectious agents or substances, which can directly or indirectly injure or cause disease or damage in or to any plants or parts thereof, or any processed, manufactured, or other products of plants.'' For a GE organism that is a regulated article to be introduced, a permit authorizing the introduction must be issued by APHIS, or the introduction must occur under a notification acknowledged by APHIS, a procedure that is discussed in detail below. If the introduction entails movement of the organism, it must be moved in a container that meets the requirements of current § 340.8, and the container must be marked in accordance with the requirements listed under § 340.7.

A permit may authorize the introduction of regulated articles if developers follow the permit conditions specified by the Administrator to be necessary for each activity to prevent the dissemination and establishment of the GE organism. Such conditions include, but are not limited to, maintenance of the regulated article's identity through labeling, retention of records related to the article's specified use, segregation of the regulated article from other organisms, inspection of a site or facility where regulated articles are to undergo environmental release or will be contained after their interstate movement or importation, and the maintenance and disposal of the regulated article and all packing material, shipping containers, and any other material accompanying the regulated article to prevent the dissemination and establishment of plant pests. If a permit holder does not comply with any of the permit conditions, the permit may be canceled, and if so, further movement or environmental release of GE organisms under that permit will be prohibited.

For authorizations under the notification process, the regulations contain performance-based standards applicable to shipping, environmental release, and field trials of GE organisms. These standards are aimed at preventing

[1] To view the framework, go to *https://www.aphis.usda.gov/brs/fedregister/coordinated_framework.pdf.*

[2] These terms are defined in the current § 340.1 of the regulations.

the unwanted dissemination of such organisms during transit or as a result of an environmental release and the persistence of the organisms in the environment. APHIS conducts inspections of authorized facilities or environmental release sites to evaluate compliance with the regulations.

In addition to issuing permits and acknowledging notifications, APHIS responds to petitions requesting nonregulated status under these regulations. Under the petition procedure, which is currently described in § 340.6, any person may submit a petition to APHIS seeking a determination as to whether or not an article is regulated under part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status must take and the detailed information and scientific data supporting the petition. As of December 2018, of 162 petitions submitted for APHIS review since July 1992, APHIS has granted 130 determinations of nonregulated status. Thirty-two petitions have been withdrawn. All of these determinations have been for GE plants. More information about these determinations is posted at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/permits-notifications-petitions/petitions/petition-status*. Many of these plants are grown for agricultural production in the United States. APHIS' determinations of nonregulated status apply to the GE plants as well as their progeny, meaning the nonregulated GE plant can be used in plant breeding programs and in agriculture without further oversight from APHIS.

Although, as discussed above, the current regulations have various functions, their primary function to date has been as a means for APHIS to regulate the introduction of certain GE organisms via the permit and notification procedures referred to above. Permits and notifications are collectively known as ''authorizations.'' As of July 2018, APHIS has issued more than 19,500 authorizations for the environmental release of GE organisms in multiple sites, primarily for research and development of crop varieties for agriculture. Additionally, APHIS has issued nearly 14,000 authorizations for the importation of GE organisms, and more than 12,000 authorizations for the interstate movement of GE organisms. APHIS has denied slightly more than 1,600 requests for authorizations, many of which were denied because APHIS ultimately decided the requests lacked sufficient information on which to base an Agency decision. Some of these were resubmitted with the additional necessary information.

While the current regulations have been effective in ensuring the safe introduction of GE organisms during the past 30 years, advances in genetic engineering have occurred since they were promulgated. APHIS has now accumulated three decades of experience in evaluating GE organisms for plant pest risk. The Agency's evaluations to date have provided evidence that genetically engineering a plant with a plant pest as a vector, vector agent, or donor does not in and of itself result in a GE plant that presents a plant pest risk. Additionally, GE techniques have been developed that do not employ plant pests as donor organisms, recipient organisms, vectors, or vector agents yet may result in GE organisms that pose a plant pest risk. Given these developments, as well as legal and policy issues discussed below, it has become necessary, in our view, to update our regulations accordingly.

**OIG Audits and 2008 Farm Bill**

Audits conducted by USDA's Office of Inspector General (OIG) have provided another impetus for updating our regulations. In 2005, OIG conducted an audit of APHIS' regulatory program for GE organisms. OIG found that the use of performance-based standards in APHIS' notification process allowed for a broad spectrum of methods to meet the standards, particularly regarding how the release would be confined to its test field, but Agency practices did not require responsible persons to provide written protocols detailing the exact methods that would be used to meet the standards. OIG suggested that APHIS revise the regulations to ''minimize the risk of inadvertent release'' of regulated articles ''into the environment.'' Among other things, OIG recommended that we include in the regulations a provision that would ''require developers to provide written protocols prior to approval of the field trial.'' Other recommendations regarding reporting have been met by the issuance of policies, procedures, and guidelines, but OIG indicated that these recommendations should ultimately be made permanent in regulation.

In 2015, OIG issued another audit, urging APHIS to implement the recommendations from the 2005 audit that APHIS had not yet implemented, including that APHIS ''revise its regulations to consolidate all requirements for conducting field tests of regulated materials.''

In addition, in 2008, The Food, Conservation, and Energy Act of 2008 (Farm Bill) was enacted. Section 10204 of the Farm Bill requires the Secretary of Agriculture to take action on each issue identified in the APHIS document entitled ''Lessons Learned and Revisions under Consideration for APHIS' Biotechnology Framework,'' [3] and, where appropriate, promulgate regulations. Like the 2005 and 2015 OIG audits, the lessons learned document suggested revising the regulations to provide for greater regulatory oversight of field tests of regulated articles.

On October 9, 2008, APHIS published a proposal [4] in the **Federal Register** (73 FR 60007–60048, Docket No. APHIS–2008–0023) to amend the regulations to address advances in genetic engineering, to make explicit our criteria for evaluation of GE organisms for noxious weed potential, and to respond to the remaining recommendations of the 2005 OIG audit and the provisions of the Farm Bill.

APHIS sought public comment on the proposal from October 9, 2008, to June 29, 2009. APHIS received more than 88,300 comments during the comment period. Many commenters expressed concerns regarding the lack of details surrounding a proposed risk-based system that would determine which organisms would fall under APHIS oversight, as well as concerns about a proposed multi-tiered permit system. Commenters also expressed concern about what they perceived to be a significant expansion of Agency regulatory authority.

Based on the breadth and nature of the comments received, we subsequently withdrew that proposed rule and began a fresh stakeholder engagement process aimed at exploring a variety of regulatory approaches.

On January 19, 2017, we published in the **Federal Register** (82 FR 7008–7039, Docket No. APHIS–2015–0057) a second proposed rule.[5] In that document, we proposed to revise our regulatory approach from ''regulate first before analyzing risks'' to ''analyze plant pest and noxious weed risks of GE organisms prior to imposing regulatory restrictions.'' Under the January 2017 proposed rule, a stakeholder could request that we conduct a risk assessment to determine whether a GE

[3] *https://www.aphis.usda.gov/biotechnology/downloads/supportingdocs/LessonsLearned10-2007.pdf.*

[4] To view the 2008 proposed rule, the subsequent withdrawal, all supporting documents, and comments APHIS received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0023.*

[5] To view the 2017 proposed rule, the subsequent withdrawal, all supporting documents, and comments APHIS received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0057.*

organism would pose plant pest or noxious weed risks and thus need to be regulated. Regulated GE organisms could be imported, moved interstate, or released into the environment under a flexible, risk-based permitting procedure. Over time, APHIS would build up a library of such assessments and their results and post the information on its website. For a GE organism with the same organism-trait combination (traits are discussed in detail below) as another GE organism that we had already concluded did not require regulation, neither the request nor the risk assessment would be necessary. Additionally, APHIS proposed to exclude from regulation some GE organisms that could have been produced using traditional breeding methods. These provisions were intended to provide regulatory relief to developers.

APHIS sought public comment on the proposal from January 19, 2017, until June 19, 2017. APHIS received 203 comments during the comment period.

Commenters expressed concerns about many provisions of the proposed rule. Many thought that the proposed requirements would be too burdensome and had the potential to stifle innovation.

After reviewing the comments, APHIS published a document in the **Federal Register** on November 7, 2017 (82 FR 51582–51583, Docket No. APHIS–2015–0057), withdrawing the proposal to allow APHIS to reengage with stakeholders and deliberate further on how best to revise the regulations in part 340.

Following the withdrawal of the January 2017 proposed rule, APHIS conducted extensive outreach to Land Grant and public university researchers, as well as small-scale biotechnology developers, agriculture innovators, and other interested stakeholders. In total, APHIS met with more than 80 organizations, including 17 universities, State Departments of Agriculture, and farmer organizations. Much of the feedback received during this process centered on the need to focus regulatory efforts and oversight upon risk, rather than the method used to develop GE organisms. Stakeholders also expressed a desire for flexible and adaptable regulations so that future innovations do not invalidate the regulations. We also received feedback urging us to keep international trade objectives in mind when proposing new regulations and ensuring that new regulatory requirements are transparent and clearly articulated.

**Overview of the New APHIS Regulatory Framework**

Based on the feedback we received from stakeholders and on our internal Agency deliberations, we are proposing to revise the regulations in accordance with a new regulatory framework. The new framework will provide a clear, predictable, and efficient regulatory pathway for innovators while facilitating the development of new and novel GE plants that are unlikely to pose a plant pest risk. It will protect the health and value of America's agriculture and natural resources and help foster safe and predictable agricultural trade worldwide. We anticipate that adopting the new framework will result in significant savings for developers of GE organisms.

The revised regulatory framework would reflect the Secretary of Agriculture's March 28, 2018, statement that provided clarification on the USDA's oversight of plants produced through plant breeding innovations. The statement and further details are available at: *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/brs-news-and-information/2018_brs_news/plant_breeding.*

The proposed framework is also consistent with the OIG recommendations, the 2008 Farm Bill requirements, as outlined above, and with the guiding principle of the Coordinated Framework that, ''[i]n order to ensure that limited Federal oversight resources are applied where they will accomplish the greatest net beneficial protection of public health and the environment, oversight will be exercised only where the risk posed by the introduction is unreasonable.''

APHIS' new regulatory approach is intended to prepare the Agency for future advances in the genetic modification of plants. (APHIS' approach to the regulation of non-plant GE organisms is discussed below.) For convenience, in this document we sometimes refer to plant varieties produced with innovative techniques that could otherwise have been achieved using methods of traditional plant breeding as plant breeding innovations. Where genetic modifications are similar in kind to those modifications made through traditional breeding, the plant pest risks should also be similar. These types of plants are equivalent to those that have a history of safe use and would be exempted from our proposed regulation. On the other hand, genetic modifications made in the future may result in increasingly complex products which, in turn, may pose new types of risks with which the Agency has less familiarity. This latter category of engineered plants would be subject to review under our new regulations. Once products are reviewed by the Agency and found unlikely to pose a plant pest risk, similar products would be exempt from further review.

Our approach for GE organisms is consistent with the 2017 National Academy of Sciences Future Products of Biotechnology report, which stated that regulation should take into account familiarity. The report, which is available at *https://www.nap.edu/catalog/24605/preparing-for-future-products-of-biotechnology,* noted that unfamiliar products, and those that may be developed in the future, may have few or no comparators with existing products within the regulatory system. Such products, therefore, would require more regulatory oversight than familiar products until enough is known about the new products to enable us to assess accurately the plant pest risks associated with them. By focusing regulatory resources and risk analyses on unfamiliar products, APHIS will be able to avoid conducting repetitive analyses, utilize its staff time more efficiently, and provide better stewardship of taxpayer dollars.

**Key Features of the Proposed Rule**

The approach we are proposing would differ from the current regulatory framework in that regulatory efforts would focus on the properties of the GE organism itself rather than on the method used to produce it. We believe that this new approach, which reflects our current knowledge of the field of biotechnology, would enable us to evaluate GE organisms for plant pest risk with greater precision than the current approach allows. GE organisms that pose a plant pest risk would fall within the scope of the proposed regulations and require permits for movement. As discussed in more detail later in this document, we would define plant pest risk in this proposed rule as ''[t]he possibility of harm resulting from introducing, disseminating, or exacerbating the impact of a plant pest.''

APHIS will continue to regulate GE organisms that are, in and of themselves, plant pests, as well as other GE non-plant organisms that pose plant pest risks. Such organisms would require permits for movement. Other GE non-plant organisms that do not pose a plant pest risk would not fall under the scope of the regulations and therefore would not require permits for movement.

Under the current system, when making decisions regarding regulatory oversight of GE plants, APHIS assesses each transformation event (also sometimes referred to as the individual transformed line, transgenic line, or GE line) separately, even though the inserted genetic material may be identical or very similar to transformation events already assessed. This has sometimes been referred to as an ''event-by-event'' approach.

Under the proposed rule, developers would have the option of requesting a permit or a regulatory status review of a GE plant that has not been previously reviewed and determined to be nonregulated. Decisions on regulatory status would be based on our assessment of plant pest risk. If movement of a GE plant, by which we mean its importation, interstate movement, or environmental release (throughout the discussion that follows, the terms *move* and *movement* are used to refer to all of those activities, except where otherwise indicated) is found to be unlikely to pose a plant pest risk, APHIS would not have authority under the PPA to regulate the plant in accordance with part 340. If we were unable to reach such a finding, APHIS would regulate the subject plant, which would be allowed to move only under permit.

Under § 340.1(b) of the proposed rule, certain categories of modified plants would be exempted from the regulations in part 340 because they could be produced through traditional breeding techniques and thus are unlikely to pose a greater plant pest risk than traditionally bred crops, which APHIS has historically not regulated. These products of biotechnology are likely to pose no greater plant pest risk than their traditionally bred comparators. These exemptions are restricted to plants because the long history of plant breeding gives us extensive experience in safely managing associated plant pest risks. The categories of plants that would be exempted under § 340.1(b) are discussed further below.

Proposed § 340.1(c) would exempt GE plants with plant-trait-mechanism of action (MOA) combinations that we have already evaluated by conducting a regulatory status review and found to be unlikely to pose a plant pest risk. As discussed in further detail later in this document, MOA refers to the biochemical basis for the new trait. The results of all completed regulatory status reviews would be publicly accessible on the APHIS website. The regulatory status review process is discussed in detail below.

Under our proposed new regulatory framework, a developer would have the option to make a self-determination as to whether his or her GE plant belongs to one of the categories listed under § 340.1(b) or (c) and is therefore exempt from the regulations. A developer who determines that his or her GE plant belongs to an exempted category would have the option under proposed § 340.1(d), to request written confirmation from APHIS that the self-determination is valid. These confirmation letters, which would provide a clear and succinct statement about the regulatory applicability of the GE plant and the nexus to plant health, may be useful to developers wishing to market their products domestically or overseas by allowing them to provide verification to an importing country or other party that APHIS concurs with their self-determinations. APHIS anticipates a timely turnaround time in developing and providing these confirmation letters to developers. Allowing for self-determinations would provide developers with regulatory relief and open more efficient and predictable pathways for innovators to get new modified plants that are unlikely to pose a plant pest risk to market, in turn supporting further innovation. APHIS anticipates that benefits will accrue to developers of all sizes, including small and mid-sized ones, as well as academic institutions. At the same time, APHIS would be able to allocate its resources more efficiently than under the current regulations. Because we would no longer have to perform the redundant task of assessing GE plants with plant-trait-MOA combinations that we have already determined are not subject to these regulations, we would be able to devote more attention to assessing and regulating those GE organisms that are likely to be associated with potential plant pest risks.

We would note here that a developer making a self-determination that APHIS determines not to be valid may be subject to remedial measures or penalties in accordance with the compliance and enforcement provisions, which are discussed below, in proposed § 340.6(c) if the organism is moved without proper authorization under part 340. In addition, penalties and remedial measures (including but not limited to, quarantine, seizure and/or destruction) under the authority of the PPA may be exercised.

Under § 340.4 of the proposed rule, the process by which we would evaluate GE plants for plant pest risk would be called a regulatory status review. When evaluating the plant pest risk posed by a newly developed GE plant, APHIS would consider three fundamental elements in combination and individually: (1) The basic biology of the plant prior to modification; (2) the trait that resulted from the genetic modification; and (3) the MOA. Since any one or any combination of these three elements may affect plant pest risk, APHIS would determine the need for regulatory oversight by appraising the risk posed by the plant's unique combination of the three elements.

This proposed rule would define *trait* as an observable (able to be seen or otherwise identified) characteristic of an organism. We would define *mechanism of action* as the ''biochemical process(es) through which genetic material determines a trait.'' For example, a plant may be modified to confer the trait of male sterility by either of two MOAs in pollen: Expression of a protein that is toxic to the pollen grain (barnase system) or expression of a protein which changes deoxyribonucleic acids (DNA) in pollen-producing tissues (DNA adenine methylase system) in a disruptive way that ultimately results in death of those tissues.

For reasons described in greater detail below, the regulatory status review process would apply only to plants and not to genetically engineered plant pests or other genetically engineered non-plant organisms that fall within the scope of the regulations. We are requesting comments from the public, however, on whether the scope of the regulatory status review should be expanded to include non-plant GE organisms as well as GE plants, whether some equivalent process for evaluating such organisms for regulatory status should be developed instead, and, if so, what factors the Agency should consider in its analyses.

Information pertaining to the results of all completed regulatory status reviews would be publicly accessible on the APHIS website. This information would include a comprehensive list of GE plant-trait-MOA combinations that we have evaluated for plant pest risk via the regulatory status review process under proposed § 340.4. The list would also include GE plants for which we have made determinations of nonregulated status under the petition process. Developers could use the list to aid them in making their self-determinations. For example, if a developer were to find that his or her newly developed GE plant had the same plant-trait-MOA combination as a GE plant previously found by APHIS to be not subject to the Agency's regulations, the developer would know immediately

that the newly developed plant would not be subject to APHIS regulation. We anticipate that should this rule be implemented, this list would grow as new regulatory status reviews are completed.

For GE plants that do not fall into one of the exempted categories and have not previously been assessed through the regulatory status review process, developers would have the option of either requesting an immediate regulatory status review or requesting a permit for the movement of their GE plant in lieu of a regulatory status review. (A developer who initially requests a permit would also have the option of following up with a request for a regulatory status review.) Providing these options would allow for maximum flexibility in the research and development of novel GE plants for all types of developers (multi-national companies, small companies, and public sector researchers). Developers of GE organisms that are plant pests would continue to need permits to move those organisms.

**Regulation of Plants That Produce Plant-Made Industrials and Pharmaceuticals**

APHIS recognizes that certain plants are genetically engineered in order to produce pharmaceutical and industrial compounds, also known as plant-made pharmaceuticals and industrials (PMPIs). Federal oversight of outdoor plantings of PMPI-producing plants could be necessary to prevent the unlawful introduction into the human or animal food supply of pharmaceutical or industrial PMPI products, even when the principal purpose of the plants is not for human or animal food use. In addition to potential adulteration issues (such as the potential of an unapproved food additive and other food safety risks) posed by such plants should they enter the food supply, a gap in Federal oversight could generate concerns from the general public regarding the safety and wholesomeness of the human or animal food supply, which could adversely impact agricultural interests. Establishing growing and handling conditions to confine such plants, and inspecting to ensure such conditions are followed, may enable corrective actions before material from the plants is inadvertently released and causes public health or economic impacts.

Under the current regulations, APHIS requires permits for the environmental release of all GE plants that meet the definition of a regulated article and produce PMPIs. APHIS exercises oversight of all outdoor plantings of these regulated PMPI-producing plants. This oversight includes establishment of appropriate environmental release conditions, inspections, and monitoring. PMPI-producing plants and the products obtained from them may also be regulated by FDA (authority over food and drugs) or EPA (chemical substances as defined by the Toxic Substances Control Act (TSCA)), depending on their use or intended use. If a PMPI-producing plant or plant product were potentially to be used for human or animal food, food additive approval might be required under the Federal Food, Drug, and Cosmetic Act.

To date, PMPI-producing GE plants regulated by APHIS have been genetically engineered using a plant pest as the donor, vector, or vector agent, and thus fall under the scope of ''regulated article'' in the current regulations. However, under the provisions of this proposed rule, a GE plant that is developed using a plant pest as a vector, vector agent, or donor of genetic materials would not necessarily be regulated. Rather, the GE plant would be regulated only if it had a plant-trait-MOA combination that the Agency has not yet evaluated for plant pest risk or if it was evaluated and found to pose a potential plant pest risk. Additionally, APHIS' evaluations of GE plants for plant pest risk would generally not require data from outdoor plantings. Even if the plant represents a new plant-trait-MOA combination not previously reviewed, there is a likelihood that most, if not all, GE PMPI-producing plants that are currently under APHIS permits could be determined to be not regulated under the provisions of the proposed regulations after a regulatory status review because they are unlikely to pose a plant pest risk. Thus, such plants could be grown outdoors without the need for APHIS permits and without APHIS oversight.

One of the reasons APHIS' oversight of such crops has been an important part of the coordinated framework for oversight of GE plants is that companies are not necessarily required to notify FDA or EPA when the developer plants PMPI-producing plants. For example, for PMPI-producing plants whose products are subject to FDA oversight, FDA has no regulations governing planting of such crops. For crops genetically engineered to produce human drugs, companies only have to go to FDA when they have reached the point that they are ready to begin clinical trials with the pharmaceutical derived from the plant. This could be years after they first started growing the pharmaceutical-producing plant in the field.

Under TSCA, EPA has requirements for new chemical substances, including industrial compounds produced in genetically engineered plants. However, given existing APHIS oversight, EPA does not currently have an oversight program nor regulations for genetically engineered plants that produce industrial compounds.

APHIS has identified two options that have the potential for adequate Federal oversight of outdoor plantings of plants engineered to produce PMPIs. Under one option, APHIS would use other authorities (*e.g.,* 7 CFR part 360) to regulate outdoor planting of plants engineered to produce PMPIs. Under a second option, a statute would be enacted, or existing statutory authority amended, to grant one or more Federal agencies explicit authority to provide oversight of outdoor plantings of all GE PMPI-producing plants and to evaluate GE PMPI-producing plants for all possible risks, beyond plant pest and noxious weed risks. APHIS does not prefer one of these options over the other, nor does the Agency consider the two options necessarily to be exhaustive. Rather, we put them forward to indicate that the Agency is aware of the implications of this rule with regard to PMPIs, and to request specific public comment regarding the best manner to address this issue.

**Plant-Incorporated Protectant Small-Scale Field Testing**

Certain plants are genetically engineered to produce plant-incorporated protectants (PIPs), meaning that they produce pesticides. PIPs fall under the regulatory oversight of EPA. However, currently only APHIS exercises regulatory oversight of PIP plantings on 10 acres or less of land. Under the current regulations, APHIS requires permits or notifications for the environmental release of all GE plants that meet the definition of a regulated article and produce PIPs. APHIS exercises oversight of all outdoor plantings of these regulated PIP-producing plants. This oversight includes the establishment of appropriate environmental release conditions, inspections, and monitoring.

To date, PIP-producing GE plants regulated by APHIS have been genetically engineered using a plant pest as the donor, vector, or vector agent, and thus fall under the scope of regulated article in the current regulations in part 340. However, under the provisions of this proposed rule, a GE plant that is developed using a plant pest as a vector, vector agent, or donor

of genetic materials would not necessarily be regulated. Rather, the GE plant would be regulated only if it had a plant-trait-MOA combination that the Agency has not yet evaluated for plant pest risk or if it was evaluated and found to pose a potential plant pest risk. Additionally, APHIS' evaluations of GE plants for plant pest risk would generally not require data from outdoor plantings. Even if the plant represents a new plant-trait-MOA combination not previously reviewed, there is a likelihood that many GE PIP-producing plants that are currently regulated under APHIS permits or notifications could be determined not regulated under the provisions of the proposed regulations after a regulatory status review because they are unlikely to pose plant pest risks. Thus, such plants could be grown outdoors without the need for an APHIS permit and without undergoing APHIS oversight.

APHIS understands that this proposal would shift Federal oversight of small-scale (10 acres or less) outdoor plantings of some PIPs to EPA. EPA may decide to require experimental use permits for all, some, or none of such PIPs, and may conduct inspections of all, some, or none of those PIPs under permit. APHIS is fully committed to coordinating with EPA on these issues.

APHIS understands that an MOU and services agreement may be necessary to provide personnel and other resources to assist EPA during the interim period while EPA implements its own program for the oversight of outdoor planting of PIPs 10 acres or less.

APHIS recognizes that there are challenges associated with such a transition that would also require EPA to incur the costs associated with setting up a revised regulatory program. Further, such a transition would require policies, procedures, and guidance regarding APHIS' interaction with EPA. APHIS does not consider the approach listed above necessarily to be exhaustive. Rather, APHIS puts it forward to indicate that the Agency is aware of the implications of this rule with regard to small-scale testing of PIPs and to request specific public comment regarding the best manner to address this issue.

Specific provisions of the proposed rule are discussed in detail below.

**Applicability of the Regulations**

Proposed § 340.1(a) would refer the reader to § 340.2 for information on what GE organisms would be subject to the proposed regulations.

Under proposed § 340.1(b)(1) through (4), modified GE plants would not be regulated or subject to a regulatory status review in accordance with § 340.4, if:

- The genetic modification is solely a deletion of any size; or
- The genetic modification is a single base pair substitution; or
- The genetic modification is solely introducing nucleic acid sequences from within the plant's natural gene pool or from editing nucleic acid sequences in a plant to correspond to a sequence known to occur in that plant's natural gene pool; or
- The plant is an offspring of a GE plant and does not retain the genetic modification in the GE plant parent.

As noted above, non-plant GE organisms that are plant pests or pose a plant pest risk would require permits for movement under the proposed regulations; these proposed exemptions would apply only to GE plants.

The exemptions reflect the Secretary of Agriculture's March 28, 2018, statement that USDA does not plan to regulate plants that could otherwise have been developed through traditional breeding techniques. Such products of biotechnology are likely to pose no greater plant pest risk than their traditionally bred comparators, which APHIS does not regulate. All four categories of plants listed in the exemptions above could otherwise have been produced by traditional breeding methods. Traditional breeding techniques generally involve deliberate selection of those plants with desirable traits either from existing population genetic variations or from new genetic variations created through artificial hybridization or induced mutations, and have been used since the advent of sedentary agriculture. Every domesticated crop has been subjected to extensive traditional breeding. Genetic engineering relies on a newer toolset that may be used in addition to traditional breeding practices, including chemical or radiation-based mutagenesis, in order to expedite development of a plant with a desired genotype and/or traits.

In two reports, issued in 1987 and 1989, respectively, by the National Research Council of the National Academies of Science,[6] [7] it was stated that there was no evidence for unique hazards inherent in the use of recombinant DNA techniques and that with respect to plants, crops modified by molecular and cellular methods should pose risks no different from those modified by classical genetic methods for similar traits. A key conclusion from these reports taken together, is that it is not the process of genetic engineering *per se* that imparts the risk, but the trait or traits which are introduced. A recent National Academies of Sciences, Engineering, and Medicine report, issued in 2016, reaffirmed this conclusion.[8]

The 1989 report elaborated on the safety of traditionally bred crops, stating that ''plants modified by classical genetic methods are judged safe for field testing on the basis of experience with hundreds of millions of genotypes field tested over decades.'' This does not mean there are no conceivable risks, but rather that those risks are, in the words of the committee, ''manageable by accepted standards.'' Thus, given the accepted safety of traditionally bred crops, and the principle that the use of recombinant DNA does not itself introduce unique risks, it is logical and appropriate to exempt from our regulation plants produced by any method if they also could have been produced by traditional breeding.

APHIS recognizes that there is no universally applicable, sharp delineation between what is and what is not possible to achieve with traditional breeding methods in an agriculturally relevant timeframe. There are many biological and practical factors that affect the likelihood of success in a breeding program. These include the number of targeted loci and type of desired genetic changes, the genetic distance between the desired changes, generation time, breeding system (sexual or asexual, self-compatibility), ploidy level and genomic complexity, resource availability (time, money, labor, and genomic resources), and other factors. There is such variation in these factors among plant species that the probability of a plant breeding program being able to achieve specific, desired changes in a given species will differ on a case-by-case basis. Developing a standard for all species based on what is possible to achieve with traditional breeding methods in any given species is not a practical measure. Furthermore, plants that qualify for an exemption would not be reviewed by APHIS. For these reasons, the exemptions are based on measures that are easily recognizable and on genetic changes that could be achieved by traditional plant breeding

[6] Introduction of Recombinant DNA-Engineered Organisms Into the Environment: Key Issues. 1987. National Research Council. Washington, DC. National Academies Press (US).

[7] Field Testing Genetically Modified Organisms: Framework for Decisions. 1989. National Research Council (US) Washington (DC). National Academies Press (US).

[8] National Academies of Sciences, Engineering, and Medicine. 2016. Genetically Engineered Crops: Experiences and Prospects. Washington, DC: The National Academies Press. doi: 10.17226/23395.

in any system. A single deletion or a single base pair change is a conservative estimate of what could be achieved in any system through traditional breeding. Changes beyond those in the exemptions would be assessed on a case-by-case basis for plant pest risk. We acknowledge there will be examples of plants created that do not qualify for the exemptions that pose little plant pest risk. We believe these examples will be promptly handled through the process of regulatory status review. In this way we believe we can offer both regulatory relief and appropriate regulation as needed.

In general, the natural gene pool of a plant is determined by those plants with which the plant is sexually compatible. This is most typically considered to be restricted to crosses that can take place without human management. However, a number of traditional breeding techniques have been developed to enable wide crosses between distantly related species or plants that would not encounter each other in nature. Where such techniques have been developed for a given plant, distantly related plants are also considered part of the natural gene pool.

In some cases, a GE parent plant will contain inserted donor nucleic acid, but after some number of breeding steps, there are progeny that are produced which contain neither the inserted donor nucleic acid nor any modifications made directly by the inserted nucleic acid. APHIS does not consider the progeny to be associated with a greater plant pest risk. Therefore, such progeny would not be subject to regulation under the fourth exemption.

APHIS requests comment from the public regarding the categories of plants listed under proposed § 340.1 as not subject to the regulations, including their breadth, whether we need to provide greater specificity in the exemptions, and whether additional categories should also be considered for exemption from the requirements of part 340.

In addition to the categories listed in proposed paragraph (b), under proposed § 340.1(c), GE plants that would not be subject to these proposed regulations if they have plant-trait-MOA combinations that are the same as those of GE plants that APHIS has found, after conducting a regulatory status review in accordance with proposed § 340.4, not to be subject to the regulations under part 340. We would list such GE plant-trait-MOA combinations on our website, as noted above, and developers could use this information to aid them in making their self-determinations.

As noted earlier, we would also list GE plants for which we have made determinations of nonregulated status under the petition process,[9] which is described in further detail below. Though the proposed regulatory status review would represent a change in our regulatory approach, GE plants for which determinations of nonregulated status have been made under the current system have been evaluated for the same plant pest risk factors which will be used under the proposed rule. Specifically, both reviews analyze the biology of the GE plant and its non-GE comparator, potential changes in plant pest impacts, impacts on nontarget organisms, and the propensity for increased weediness of the GE plant and any sexually compatible relatives. The initial list of plant-trait-MOA combinations that are not subject to the regulations is available on *Regulations.gov* as a separate document to this proposed rule. The list will include identification of the MOA of nonregulated plants reviewed under the petition process, which can be used for comparisons of future GE plants to determine regulatory status.

Plants produced using biotechnology which were reviewed in response to an ''Am I Regulated?'' (AIR) [10] inquiry were not reviewed using all the plant pest risk factors listed above, but rather were reviewed for regulatory status based on whether the modified plant conformed to the definition of a ''regulated article'' in the current regulations and in a some instances on one or more of the factors, but not all. We know of no plant pest issues raised during the review of the AIR inquiry, and none have arisen from use of any of these plants. GE plants determined not to require regulation pursuant to the current AIR process would retain their nonregulated status under the new regulations to prevent potential market disruptions and provide regulatory certainty for developers. These plants would be listed separately from those evaluated at the MOA level, and this list would not be used for determining regulatory status based on MOA.

We would note again that plants that are not subject to these regulations could still be subject to other APHIS or USDA regulations or to the regulations of the other Federal Agencies functioning within the Coordinated Framework.

**Scope of the Regulations**

Proposed § 340.2 would set forth general restrictions regarding the movement of GE organisms that would be subject to these regulations. The following categories of GE organisms would be allowed to move only under permit:

- The GE organism is a plant that has a plant-trait-MOA combination that has not been subjected to a regulatory status review in accordance with § 340.4; or
- The GE organism meets the definition of *plant pest* in § 340.3; or
- The GE organism is not a plant but has received DNA from a plant pest, as defined in § 340.3, and the DNA from the donor organism either is capable of producing an infectious agent that causes plant disease or encodes a compound that is capable of causing plant disease; or
- The GE organism is a microorganism used to control plant pests or an invertebrate predator or parasite (parasitoid) used to control invertebrate plant pests and could pose a plant pest risk.

GE plants that have not yet been evaluated for plant pest risk by means of a regulatory status review would be subject to permitting under § 340.2(a). While APHIS has found that most plants evaluated to date do not pose plant pest risks, it is conceivable that some of those produced in the future may. For example, certain modifications may change the relationship of the plant to plant pests. In most cases, this would not be of concern, as APHIS understands that resistance to disease and insects varies widely among varieties. Still, if as a result of the modification, the plant became a reservoir for pests or diseases in such a way that plant pest issues were exacerbated not just for those who used the new variety, but for others in the surrounding area, APHIS might find it appropriate to take regulatory action. For instance, plants and their wild relatives could have increased importance as reservoirs for plant pests if the introduced trait resulted in an increase in their prevalence and/or caused a change in their distribution. For these reasons, APHIS believes it is appropriate to examine novel plant-trait-MOA combinations for plant pest risk. Regulatory oversight is needed for such plants until the level of plant pest risk associated with their movement is known.

As noted earlier, under the current criteria, a GE organism is considered a

[9] Information about determinations of nonregulated status pursuant to the petition process currently in part 340 is available at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/permits-notifications-petitions/petitions/petition-status.*

[10] Information about decisions made pursuant to the AIR process is available at *https://www.aphis.usda.gov/aphis/ourfocus/biotechnology/am-i-regulated/regulated_article_letters_of_inquiry/regulated_article_letters_of_inquiry.*

regulated article not only if the recipient organism itself is a plant pest, but also if the donor, vector, or vector agent used in the engineering process is a plant pest. This reflects the concern in the 1980s that if an organism was modified using genetic material taken from a plant pest, or a plant pest was used as a vector or vector agent to carry genetic material into an organism, the resulting GE organism could also be a plant pest.

Based on APHIS' experience evaluating field trial data from thousands of authorized environmental releases of regulated organisms, as well as the 130 determinations of nonregulated status for GE plants, this generally stated concern has not proven to be valid. Although a plant pest may contribute or vector genes to a GE organism, the mere presence of plant pest sequences has not been shown in APHIS' evaluation of data to cause a GE organism, particularly if it is a plant, to become a plant pest. Indeed, experience has shown that the use of genes from donor organisms which are plant pests, as well as the use of vectors which are from plant pests, has not to date resulted in plant pest risks of any sort in recipient organisms that are not already plant pests.

The most common use of plant pest components in genetic engineering involve either the use of a disarmed version of the plant pathogenic bacterium *Agrobacterium tumefaciens* to vector genes into a plant or use of genetic material from plant pest donors which function as regulatory sequences in the plant. Currently, methods that use *Agrobacterium tumefaciens* as a vector of genetic material do not leave viable bacteria behind in the recipient organism and do not cause disease. Likewise, regulatory sequences such as the 35S promoter from Cauliflower Mosaic Virus and the nopaline synthase (nos) terminator from *A. tumefaciens* are themselves unable to be expressed and do not confer plant pest traits, though they do facilitate the expression of other genes in the GE organism. The use of plant pests in these ways either as donors of regulatory sequences or for vectoring genetic material into a recipient organism has a long history and has not resulted in disease or injury to the recipient organism or to other organisms.

These advances in our knowledge of biotechnology notwithstanding, under § 340.2(b), we would continue to regulate GE organisms in those cases where the organism which is engineered is itself a plant pest as defined in the PPA.

Our approach to regulating such organisms, however, would differ from that of the existing regulations. In current § 340.2, there is a list of taxa that contain plant pests. Under our proposed regulatory framework, however, we would not use taxonomic classification of donor organisms to determine if a GE organism is regulated. We would, therefore, remove the list from the regulations, along with the procedures described in current § 340.5 for amending this list.

Instead, when determining whether a GE non-plant organism is subject to the regulations, APHIS will assess whether a recipient organism is likely to be a plant pest, based on the most up-to-date pest information maintained by APHIS. This information is more specific than the information in the list of plant pest taxa in the current regulations, and should be more useful and reliable than static lists of taxa, which become outdated. APHIS will maintain a list of taxa that contain plant pests on its website and would be available for consultation by developers to help them determine whether or not their GE non-plant organism is or is not a plant pest. APHIS welcomes public comment on this proposed change.

Under proposed § 340.2(c), we would also regulate GE organisms that are not plants but have received DNA from a plant pest if the DNA from the donor organism is sufficient to produce an infectious entity or encodes a pathogenesis-related compound that is expected to cause plant disease symptoms. DNA from a donor organism that is a plant pest could, when inserted into an organism which is not a plant pest, result in a GE organism that is a plant pest if: (1) The DNA sequence that is encoded in the organism is able to be expressed as a functioning infectious entity capable of causing plant disease; or (2) if the inserted DNA enables the organism to produce pathogenesis-related compounds, that is, compounds that are typically produced by pathogens and involved in producing disease symptoms. Examples of such compounds would include plant degrading enzymes, plant growth regulators, phytotoxins, or compounds that can clog plant vascular systems.

APHIS intends this criterion to be specific to GE organisms other than plants, such as nonpathogenic soil bacteria that through genetic engineering may become capable of producing plant disease symptoms in plants. This contrasts with the current regulations, under which we regulate GE organisms based merely on the presence of DNA from a plant pest.

In addition, under § 340.2(d), we would regulate GE organisms that are microbial pathogens used to control plant pests, microbial parasites used to control plant pathogens, or invertebrate predators or parasites (parasitoids) used to control plant pests if they could pose a plant pest risk. These organisms are generally not plant pests but their potential effects on organisms beneficial to agriculture (referred to below as ''beneficial'') could indirectly affect plant health. The PPA provides the authority to regulate such biological control organisms used to control plant pests to ensure they do not pose a plant pest risk. As with non-GE biological control organisms, the types of GE biological control organisms APHIS would regulate could pose a plant pest risk by lacking sufficient specificity for the target pest and thereby harming beneficial non-target organisms, such as other invertebrate predators or parasites (parasitoids), pollinators, or microbes that promote plant health. Because biological control organisms are almost always intended for eventual release into the environment, it is not sufficient for us only to consider their use in controlling their target plant pest. We must also take into consideration the indirect plant pest risks that the organism may pose due to harmful impacts on non-target organisms that are beneficial to agriculture (*e.g.,* harm to natural enemies of plant pests). If the GE organism is known to have harmful impacts on beneficial non-target organisms, it is consistent with APHIS' authority under the PPA to prohibit or restrict its release. To the extent that we do not know whether a GE biological control organism is sufficiently specific to avoid harming beneficial non-target organisms, it is also prudent for us to place regulatory controls on the movement and release of the GE biological control organism until the impacts on beneficial non-target organisms and any resulting direct or indirect plant pest effects are better understood.

APHIS requests comment from the public regarding the categories of GE organisms listed under proposed § 340.2 as subject to the regulations and whether additional categories, such as pollinators, should also be considered.

**Definitions**

Definitions would be listed in proposed § 340.3. APHIS proposes to retain certain definitions currently found in § 340.1 of the regulations, to change other definitions, to add some new definitions, and to remove definitions that no longer need to appear in the regulations.

APHIS is proposing to retain the following definitions from the current regulations, without change:

*Administrator, Animal and Plant Health Inspection Service (APHIS), donor organism, environment, organism,* and *person.*

APHIS is proposing to revise the definitions of the following terms from those in the current regulations:

We would define *genetic engineering (GE)* as techniques that use recombinant or synthetic nucleic acids to modify or create a genome. This proposed definition is clearer than the existing one, which refers to modification using ''recombinant DNA techniques,'' a term that is not defined in the regulations. The current definition could also be construed, contrary to our intentions, to exclude the use of synthetic DNA, *in vivo* DNA manipulation, and genome editing. The proposed definition of *genetic engineering* would not cover traditional breeding techniques, such as marker-assisted breeding, as well as tissue culture and protoplast, cell, or embryo fusion, or chemical or radiation-based mutagenesis. APHIS has never considered such techniques to constitute genetic engineering. Accordingly, organisms created through such techniques are currently excluded from the definition under part 340, and would continue to be so.

We would define *inspector* as any individual authorized by the Administrator or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in part 340. The current definition predates the establishment of the Department of Homeland Security, as well as the transfer of certain inspection responsibilities for imported organisms from APHIS to U.S. Customs and Border Protection.

The definition of *interstate* would be from one State into or through any other State or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States. This proposed revision aligns the definition of *interstate* in part 340 with the definition used in the PPA.

*Move (moving, movement)* would be defined as to carry, enter, import, mail, ship, or transport; aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment; or to allow any of the above activities to occur. This proposed revision aligns the definition of *move* in part 340 with the definition of *move* used in the PPA.

The definition of *permit* would be a written authorization, including by electronic methods, by the Administrator to move organisms regulated under part 340 and associated articles under conditions prescribed by the Administrator. This proposed revision would generally align the definition of *permit* in part 340 with the definition of *permit* used in the PPA. However, whereas the definition in the PPA mentions that a permit may authorize the movement of plants, plant products, and biological control organisms, plant pests, noxious weeds, and associated articles, our proposed definition would pertain to the movement of organisms regulated under part 340 and associated articles. This change reflects the scope of the proposed regulations.

Additionally, while the PPA allows for the issuance of oral permits, APHIS would not under these regulations. Oral permits do not provide adequate documentation that a responsible person was aware of and understood permitting conditions at the time the permit was issued.

*Plant* would be defined as any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, or a seed. This revision is necessary because the current definition of *plant* used in the regulations precedes the issuance of the PPA, and is broader than the PPA definition. The proposed definition would align with the definition used in the PPA. A result of this alignment would be that APHIS would no longer consider ''cellular components,'' such as ribosomes, to be plants. Cellular components are not capable of propagating to cause plant pest risks.

*Plant pest* would be defined as any living stage of a protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or other pathogen, or any article similar to or allied with any of the foregoing that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product. This proposed definition would generally align the definition of *plant pest* in part 340 with that used in the PPA. However, while the PPA gives APHIS authority to regulate any nonhuman animal as a plant pest, it is longstanding APHIS policy not to regulate vertebrate animals as plant pests. In the absence of such a policy, all herbivores and omnivores could be considered plant pests, and thus subject to regulation, an untenable position since this would require APHIS to consider livestock, such as cows, sheep, and horses, to be plant pests.

*Recipient organism* would be defined as the organism whose nucleic acid sequence will be modified through the use of genetic engineering. In contrast, the current definition is ''the organism which receives genetic material from a donor organism.'' This change would differ from the current definition by distinguishing an organism with modified traits from the same organism prior to transformation; in some cases the recipient organism's nucleic acid sequence may be modified using genetic material from the same species.

We propose to define *release into the environment (environmental release)* as the use of a GE organism outside the physical constraints of a contained facility. The existing definition of *release into the environment* refers to the release of a regulated article; however, in this proposed rule we are no longer using the latter term. Our proposed definition of *release into the environment (environmental release),* would also clarify that *release into the environment* and *environmental release* are synonymous terms.

*Responsible person* would be defined as the person responsible for maintaining control over a GE organism under permit during its movement and ensuring compliance with all conditions contained in any applicable permit as well as other requirements of part 340. The proposed definition would further state that the responsible person may be, but would not be limited to, the signatory of a permit or the institution that the signatory represented at the time of the application. The responsible person must be at least 18 years of age and be a legal resident of the United States.

The current regulations define *responsible person* as the person (at least 18 years of age and a U.S. resident) who has control and will maintain control over the introduction of the regulated article and assure that all conditions contained in the permit and requirements in part 340 are complied with. We are proposing to replace it with the new definition to clarify that the term refers to both individuals and institutions. That dual responsibility is implied in the existing definition, because we define the term *person* to include institutions, but it is not stated explicitly, potentially resulting in confusion over who ultimately is the responsible party. Attributing responsibility for a regulated organism only to an institution may be problematic for enforcement of the regulations, because such responsibility can be diffused, resulting in no individual being held accountable for violations. Attributing it only to an

individual may be similarly problematic because the signatory of the permit may change his or her institutional affiliation and location. The proposed definition would ensure that some individual or party would be held accountable for violating permit conditions and/or regulatory requirements.

*State* would be defined as any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands of the United States, or other Territories or possessions of the United States. This change aligns the definition of *State* in part 340 with that used in the PPA.

We currently define *State regulatory official* as the State official with responsibilities for plant health, or any other duly designated State official, in the State where the introduction is to take place. We would change the term to *State or Tribal regulatory official.* We would define the *State or Tribal regulatory official* as the State or Tribal official with responsibilities for plant health, or any other duly designated State or Tribal official, in the State or on the Tribal lands where the movement is to take place. Under the proposed definition, the official's responsibilities would not change. The proposed change from the former definition is to acknowledge Tribal authority on Tribal lands.

APHIS proposes to add definitions of the following new terms:

We would define *access* as the ability during regular business hours to enter, or pass to and from, a location, inspect and/or obtain or make use or copies of any records, data, or samples necessary to evaluate compliance with part 340 and all conditions of a permit issued in accordance with § 340.5. This proposed definition is in line with APHIS' authority under the PPA to conduct inspections and, where necessary, sampling activities to verify that premises associated with permits meet our requirements.

Because the responsible person, as defined above, may have an agent acting on his or her behalf, it is necessary to add to the regulations a definition of the latter term. *Agent* would be defined as ''[a] person who is designated by the responsible person to act in whole or in part on behalf of the permittee to maintain control over an organism under permit during its movement and ensure compliance with all conditions contained in any applicable permit and the requirements in part 340. Multiple agents may be associated with a single responsible person or permit. Agents may be, but are not limited to, brokers, farmers, researchers, or site cooperators. An agent must be at least 18 years of age and be a legal resident of the United States.'' This proposed definition would codify the responsibilities of a designated agent acting on behalf of the responsible person.

We would define *article* as any material or tangible object that could harbor plant pests or noxious weeds. This proposed definition is needed to clarify the meaning of the term as used throughout these proposed regulations and also aligns with the PPA definition of the term.

*Contained facility* would be defined as a structure for the storage and/or propagation of living organisms designed with physical barriers capable of preventing the escape of the organisms, and that examples include laboratories, growth chambers, fermenters, and containment greenhouses. While the current regulations use the term contained facility, the term is not currently defined. APHIS proposes to add this definition to clarify what constitutes a contained facility.

*Import (importation)* would be defined as to move into, or the act of movement into, the territorial limits of the United States. This is the definition used in the PPA.

We would define *mechanism of action,* as discussed earlier in this document, as the biochemical process(es) through which genetic material determines a trait. We would add this definition because it is an element that we would consider, along with organism and trait, when evaluating a GE organism for plant pest risk.

As discussed earlier, we would define *plant pest risk* as the possibility of harm to plants resulting from introducing or disseminating a plant pest or exacerbating the impact of a plant pest. It is necessary to add this definition because our regulatory status review process, described below, hinges on our evaluation of the plant pest risk posed by a GE plant.

Parasitic plants can pose plant pest risks directly by injuring plants themselves, while other types of plants pose plant pest risks indirectly, either by serving as reservoirs, which can increase the numbers or distribution of plant pests, or by serving as hosts in which new plant pests can be created.

Non-plant GE organisms may also pose both direct and indirect plant pest risks. Direct plant pests risks are limited to GE organisms which are themselves plant pests, *i.e.,* capable of causing injury of, damage to or disease in plants or plant products. Indirect plant pest risks involve interactions of a GE organism with other organisms or the environment in such a way that injury of, damage to, or disease in plants or plant products by plant pests occurs or is increased. As with GE plants, an important mechanism by which a non-plant GE organism could have an indirect plant pest impact would be the suppression of populations of a beneficial organism which, in turn, suppresses plant pests. With decreased levels of the beneficial organism, injury, damage, or disease from the plant pest it suppresses might be increased.

*Plant product* would be defined as any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant or any manufactured or processed plant or plant part. This matches the definition of *plant products* found in the PPA. This definition is more precise than the current definition of *product* in part 340, which this definition would replace. For example, the current definition of *product* includes ''anything made by or from, or derived from an organism, living or dead.'' APHIS does not plan to regulate dead organisms as APHIS has found that they do not present a plant pest risk.

*Secure shipment* would be defined as shipment in a container or a means of conveyance of sufficient strength and integrity to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation. This definition would be used to clarify the container requirements in the proposed rule.

We would define *trait,* as discussed earlier in this document, to mean an observable (able to be seen or otherwise identified) characteristic of an organism. This proposed definition would provide clarity regarding the relationship between trait and MOA.

*Unauthorized release* would be defined as the intentional or accidental movement of an organism under a permit issued pursuant to part 340 in a manner not authorized by the permit; or the intentional or accidental movement without a permit of an organism that is subject to the regulations in part 340. We would add this definition to ensure that the Administrator would have the ability to enforce regulatory requirements that are accidentally or intentionally violated and maintain effective compliance oversight.

APHIS proposes to remove the following definitions from the regulations: *Antecedent organism, courtesy permit, expression vector, introduce or introduction, product, regulated article, Secretary, stably*

*integrated, United States, vector or vector agent,* and *well-characterized and contains only non-coding regulatory regions.*

These definitions would be removed because the terms would no longer be used in the regulations.

APHIS proposes to remove the definition for *introduce or introduction.* APHIS currently uses the term in part 340 to denote certain kinds of activities that fall within the scope of the regulations, namely importation, interstate movement, and release into the environment. The PPA, however, does not specifically define the term *introduction.* Therefore, to avoid confusion, instead of using the term *introduction* to define the different types of regulated activities, APHIS would refer to these activities in the regulations as *movement* in accordance with the definition of *move* in the PPA. Additionally, as mentioned above, the regulations will specify and define as necessary the types of movements to which the regulations would apply, namely, importation, interstate movement, and release into the environment.

APHIS proposes to remove the definition of *regulated article.* APHIS currently uses the term in part 340 to refer to which organisms fall within the scope of the regulations. A GE organism is considered to be a regulated article under the current definition if the donor, vector, or vector agent is a plant pest. However, GE techniques, such as genome editing and synthetic genomics, have recently been developed that need not employ plant pests as donor organisms, recipient organisms, vectors, or vector agents but that may pose plant pest risks. APHIS proposes to identify the categories of organisms that are subject to the regulations in § 340.2 instead of through the definition of regulated article.

Finally, based on the terms that APHIS is proposing to add or remove from the regulations, as well as the revised scope of the regulations, the Agency would revise the heading of part 340 to ''Movement of Organisms Modified or Produced Through Genetic Engineering.''

**Regulatory Status Review**

Under the existing regulations, APHIS deems GE organisms ''regulated articles'' based upon the use of a plant pest in the genetic engineering process. APHIS receives requests from developers who wish to ascertain, prior to conducting a potentially regulated activity, whether a specific organism that they have developed meets our definition of *regulated article* and is therefore subject to the regulations. APHIS has been responding to such inquiries from developers since the late 1990's. In 2011, APHIS implemented a formal ''Am I Regulated'' (AIR) process, providing a web page that instructs developers on how to submit an AIR inquiry. We developed the AIR process because we saw an increasing number of such requests. The process was intended to guide developers to provide consistent and predictable information that would enable the Agency to respond to inquiries in a timely manner so as to not inhibit innovation. This process is not codified in the existing regulations, however.

The primary analysis conducted under this process is to determine whether or not the organism described in the AIR inquiry is a regulated article as defined in part 340. The organisms in question have ranged from clearly regulated (*e.g.,* GE plants that DNA that was inserted by the plant pest *Agrobacterium tumefaciens*) to clearly not regulated ones, such as GE organisms that are genetically engineered without the use of a plant pest. Products of new genome editing techniques, such as TALENs and CRISPR, have presented intermediate scenarios that have been evaluated over the past few years. Additional considerations by APHIS under this process include weediness potential. If the organism in question is weedy or has weedy wild relatives, these concerns are also addressed in APHIS' response.

The current petition process for GE plants stems from the manner in which *regulated article* is defined. As noted above, the current regulations consider a GE organism to pose a plant pest risk and therefore be a regulated article if the donor organism, recipient organism, vector, or vector agent is a plant pest. Published APHIS decisions made under the current regulations in § 340.6 have used different ways to express the basic standard ''unlikely to pose a plant pest risk'' in determining whether to grant nonregulated status to a specific GE organism. Alternative characterizations that have been used include ''poses no more of a plant pest risk than its non-GE counterpart,'' ''will not pose a plant pest risk,'' ''no plant pest risk,'' and ''no direct or indirect plant pest effects.'' Regardless of the phrases used, APHIS has applied the same basic evaluation criteria, specified in current § 340.6(c)(4), to each determination to conclude that the GE organism is unlikely to pose a plant pest risk and therefore is not subject to the part 340 regulations. Those criteria include, conclusions on the potential of the GE organism to create pest or disease problems, the potential for nontarget effects that might affect organisms beneficial to agriculture, changes in agricultural practices that might exacerbate pest or disease problems, the potential for a GE organism to become a weed or increase its weediness or that of sexually compatible species, and the potential of the GE organism to transmit the introduced trait to organisms with which it does not interbreed.

Under the proposed regulations, however, we would evaluate whether an organism would require a permit for movement based on the characteristics of the organism itself rather than on the method by which the organism is genetically engineered. Based on the proposed change in approach, the Agency believes the petition process is no longer necessary and is proposing to remove the petition process from the regulations.

In this document, APHIS is proposing to provide developers of novel GE plants that have not been previously evaluated by APHIS the option of either requesting a regulatory status review by the Agency to determine regulatory status or applying for a permit for movement under the regulations. Developers choosing to apply for a permit would, upon approval of the permit application, be able to immediately import, move interstate, or field test their plant under APHIS-imposed conditions and oversight. If they choose to request a regulatory status review, and the Agency finds that the plant-trait-MOA combination is not likely to pose a plant pest risk and therefore is not subject to the regulations, the developer could proceed with product development and marketing activities free from regulation under part 340.

The current petition process contained in the regulations is only applicable to GE plants; likewise, the proposed regulatory status review described in proposed § 340.4 would apply only to plants and not to GE plant pests or other GE non-plant organisms. The latter two categories would fall within the scope of the proposed regulations in § 340.2 and therefore require permits for movement. Unlike most plants, other organisms described in § 340.2(b), (c), and (d) are either known to be plant pests, engineered in such a way that they are likely to be plant pests, or will be used to control plant pests and therefore need to be regulated for direct or indirect plant pest risks. As noted earlier, we are requesting public comment on whether the regulatory status review process or some equivalent process should apply

to non-plant GE organisms and, if so, what factors should be analyzed.

Proposed § 340.4(a) describes the process for submitting a request for a regulatory status review. Since APHIS may also initiate a regulatory status review, that process is described as well.

Under proposed § 340.4(a)(1), any person could submit a request to APHIS for a regulatory status review of a GE plant that has not previously been reviewed for plant pest risk based on its plant-trait-MOA combination. Proposed paragraph (a)(2) would allow any person to request a re-review of a GE plant listed as subject to part 340, provided that the person making the request can provide new, scientifically valid evidence bearing on the plant pest risk associated with movement of the plant.

Proposed paragraph (a)(3) would state that APHIS could also initiate a regulatory status review or re-review of a GE plant. This provision would provide another means of enabling us to respond quickly to scientific developments when making decisions on whether or not GE plants are subject to the regulations. APHIS could initiate a re-review of a GE plant, regardless of the initial finding, if new information warrants such a reevaluation.

Proposed paragraph § 340.4(a)(4), would state that information submitted in support of a request for a regulatory status review would have to meet the requirements listed in paragraphs (a)(4)(i) through (iii), which are as follows:

- A description of the comparator plant, to include genus, species, and any relevant subspecies information;
- The genotype of the modified plant, including a detailed description of the differences in genotype between the modified and unmodified plant; and
- A detailed description of the new trait(s) of the modified plant.

Additional guidance on how to meet these requirements will be available on the APHIS website and is included below:

I. A description of the comparator plant to include:

a. Common name(s);

b. Genus, species, and any relevant subspecies information (*e.g.,* variety) that would distinguish the plant; and

II. The genotype of the modified plant, including a detailed description of the differences in genotype between the modified and unmodified plant.

a. If genetic material is inserted into the genome, the following information shall be provided:

i. For gene sequences, the name of the sequence, the donor organism(s) or source, the function of sequence, the nucleotide sequence, and if applicable, the publicly available sequence identification, protein accession number, and enzyme commission number. If genes have been modified (*e.g.,* codon usage efficiency, gene shuffling, etc.), a statement regarding the nature of the modification and its purpose would be needed. The developer would also have to identify and highlight the modifications by submitting an alignment of the modified sequence with the unmodified sequence.

ii. For regulatory sequences, the function of each regulatory sequence as it relates to the gene sequence and the source of each regulatory sequence would need to be described. Promoters must be identified as constitutive, inducible, developmental, or tissue specific. If inducible, known inducers must be described (*e.g.,* chemical, temperature, light, stress, wounding, etc.). If developmental/tissue specific, the stage(s)/tissue at/in which the promoter is intended to be active must be described.

b. If genetic material is not inserted into the genome, and the genome is modified in a way that does not fall under the exemptions in § 340.1(b), the following must be provided:

i. The nature of the modification(s) and the gene(s) and function(s) being modified.

ii. For substituted base pairs, the number of substitutions.

iii. The original unmodified sequence aligned to the modified sequence.

III. A detailed description of the new trait(s) of the modified plant, including:

a. The purpose of the new trait and the expected MOA by which the intended trait is conferred;

b. Any expected changes in metabolism, physiology, and development due to the trait/genetic modification;

c. If available, any additional experimental data, publications, and other science-based assessments that are relevant to APHIS' evaluation of the potential of the plant to pose plant pest risks. (APHIS does not intend for submitters to generate experimental data specifically for a regulatory status review. However, if a submitter is aware of information or experimental data in the public domain that may support our assessment, they may include it.)

APHIS considers the categories of information specified above to be sufficient for assessing a GE plant and identifying the plant pest risks, if any, associated with it. That being said, the Agency solicits public comment on the adequacy of the requested information, and whether additional or alternate information requirements would be more appropriate. Specifically, APHIS is interested in whether commenters think the above information requirements may be insufficient to identify whether the plant poses a plant pest risk.

To that end, APHIS wishes to highlight some of the differences between the above information requirements and the information currently required for either a petition for nonregulated status of a GE plant or an AIR inquiry. With regard to the genotype of the GE organism, APHIS would add specific information requirements for gene sequences, regulatory sequences, and genome modifications. The current regulations in § 340.6 require the petitioner to supply a detailed description of the genotype of the GE organism, but do not specify that a description of the gene sequences, regulatory sequences, or genome editing of the organism is required. Operationally, however, APHIS considers this information to be necessary. APHIS anticipates using the information to confirm the intended trait(s) of the GE plant and to assess similarity with previously reviewed plants, which will assist the Agency in understanding the impacts the modification(s) will have on characteristics of the plant.

The current regulations specify that a petition must contain field test reports for all trials conducted under permit or notification procedures involving the regulated organism, including the APHIS reference number, methods of observation, resulting data, and analysis regarding all deleterious effects on plants, non-target organisms, or the environment. A petition is typically requested after lengthy field testing. Currently, most of the field data submitted are intended to demonstrate that there have not been unintended deleterious effects on plants, non-target organisms, or the environment.

To date, APHIS has authorized more than 100,000 field trials—a single permit or notification may authorize multiple trials—and APHIS has not received a report of unintended deleterious effects on plants, non-target organisms, or the environment. Based on the risk assessments we have performed in accordance with the petition process over 30 years, we have determined that, in many cases, we would have been able to evaluate the plant pest risks associated with a GE organism without field-test data. Rather, the Agency has discovered that the introduced trait of the GE organism provides the most reliable indicator of the organism's potential for deleterious effects on plants and plant products.

These observations are expected and are consistent with findings of reports of the National Academies of Science, Engineering, and Medicine.[11] [12]

Accordingly, field test information would not be a generally applicable requirement for the initial regulatory status review and would only be requested on an as-needed basis when further analysis is needed. APHIS considers information from field tests to be unnecessary, in most cases, for a determination of regulatory status under the proposed regulations. The approach APHIS is proposing focuses primarily on evaluating the genetics and characteristics of the GE plant-trait-MOA combination and the likelihood that, based on these genetics and characteristics, the plant will pose a plant pest risk if it is released into the environment for the uses intended by the developer.

This approach would not preclude a developer from providing information from field tests, if he or she considered it to be pertinent to our analysis. For example, if a developer wished for APHIS to reevaluate the status a GE plant that the Agency had previously considered to be subject to the regulations, field-test information demonstrating a lack of direct or indirect adverse effects on plants and plant products could be provided in support of that request. Nor would the provisions preclude APHIS from asking for field-test information if APHIS considers it necessary in order to conclude review of a particular request.

APHIS would also remove a current regulatory requirement that requires the petition to state the country and locality of the donor organism from which a GE organism has received genetic material in order for APHIS to evaluate the genotype of the GE organism. In the Agency's experience, this information has not proven germane to evaluating risk associated with modifying the genome of the GE organism, since it does not provide information regarding the modified genome of the GE organism, or the manner in which the genome was modified.

Information pertaining to the MOA may include, to the extent that it is or could be known, information about any new enzymes or other gene products produced; where, when, and at what level the introduced or modified genetic material is expressed in the plant; the biochemical action of the genetic material or its product; and how the genetic material or its product participates in or interacts with metabolic, physiological, or developmental processes in the engineered plant or in other organisms. This information is useful to us because these factors may affect the level of plant pest risk associated with the GE plant.

The above information is needed to allow APHIS to evaluate the plant pest risk posed by the GE plant. The general description of the plant-trait-MOA combination will not be eligible for CBI designation. Making this information available would facilitate APHIS' transparent regulatory approach and thereby increase public understanding of what combinations the Agency has already assessed and the regulatory status of those combinations, aiding developers in making self-determinations as to whether their products would be exempt from the regulations in accordance with § 340.1. Certain technical information that could be used to re-create an organism, however, may be eligible for CBI designation under existing statutory authorities.

Proposed § 340.4(b) would set out the regulatory review process. Under proposed § 340.4(b)(1), upon receiving a request for a regulatory status review of a GE plant, APHIS would conduct an initial review of the potential plant pest risk posed by the GE plant and any sexually compatible relatives that could acquire the engineered trait, based on following factors:

I. The biology of the comparator plant and its sexually compatible relatives;

II. The trait and mechanism-of-action of the modification(s); and

III. The effect of the trait and mechanism-of-action on:

a. The distribution, density, or development of the plant and its sexually compatible relatives;

b. The production, creation, or enhancement of a plant pest or a reservoir for a plant pest;

c. Harm to non-target organisms beneficial to agriculture; and

d. The weedy impacts of the plant and its sexually compatible relatives.

APHIS uses existing knowledge and information on the biology of the comparator plant and its sexually compatible relatives, including their spatial and temporal distribution in the absence of intentional human assistance and their interactions with or impacts on other organisms and the environment, as the foundation for considering whether alterations in the GE plant are likely to pose plant pest risks.

As noted earlier, the MOA is the specific manner by which the genetic modification of the GE plant confers the intended trait on the plant. It is necessary for a regulatory status review to evaluate both trait and MOA because the same trait may be obtained by different MOAs, which may pose greater or lesser plant pest risks. For example, the trait of coleopteran resistance can result from either of at least two MOAs: Expression of a Cry protein, or expression of a silencing complex targeting ribonucleic acids (RNA) in the coleopteran pest. Plants with insect-resistant traits can potentially cause plant pest risks through harms to organisms beneficial to agriculture, such as predator insects that can suppress pest populations. Though the two MOAs in the example both produce a coleopteran resistant trait, they would need to be evaluated separately for nontarget impacts to beneficial insects. Nontarget impacts related to Cry proteins depend on whether the nontarget insect has the correct protein in its gut to bind the Cry protein. Ribonucleic acid interference (RNAi)-based resistance could, on the other hand, be designed to target RNA encoding for any number of essential proteins in the target insect. The sequence could be very specific to the target insect or widely preserved across varying taxa. Only through extensive testing or bioinformatics analysis could risks to nontarget insects be determined. In summary, because these two MOAs are different, one would not expect the analysis of risks to nontarget organisms for one MOA to be informative in evaluating the risks to nontarget organisms of the other. The important principle is that it is not just the trait, but also the MOA, which is critical for differentiating GE plants in order to determine whether new reviews of plant pest risk are needed.

As in plant pest risk assessments (PPRAs) prepared in response to petitions for nonregulated status under the current regulations, APHIS would evaluate whether planting or release of the GE plant could result in direct or indirect harm to non-target organisms that are beneficial to agriculture, such as pollinators and predators of plant pests. We would also evaluate the potential of the plant to displace native/established organisms or otherwise alter community composition or structure in a manner that harms beneficial non-target organisms.

APHIS recognizes that genetic engineering may be used to introduce a trait that increases the distribution,

[11] See: NRC (National Research Council). 1989. *Field Testing Genetically Modified Organisms: Framework for Decisions*. Washington, DC: National Academy Press.

[12] National Academies of Sciences, Engineering, and Medicine. 2016. Genetically Engineered Crops: Experiences and Prospects. Washington, DC: The National Academies Press. doi: 10.17226/23395.

density, or development of a plant or the weedy impacts of the plant, factors that are considered aspects of a plant's weediness. As such, we would continue the current practice of considering the weediness of the unmodified plant and whether the new trait could in any way change the weediness. We would also consider potential effects on the weediness of other plants with which the engineered plant can interbreed, because it is relevant to the assessment of the plant's plant pest risk. Plants and their sexually compatible relatives could have increased importance as reservoirs for plant pests if they are distributed differently, are more prevalent, or are altered in the timing during which they serve as a host for plant pests due to the introduced trait. As part of the regulatory status review, APHIS would continue to consider whether the trait might change plant pest interactions, establishment, and persistence for both the plant engineered, and any other plants with which it can interbreed. Second, if the plant had the potential to be a truly troublesome and impactful weed, we would need to consider whether the plant with the specific trait being evaluated should be considered for regulation and listing as a Federal noxious weed under the regulations in part 360. The proposed regulation does not change this analysis.

Because the initial review is objective, rapid, and based on transparent predetermined criteria, it has functional similarity to the current AIR process. In both processes, the outcome is merely a finding of whether a GE organism is subject to the regulations in part 340. APHIS will maintain on our website a list of all GE plant-trait-MOA combinations which have been evaluated. The list will include the inquiry, and the Agency finding. In cases where no potential plant pest risks are identified, APHIS will conclude that the plant-trait-MOA combination is not likely to pose a plant pest risk, and, therefore, the agency will have no discretion to regulate. As such, and consistent with our current process for AIR inquiries, there will be no comment period or need for publication in the **Federal Register**.

Proposed § 340.4(b)(2) states that if we do not identify potential plant pest risk in the initial review, the GE plant would not be subject to the regulations in part 340, and APHIS would post the finding on its website.

Under proposed § 340.4(b)(3), in cases where the Agency identifies potential plant pest risks, APHIS would conduct a PPRA, a more robust analysis than the initial review, to evaluate the factor(s) of concern and to determine the likelihood and consequences of the potential plant pest risks identified in the initial review. In some cases, the Agency may be able to reach a finding that the plant-trait-MOA combination is not subject to the regulations based on the outcome of the PPRA. In other cases, the Agency may determine that additional information is needed to evaluate the potential plant pest risks and field trials or greenhouse studies may be necessary to collect additional information to inform the risk assessment.

Proposed § 340.4(b)(3) also states that APHIS would make available information on the results of both the initial review and the subsequent PPRA conducted pursuant to this paragraph in a notice in the **Federal Register** and take public comments. After reviewing the comments, we would make a final determination of regulatory status and notify the public via a subsequent notice in the **Federal Register**. If the GE plant were found unlikely to pose a plant pest risk and therefore not to require regulation under part 340, APHIS would post the finding on its website. If the Agency could not reach such a finding, movement of the GE plant would be allowed only under permit.

Along with this proposed rule, we are publishing a document entitled ''Framework for USDA APHIS' Plant Pest Risk Assessment (PPRA) for Genetically Engineered Plants.'' The framework will provide more detailed information on the PPRA process than is contained in this document. We welcome public comment on the framework.

Proposed § 340.4(c) states that APHIS would maintain on its website information on all requests for and results of regulatory status reviews. We would protect CBI associated with individual regulatory status reviews on the website, except that, as noted earlier, plant, trait, and MOA would not be eligible for consideration as CBI.

**Permits**

The current regulations in § 340.3 provide criteria for a notification procedure whereby certain GE plants may be authorized for introduction in lieu of a permit. Rather than using customized requirements, like the permitting conditions used for the permitting procedure, the notification procedure relies on performance-based standards that are described in the regulations themselves. The use of the performance-based standards that do not vary from one notification to the next facilitates rapid administrative turnaround on notifications. However, in some ways, the term ''notification'' has been misleading to the public, since sending a notification does not mean automatic authorization by APHIS.

In many ways, the APHIS evaluations for notifications are very similar to those done for permit applications, but the notification procedure relies on applicants agreeing to meet the performance-based standards described in the regulations rather than submitting an application for APHIS review describing the specific measures they will employ for the activity (as is the case for permits). With permits, but not with notifications, APHIS can accept the proposed measures or add to them, and the result is a set of binding customized permit conditions.

Because the notification procedure uses only the performance-based standards in the regulations, it is more administratively streamlined and provides the responsible person with flexibility in how the standard is met, *e.g.,* by allowing for appropriate changes in protocols used during the growing season. There are, however, some disadvantages to this approach. Since the specific measures that constitute compliance with the regulations are not enumerated in the performance standards, it can be difficult for APHIS inspectors to determine if a notification holder is in compliance. This uncertainty can make enforcing the regulations, and thereby protecting U.S. agriculture from plant pest risks, more difficult than it would be if compliance measures were clearly enumerated as they are in specific conditions under a permit.

The permitting procedure avoids this disadvantage, because the permit conditions specify which actions need to be taken by the responsible person to be in compliance with the regulations and do not rely as much on subjective determinations by both the responsible person and APHIS personnel. Because of this, APHIS has determined that it would have more risk-appropriate oversight, better regulatory enforcement, and improved transparency if all regulated movements are authorized under the permitting procedure. Therefore, APHIS is proposing to remove current notification provisions from the regulations and require that movement of all GE organisms subject to part 340 be conducted under permit.

The use of the permitting procedure in lieu of notifications is also necessary for APHIS to address a number of the recommendations from the OIG audits and the 2008 Farm Bill. In both the OIG audits and the 2008 Farm Bill, concern was expressed regarding the use of performance-based standards to regulate field tests of regulated articles. It was

recommended that APHIS amend the regulations to exercise greater oversight and enforcement of such field tests and to require more extensive reporting and record retention regarding such tests. These requirements can be added to a permit as permitting conditions, but do not lend themselves to performance-based standards. Some permit conditions, however, are and have always been performance-based. APHIS acknowledges that there is more than one way to manage risk and works with the permit applicant to find a mutually acceptable way to do so. In some instances, permit conditions may allow for the flexibility inherent in performance standards, while ensuring a specific requirement is addressed, something not possible with the notification procedure.

In short, if APHIS were to retain the notification procedure, in order to be responsive to the risk factors that may be associated with certain field trials but not others, to make it easier to assess compliance, and to be responsive to both the OIG audits and the 2008 Farm Bill, APHIS would need to revise the procedure to substantially reduce its reliance on performance-based standards. However, doing so would eliminate the primary benefit of the current notification procedure, which is that it is more administratively streamlined than the permitting procedure. Indeed, a revised procedure which took into consideration all risk factors that may be associated with specific field trials would be overly burdensome. For these reasons, APHIS is proposing to eliminate the notification procedure, rather than revise it.

The permitting procedure found in § 340.4 of the current regulations describes types of permits, information required for permit applications, standard permit conditions, and administrative information (*e.g.,* time frames, appeal procedure, etc.). Permits contain specific conditions that must be followed by the permit holder. Standard permit conditions, or ''general conditions,'' are listed in the current regulations, and APHIS supplements these with additional conditions as necessary. The current regulations specify the amount of time that APHIS is allotted for review of complete permit applications: 60 days for permits for importation and interstate movement, 120 days for environmental release. The current regulations also outline requirements for protecting CBI when submitting a permit application.

APHIS is proposing certain changes concerning permit application information requirements, permit conditions, records, and reports. We are proposing to remove the specified timeframes for APHIS review of permit applications to ensure the Agency has the appropriate time to evaluate each permit application based upon the risk the GE organism poses and the complexity of the permit application. Currently, some permit and notification applications take a minimal amount of time and others take longer, APHIS anticipates this to continue. We are also proposing to reorganize the regulations to improve the clarity of the permit application and evaluation procedures.

As noted earlier, under proposed § 340.2, GE plants that have not undergone a regulatory status review and those that have and were not found to be unlikely to pose a plant pest risk would both be subject to the regulations and could be moved only under permit. In some cases, a developer may opt to move a GE plant under permit initially while also requesting a regulatory status review. If a GE plant is subject to a regulatory status review during the time the permit is in effect, depending on the results, APHIS could amend the permit, or, if the plant is found not to require regulation, terminate the permit and communicate this termination to the permittee.

Paragraph (a) of proposed § 340.5 would state that movement of any GE organism subject to the regulations in part 340 would require a permit issued by APHIS.

Paragraph (b) of proposed § 340.5 would state that the responsible person would have to submit a permit application using a method listed on our website. The permit application would have to contain all the categories of information listed below.

Proposed paragraph (b)(1) would list general information requirements for all types of permit applications. All applications would have to include the name, title, and contact information of the responsible person and agent; the country and locality where the organism was collected, developed, manufactured, reared, cultivated, or cultured; the intended activity (*i.e.,* importation, interstate movement, or release into the environment of the GE organism); and information on the intended trait and genotype of the intended trait. These information requirements would be very similar to those for current permits.

Under proposed paragraph (b)(2), applications for permits for interstate movement or importation would, in addition to meeting the requirements of paragraph (b)(1), have to include the origin and destination of the GE organism, including information on the addresses and contact details of the sender and recipient, if different from the responsible person; the method of shipment, and means of ensuring the security of the shipment against unauthorized release of the organism; and the manner in which packaging material, shipping containers, and any other material accompanying the organism will be disposed of to prevent unauthorized release.

Under proposed paragraph (b)(3), permit applications for release into the environment would have to address the general information requirements in paragraph (b)(1) and provide the following additional information: The location and size of all proposed environmental release sites, including area, geographic coordinates, addresses, land use history of the site and adjacent areas; and the name and contact information of a person at each environmental release site, if different from the responsible person. In the event that additional release sites are requested after the issuance of a permit, APHIS would continue the practice of evaluating and amending permits to add new release sites.

Finally, proposed paragraph (b)(4) would state that APHIS would request additional information as needed. Based on APHIS' extensive experience with the current permitting process, there are additional pieces of information that APHIS proposes to routinely request, such as multiple GPS coordinates for requested acreage, as well as multiple GPS coordinates for actual release acreage to appropriately describe the approved area. This information would allow APHIS to fully utilize GIS capabilities to oversee what was released within an authorized area. Additional documentation or notices may be required commensurate with risk of persistence in the environment.

APHIS currently has to follow up with applicants for this information; under this proposed rule, we would obtain it up front, as it would be required to support the permit application.

The categories of information above also align with the recommendations of the 2005 and 2015 OIG audits, and the provisions of the 2008 Farm Bill. For example, the OIG recommendations are reflected in the provisions that would enable APHIS to require geographic coordinates for the locations of environmental releases.

Proposed paragraph (c) of § 340.5 would continue to exempt *Arabidopsis thaliana* from permitting requirements for interstate movement, provided that it is moved in a secure shipment and the cloned genetic material is stably

integrated into the plant genome and does not include the complete infectious genome of a plant pest. This exemption is based on that organism's historically exempt status, which exists because interstate movement of the organism has not resulted in the dissemination of plant pests within the United States. *A. thaliana* has desirable traits (including small size, short generation times, high seed set, and ease of growth) that lend themselves to use in scientific studies. *A. thaliana's* small genome size, lack of repetitive DNA, and ease of genetic modification using *Agrobacterium tumefaciens* make it especially useful for molecular genetic analysis. Though GE *A. thaliana* often needs to be moved interstate between laboratories and other containment facilities as part of scientific studies, safeguards exist which can adequately mitigate the plant pest risk.

Proposed paragraph (d) of § 340.5 would exempt disarmed *Agrobacterium tumefaciens* from permitting requirements for interstate movement, subject to the same conditions as *A. thaliana.* This exemption is granted because, like *A. thaliana,* disarmed GE *A. tumefaciens* often needs to be moved interstate between laboratories and other containment facilities as part of scientific studies, and safeguards exist which can adequately mitigate the plant pest risk. In addition, while some strains of disarmed *Agrobacterium* may cause mild plant disease symptoms in some cases, our extensive experience has shown that given its specific usage in transforming plants and its lack of persistence in the newly transformed plants, there is a very low plant pest risk.

Proposed paragraph (e) of § 340.5 would exempt biological control organism-containing microbial pesticide products that are currently registered with EPA as a microbial pesticide product and that are not plant pests.

Under the authority of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA, 7 U.S.C. 136 *et seq.*), EPA regulates certain biological control organisms (including eukaryotic microorganisms, prokaryotic microorganisms, and parasitically replicating microscopic elements, including, but not limited to, viruses) as ''pesticides,'' (see 40 CFR 152.20(a)(3)) and has established a regulatory process for their use as microbial pesticides.

Proposed paragraph (f) of § 340.5 would contain specifics regarding APHIS' review of permit applications. Under proposed (f)(1), APHIS would review permit applications to determine completeness. As under the current regulations, if the application is incomplete, APHIS would notify the applicant orally or in writing, and the applicant would be provided a sufficient opportunity to revise the application. Once an application is complete, APHIS would review it to determine whether to approve or deny the permit application.

Paragraph (f)(2) of § 340.5 would contain provisions regarding APHIS' assignment of permit conditions. If a permit application is approved, permit conditions would be assigned to each permit commensurate with the risk of the organism under permit and activity. Under the current regulations, the permitting procedure does not require a formal acknowledgement from the applicant prior to permit issuance that they are aware of and consent to the permit conditions, though it has been our practice to request such acknowledgment. APHIS considers such an acknowledgement to be necessary in order to verify that applicants are aware of and willing to abide by the conditions. Accordingly, we are proposing to codify our current practice by adding to the regulations a requirement that, prior to permit issuance, applicants must agree, in writing and in a manner prescribed by the Administrator, that they are aware of, understand, and will comply with all permit conditions. If an applicant fails to comply with this provision, their application would be denied.

Under paragraph (f)(3) of § 340.5, all premises associated with the permit would be subject to inspection before and after permit issuance, and all materials associated with activities conducted under permit would be subject to sampling. APHIS would require that the responsible person provide inspectors with access, as defined under proposed § 340.3, to inspect any relevant premises, facility, location, storage area, waypoint, materials, equipment, means of conveyance, records, and other articles related to the movement of organisms regulated under part 340. While this requirement is functionally the same as the current one, it clarifies what locations and articles may be subject to inspection. Failure to allow the inspection of premises prior to the issuance of a permit would be grounds for the denial of a permit application. Failure to allow an inspection after permit issuance would be grounds for withdrawal of the permit.

While the current regulations provide for review of permit applications by State regulatory officials, they do not provide for review by Tribal officials. Recognizing that Tribal officials may exercise oversight on Tribal lands equivalent to that of State officials within States, APHIS proposes in § 340.5(f)(4) to submit copies of permit applications to appropriate State and Tribal officials for review. Timely comments received from the State or Tribal regulatory official would be considered by the Administrator prior to permit issuance.

General permit conditions, which APHIS is proposing to list in paragraph (g) of § 340.5, would be assigned to all permits. As under the current regulations, additional or expanded permit conditions may also be assigned if determined by the Administrator to be necessary to ensure confinement of the GE organism. Examples of such supplemental requirements may include, but are not limited to, specific requirements for reproductive, cultural, spatial, and temporal controls; monitoring; post-termination land use; site security or access restrictions; management practices such as training of personnel involved in the movement; and practices to prevent articles associated with the movement of an organism under permit from spreading the organism.

The use of permits and permit conditions gives APHIS and the responsible person an understanding as to what actions must be taken for the permit holder to comply with the regulations. In the current regulations, APHIS also provides a list of general permitting conditions that are assigned to all permits in order to provide as much transparency and predictability as possible about permit conditions. To that end, as mentioned above, APHIS would continue to maintain a list of general conditions that APHIS would assign to all permits issued under the regulations within the regulations themselves. Paragraph (g) of § 340.5 would contain these general conditions. APHIS would require that:

I. The organism under permit must be maintained and disposed of in a manner so as to prevent its unauthorized release spread, dispersal, and/or persistence in the environment.

II. The organism under permit must be kept separate from other organisms, except as specifically allowed in the permit.

III. The organism under permit must be maintained only in areas and premises specified in the permit.

IV. The organism under permit's identity must be maintained and verifiable at all times.

V. Authorized activities may only be done while the permit is valid; the duration for which the permit is valid will be listed on the permit itself.

VI. The responsible person would have to maintain records related to activities performed under permit of sufficient accuracy, quality, and completeness to demonstrate compliance with all permit conditions and requirements under the regulations. APHIS would be allowed access to all records, to include visual inspection and reproduction (photocopying, digital reproduction, etc.). The responsible person would have to submit reports and notices regarding the status of the organism under permit and actions and activities associated with the organism to APHIS at the times specified on the permit and containing the specified information. These reports would include, at a minimum:

a. Environmental release reports:

i. Following an environmental release, environmental release reports would have to be submitted for all authorized release locations where an environmental release occurred. Environmental release reports would have to contain details of sufficient accuracy, quality, and completeness to identify the location, shape, and size of the release and the organisms released into the environment.

ii. In the event no release occurs at an authorized location, an environmental release report of no environmental release would have to be submitted for all authorized locations where an environmental release did not occur.

iii. When the environmental release is that of a plant, reports of volunteer monitoring activities and findings would have to be submitted for all authorized release locations where an environmental release occurred. If no monitoring activities are conducted, a volunteer monitoring report of no monitoring would have to be submitted indicating why no volunteer monitoring was done.

VII. Inspectors would have to be allowed access, during regular business hours, to all locations where the organism under permit is or has been located and any equipment used with the organism under permit.

VIII. The organism under permit would have to undergo the application of remedial measures determined by the Administrator to be necessary to prevent its unauthorized release, spread, dispersal, and/or persistence in the environment.

IX. In the event of a possible or actual unauthorized release, the responsible person would have to contact APHIS, as described in the permit, within 24 hours of discovery, and subsequently supply a statement of facts in writing or electronically no later than 5 business days after discovery.

X. The responsible person for a permit remains the responsible person for the duration of the permit unless a transfer of responsibility is approved by APHIS. The responsible person must contact APHIS to initiate any transfer. The new responsible person assumes all responsibilities for ensuring compliance with the existing permit and permit conditions and for meeting the requirements of part 340.

Most of the conditions listed above are drawn from the current regulations, although APHIS has added some details to clarify their meaning. For example, while the existing regulations provide that APHIS inspectors shall be allowed access to records related to the permit, they do not specify what ''access to records'' means. APHIS would clarify that this includes visual inspection and reproduction (photocopying, digital reproduction, etc.) of all records required to be maintained under the proposed regulations or under the conditions of the permit. APHIS believes that these additional details will better communicate to applicants what the general permitting conditions are and will better support administration of the permitting program, including compliance and enforcement.

The conditions related to permit duration are new. Under the current regulations, notifications for environmental releases and interstate movement are valid for 1 year. Interstate movement permits are only valid for 1 year from the date of issuance, and a new import permit must be obtained for each imported shipment. These permits are referred to as ''limited permits.'' The duration period for a permit issued solely for an environmental release is not currently specified.

APHIS has found that it often takes considerably longer than 1 year for activities authorized under a permit to be completed. For example, with a perennial plant such as a tree, it may take much longer than 1 year to gather relevant data about the plant for the purpose of determining risk. Additionally, monitoring activities may be required for several years after a field test is complete. In other cases, multiyear research projects may require multiple shipments of GE organisms under permit for analysis. APHIS is therefore proposing to eliminate the current limits in the regulations on the duration of permits for interstate movement and importation. APHIS also would continue not to specify in the regulations the duration for which an environmental release permit is valid. The duration for which a permit is valid would instead be specified on the permit itself, although as is currently true, some reporting requirements may extend beyond the expiration of the permit. APHIS would work with the developer to ensure that the duration would be appropriate, so that APHIS would have the flexibility to issue these permits with suitable durations to meet individual circumstances.

APHIS is also proposing to make regular reporting regarding any activities associated with environmental release of a GE organism under permit a general permitting condition. As mentioned previously in this document, the 2005 and 2015 OIG audits suggested that APHIS exercise greater and more coordinated oversight over field tests of GE organisms. APHIS identified regular reporting regarding actual release site coordinates and details of the release as a key means of exercising such oversight. Adding this reporting requirement as a general permitting condition will ensure that it is communicated to all responsible persons.

Similarly, to respond to the recommendations of the 2015 OIG audit, APHIS would add a requirement as a general permitting condition that the responsible person must notify the Agency in writing if any activity associated with environmental release under permit will not be conducted. OIG recommended that APHIS implement improvements to track the status of all authorized test field locations in order to account for and sufficiently monitor all such locations and thereby prevent the inadvertent release of GE organisms into the environment. Thus, APHIS is proposing to require the submission of reports so APHIS knows the status and location of authorized field trials. Specifically, APHIS is proposing to require the submission of a report of no release to account for all approved test fields under an authorization. For example, APHIS may approve 50 test fields within various locations in the United States, but test field releases only occur in 30 of the 50 approved locations. Thus, a report of no release would allow APHIS to account for the 20 other test fields. This will lead to efficient compliance oversight of the 30 test fields that have permitted releases. This general condition would work in tandem with the reporting requirement mentioned above, and help APHIS resolve what could otherwise be considered inconsistencies between the permit conditions and the regular reports.

APHIS recognizes that some of these general permitting conditions pertain only to activities associated with

environmental release under permit of a GE organism. APHIS also recognizes that it is possible that certain permit applications may not include a request to release the organism into the environment. Where conditions apply to a specific activity, *e.g.,* movement into the United States, movement interstate, or release into the environment, the appropriate condition will be acknowledged. However, the permit issued would still contain these general conditions to communicate to the responsible person APHIS' general requirements regarding environmental release of GE organisms under permit. This will ensure that, consistent with the recommendations of the OIG audits, all responsible persons are aware of those requirements. The conditions would also prove useful, should the responsible person subsequently request amendments to the permit to authorize environmental release.

While the general permitting conditions that are currently in the regulations contain a condition that pertains to packing material used to transport the organism under permit, APHIS would not retain this as a general permitting condition. Instead, as discussed below, requirements for shipping under permit would be contained in paragraph (k) of § 340.5.

Conditions for denial of a permit application or withdrawal of an existing permit are contained in current § 340.4(g). We are proposing to amend these conditions to make them clearer and provide additional protection against plant pest risks.

Proposed § 340.5(h)(1) lists circumstances under which a permit application may be denied. An application could be denied either orally or in writing. If the denial is oral, the Administrator will then communicate the denial and the reasons for it in writing as promptly as circumstances allow. A denial may occur when the Administrator concludes that, based on the application or additional information, the proposed actions, *i.e.,* movements under permit, may result in the unauthorized release, spread, dispersal, and/or persistence of a GE organism in the environment. Such a situation would arise if we determined that the possibility of the unauthorized release would exist regardless of any permit conditions we could assign. A second cause for denial would be the failure of the responsible person or any agent of the responsible person to comply at any time with part 340 or any APHIS regulation pursuant to the PPA or with the conditions of any permit that has previously been issued in accordance with the regulations. A previous record of noncompliance would call into question the applicant's ability or willingness to abide by our permitting conditions. Finally, if all other application requirements are met, we would still decline to issue the permit if the applicant does not agree in writing to comply with the permit conditions we assign for movement of the organism or does not allow inspection, in accordance with the regulations, of the premises associated with the permit.

Conditions for the withdrawal of permits would be contained in § 340.5(h)(2). A permit could be withdrawn if, following issuance of the permit, the Administrator receives information that would otherwise have provided grounds for APHIS to deny the permit application; if the Administrator determines that actions taken under the permit have resulted in the unauthorized release, spread, dispersal, and/or persistence in the environment of a GE organism; or if the Administrator determines that the responsible person or any agent of the responsible person has failed to comply at any time with the regulations in part 340, any other regulations pursuant to the PPA, or any permit conditions. The first two of these proposed conditions are new. They would provide additional protections against plant pest risks that may be associated with the movement of GE organisms under permit. Failure to comply with permit conditions is grounds for withdrawal under the current regulations, but we would provide additional protection against plant pest risks by broadening the provision to include failure to comply with any APHIS regulation as well.

Under proposed § 340.5(h), the Administrator would communicate the denial or withdrawal and the reasons for it in writing as soon as circumstances allow.

Proposed § 340.5(i) would retain the current procedures for appealing the denial of a permit application or withdrawal of a permit, with one modification. Any person whose permit application has been denied or whose permit has been withdrawn could appeal the decision in writing or electronically to the Administrator. Under the current regulations, the appeal must be submitted within 10 days after the applicant receives the written notification of the denial or withdrawal and must state all of the facts and reasons that, in the view of the applicant, demonstrate that the permit was wrongfully denied or withdrawn. The Administrator grants or denies the appeal, in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing is held to resolve the conflict. Under this proposed rule, we would require an acknowledgment by the applicant of the denial or withdrawal within 10 days after receiving the written notification, along with a statement of the applicant's intent to appeal. The proposed change is intended to allow the applicant adequate time to gather the necessary information and prepare the appeal.

APHIS is also proposing to clarify in § 340.5(j) of the regulations the procedure to be used when amendment of existing permit conditions is sought by the responsible person or required by APHIS. In the current regulations, the administrative practices that APHIS uses to amend permits are not stated explicitly. Adding them to the regulations would provide increased transparency and efficiency.

Proposed paragraph (j)(1) would state that if a responsible person determines that circumstances have changed since the permit was issued, he or she may contact APHIS directly and request an amendment or amendments. Supporting information may need to be submitted to justify the request. APHIS may amend the permit if only minor changes are needed. Requests for more substantive changes may require a new permit application. Prior to issuance of an amended permit, the responsible person or his or her agent(s) will be required to agree in writing to comply with the conditions of amended permit. If the responsible person does not agree to the conditions, the amendment will be denied.

APHIS may also initiate amendments to permits and permit conditions upon determining that such an amendment is needed to address the plant pest risk posed by the GE organism or the activities allowed under the permit. In such cases, APHIS would provide notice to the responsible person of the amendment(s) and, as soon as circumstances allow, the reasons for it. The responsible person and his or her agents would have to agree in writing to comply with the new conditions before APHIS would issue the amended permit. Failure to provide such an agreement may result in the withdrawal of an existing permit.

Section 340.8 of the current regulations lists container requirements for the shipping of regulated articles, *i.e.,* shipping under permit. These requirements are very prescriptive. While they do allow a responsible person to request variances from the requirements, this request process, by its nature, results in a case-by-case determination of whether other types of

containers are acceptable for the transportation of the organism. The current regulations also do not clearly reflect the performance-based standard that APHIS used to develop the requirements, which was that the container should be sufficient to prevent dissemination of a GE organism during movement under permit.

Proposed paragraph (k) of § 340.5 would update the requirements for shipping under permit to resolve the issues discussed above.

Paragraph (k)(1) would state that shipping containers or means of conveyance would have to meet the standards listed under our proposed definition of *secure shipment, i.e.,* would have to be of sufficient strength and integrity to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation. These requirements would make the performance standard referred to above more explicit in the regulations than it is now, while at the same time making the requirements less prescriptive, thus eliminating the need for a request process for variances.

In that paragraph, we would also retain a provision from the current regulations, currently a footnote to § 340.8, that specifies that all organisms shipped under permit must be shipped in accordance with the regulations in 49 CFR part 178. Those regulations, which are administered by the Department of Transportation (DOT), provide packaging requirements for materials, including organisms that DOT has designated as hazardous materials.

Paragraph (k)(2) would state that the container would have to be accompanied by a document that included the names and contact details for both the sender and the recipient. These details are essential for purposes of enforcement.

Paragraph (k)(3) would list container-labeling and documentation requirements for GE organisms imported under permit into the United States. These requirements are currently found in § 340.7 and would not be changed.

Finally, paragraph (k)(4) would state that following the completion of the shipment, all packing material, shipping containers, and any other material accompanying the organism would have to be treated or disposed of in such a manner so as to prevent the unauthorized dissemination and establishment of the organism. This requirement is currently a general permitting condition, but could more accurately be described as a shipping requirement.

APHIS currently authorizes a small number of permits for commercial production. APHIS has occasionally received inquiries from stakeholders regarding whether a permit could authorize the commercial distribution of an organism subject to the regulations. Currently, most developers of GE organisms do not commercialize their products until after those products are granted a determination of nonregulated status. However, APHIS does not prohibit commercializing GE organisms that have not been granted a determination of nonregulated status.

Under the proposed regulations, there may be some GE organisms that an entity wishes to commercialize or grow on a large scale, under permit. As it does currently, APHIS would evaluate these permit applications on a case-by-case basis to determine whether permitting conditions can be developed that adequately address the risk associated with the organism.

The current regulations in § 340.4(h) provide APHIS with the ability to issue courtesy permits in order to facilitate the movement of GE organisms that are not subject to the regulations in part 340 but whose movement might otherwise be hindered because of their similarity to organisms or articles that are regulated by other APHIS programs. APHIS commits significant resources to the issuance of these courtesy permits.

Courtesy permits have been part of the regulations since their inception in 1987, and have been useful to inform shippers and State and Federal inspectors not yet fully familiar with requirements for GE organisms that the shipments in question were not regulated. However, their continued use has led to the widespread misunderstanding by some researchers that courtesy permits are actually required for the movement of certain organisms or that issuance of a courtesy permit removes the requirement for applicants to follow other applicable regulations, such as the plant pest regulations found in 7 CFR part 330. This confusion partially stems from the similarities between the application form for courtesy permits and those for other types of permits, as well as between the courtesy permit itself and other permits. Therefore, in an effort to alleviate confusion and to better focus and allocate APHIS resources, APHIS would no longer issue courtesy permits. It has been common APHIS practice to facilitate the importation of nonregulated articles through the use of letters indicating that no permit is required; under the proposed regulations, APHIS would move to this approach. APHIS would continue to work with researchers and relevant government regulatory officials to facilitate the transition.

**Record Retention, Compliance, and Enforcement**

APHIS is proposing to consolidate all record retention, compliance, and enforcement requirements in part 340 into a new § 340.6. APHIS is also proposing to strengthen these provisions in order to manage compliance with the regulations more efficiently, to augment the approaches used to prevent or remediate plant pest risks, and to utilize appropriate enforcement strategies. These proposed regulatory changes also reflect certain provisions of the 2008 Farm Bill and align with recommendations of the 2005 and 2015 OIG audits.

The current regulations require a responsible person to retain for 1 year records demonstrating that an organism that was imported or moved interstate under a permit arrived at its intended destination but contain no record-retention requirements related to environmental release of an organism under permit. While APHIS has frequently added this record retention requirement as a permitting condition, both the 2005 and 2015 OIG audits and the 2008 Farm Bill recommended that the Agency specify the retention requirement in the regulations themselves. These recommendations have been corroborated by the Agency's own experience administering the regulations.

Proposed § 340.6(a) would require that a responsible person and his or her agent(s) would have to establish and keep the following records and reports:

- All records and reports required as a condition of a permit;
- Addresses and any other information, *e.g.,* GPS coordinates and maps, needed to identify all locations where the organism under permit was stored or used, including all contained facilities and environmental release locations;
- A copy of the APHIS permit authorizing the permitted activity; and
- Legible copies of contracts between the responsible person and all agents that conduct activities subject to the regulations for the responsible person and copies and documents relating to agreements made without a written contract.

We are proposing these requirements for compliance assurance, evaluation, and enforcement purposes, including fact findings and investigations into the possible unauthorized environmental release of a GE organism subject to permitting or its escape from a

containment facility. A thorough record of activities taken under the permit is necessary in order for APHIS to assess compliance and determine whether enforcement actions are needed.

Proposed paragraph (b) of § 340.6 lists requirements for record retention. Records indicating that an organism that was imported or moved interstate under permit reached its intended destination would have to be retained for at least 2 years. The current requirement is 1 year. In the event that there is uncertainty regarding whether the organism arrived at this location, it may take APHIS more than 1 year to investigate the matter.

All other records related to the permit would have to be retained for 5 years following permit expiration, unless the Administrator determines that a longer time period is appropriate and documents that determination in the supplemental conditions of the permit.

APHIS recognizes that, in practice, our proposed requirements would require most records associated with activities conducted under permit to be retained for 5 years (or longer), and that this is a significant duration to retain a potentially substantial number of records pertaining to permit activities, especially for a researcher or small company. However, retaining documents for less than 5 years may impede fact findings and investigations into possible compliance infractions. In conducting such investigations, APHIS has found it necessary to obtain information from field trials conducted up to 5 years prior to an investigation. In instances in which the information was not available, APHIS' ability to do an expeditious and thorough investigation was adversely impacted.

The Agency requests specific public comment regarding whether a shorter duration is warranted for certain records pertaining to permit activities and which activities these may be. Additionally, APHIS requests comment on any alternate means that stakeholders may identify for the Agency to obtain necessary information from developers in the event of a fact finding or an investigation of possible regulatory noncompliance.

Proposed paragraph (c) of § 340.6 would state that responsible persons and their agents must comply with the proposed regulations. Failure to comply with the regulations could result in any or all of the following: Denial of a permit application or withdrawal of a permit, application of remedial measures in accordance with the PPA, and criminal or civil penalties in accordance with the PPA.

Pursuant to sections 7714 and 7731 of the PPA, APHIS may seize, quarantine, treat, destroy, or apply other remedial measures to an organism covered under the regulations that is new to or not widely prevalent or distributed in the United States to prevent dissemination of the organism. APHIS typically issues an Emergency Action Notification or administrative order to the owner of the organism to specify these remedial measures.

If APHIS intends to issue a civil penalty, the Agency may enter into a stipulation prior to issuance of the complaint seeking the penalty. Our regulations regarding such stipulations are located in 7 CFR 380.10.

Proposed paragraph (d) of § 340.6 would specify that for purposes of enforcing the regulations, the act, omission, or failure of any agent for a responsible person may be deemed also to be the act, omission, or failure of the responsible person. We would note, however, that in enforcing the regulations, we will take the least drastic action that is commensurate with the mitigating factors of the noncompliance. It is expected, therefore, that major and/or repeated infractions would be dealt with more harshly than minor ones.

**Confidential Business Information**

The current regulations contain requirements pertaining to CBI in various sections. APHIS is proposing to consolidate these requirements for protecting CBI into a single section, § 340.7, thereby making it easier for interested persons to find the necessary information. Under proposed § 340.7, persons submitting any document to APHIS in accordance with the regulations must identify those portions of the document deemed to be CBI. Each page containing such information must be marked ''CBI Copy.'' A second copy of the document must be submitted with all such CBI deleted, and each page where the CBI was deleted must be marked ''CBI Deleted.'' In addition, any person submitting CBI must justify how each piece of information requested to be treated as CBI is a trade secret or is commercial or financial information and is privileged or confidential. As noted earlier, in order to facilitate APHIS' transparent regulatory approach, a general description of the plant-trait-MOA combination will not be eligible for CBI designation. Certain technical information, however, such as GPS location data, or data that could be used to recreate an organism, may be deemed as CBI under existing statutory authorities.

**Costs and Charges**

Proposed § 340.8 would contain APHIS' requirements regarding costs and charges for the services of inspector, which are found in the current regulations in § 340.9. Currently, the section provides that the services of an inspector during regularly assigned hours of duty are provided free of charge, but that APHIS will not be responsible for any other costs or charges incident to inspections or compliance, apart from the services of this inspector. These provisions would remain unchanged in this proposed rule.

**Miscellaneous**

Because, as described above, we are proposing to eliminate the notification procedure from these regulations, we would also remove language pertaining to notifications from 7 CFR 372.5(c)(3)(iii). Because we are proposing to eliminate petitions for determinations of nonregulated status, we are also removing language pertaining to that process in paragraphs (b)(7) and (c)(4) of § 372.5. These changes would make those regulations consistent with the proposed ones contained in this document.

**National Environmental Policy Act**

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the revision of our regulations regarding the movement of certain GE organisms, APHIS has prepared a programmatic environmental impact statement (PEIS). The PEIS was 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). The PEIS may be viewed on the *Regulations.gov* website or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

**Executive Orders 12866, 13563, and 13771 and Regulatory Flexibility Act**

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and,

therefore, has been reviewed by the Office of Management and Budget. This proposed rule, if finalized as proposed, is expected to be an Executive Order 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides an initial regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* website (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

We are proposing to revise our regulations regarding the movement of certain genetically engineered organisms in response to advances in genetic engineering and our understanding of the plant pest risk posed by them, thereby reducing regulatory burden for developers of organisms that are unlikely to pose plant pest risks. The proposed rule would provide a clear, predictable, and efficient regulatory pathway for innovators, facilitating the development of new and novel genetically engineered organisms that are unlikely to pose plant pest risks.

The proposed regulations would benefit developers, producers, and consumers of certain GE organisms, public and private research entities, and the Agency. There would not be any decrease in the level of protection provided against plant pest risks. The regulatory framework, including the regulatory status review process used to determine regulatory status of GE plants, established under the proposed rule would provide cost savings to the biotechnology industry and allow APHIS to allocate its resources more effectively than it can under the present regulations.

Under the proposed rule, APHIS regulatory oversight (through permitting) would not be required for GE plants that fall into an exempted category or have been assessed by means of a regulatory status review and found unlikely to pose plant pest risks. Direct regulatory costs to GE plant developers would be reduced for the development of GE plants for which permits are no longer necessary. Savings to the regulated community would result from a reduced need to collect field data, fewer reporting requirements, and lower management costs. Costs now associated with petitions for non-regulated status would be reduced or eliminated where permits are no longer necessary.

Cost savings for these entities are expected to more than offset the new costs. APHIS estimated the cost savings for two regulatory oversight scenarios, based on a study of the costs encountered by private biotechnology developers as they pursue regulatory authorization of their innovations. When only APHIS has regulatory oversight, compliance cost savings under the proposed rule could range from $1.5 million to $5.6 million ($3.6 million on average) for the development of a given GE plant. If EPA and/or FDA also have an oversight role in the development of a given GE plant, compliance cost savings could range from $538,000 to $924,000 ($730,600 on average). From 1993 through 2017, an average of just under 5 petitions were processed (granted non-regulated status or the petition withdrawn) in a given year, with a high of 12 in 1995. As the rule is expected to spur innovation, we expect the number of new organisms developed annually to increase over time. In particular, the proposed rule may provide impetus to the development of new horticultural varieties, where the costs of acquiring non-regulated status may have been high in the past relative to the potential market.

In the following estimate of impacts, we use average cost savings per GE plant developed and assume the annual number of new GE organisms developed under the proposed rule without APHIS permits would range from 5 (the current annual average of processed petitions) to 10 (twice this average). We further assume that about 20 percent of those new GE organisms would have required only APHIS oversight, and the remaining would still require FDA and/or EPA oversight. If 5 new GE plants are developed annually without APHIS permits (all with no APHIS permit, but 4 still with EPA and/or FDA evaluation), the annual savings would be $6.5 million.[13] If 10 new GE plants are developed annually without APHIS permits (all with no APHIS permit, but 8 still with EPA and/or FDA evaluation), the annual savings would be $13.0 million.[14]

There would be some new costs borne by regulated entities under the proposed rule pertaining to rule familiarization and recordkeeping. Annual recordkeeping costs are based on information collection categories in the paperwork burden section of the rule and are estimated would total about $714,000. About 1,100 distinct entities have applied for permits or notifications under part 340. APHIS estimates that those entities would spend about 8 hours becoming familiar with the provisions of this rule at a total one-time cost of about $576,000.

In accordance with guidance on complying with Executive Order 13771, the primary estimate of the annual net private sector cost savings for this rule is $9 million. This value is the mid-point estimate of the net private cost savings annualized in perpetuity using a 7 percent discount rate.

Current annual APHIS personnel costs for conducting those GE activities that would be affected by the proposed rule total about $3.5 million. These include compliance activities, inspection activities, AIR process activities, notification activities, permit activities, and petition activities. Under the proposed rule, APHIS' overall annual personnel costs of regulating GE organisms are not expected to change. While the volume of specific activities would change, the overall volume of regulatory activities, the general nature of those activities and level of skill necessary to perform those activities would not. There would be costs to APHIS of implementing the proposed rule, which would include outreach activities, developing guidance documents, training, and adjusting the current permit system. APHIS estimates that the public outreach, guidance and training would cost about $77,000. Requests for regulatory status and response letters under the proposed rule could be handled in a manner similar to the current AIR process outside the electronic permitting system without incurring new costs.

PMPIs are plants genetically engineered in order to produce pharmaceutical and industrial compounds. There is a likelihood that

[13] One × $3,560,245 = $3,560,245. Four × $730,600 = $2,922,400. $3,560,245 + $2,922,400 = $6,482,645.

[14] Two × $3,560,245 = $7,120,490. Eight × $730,600 = $5,844,800. $7,120,490 + $5,844,800 = $12,965,290.

most, if not all, GE PMPI-producing plants that are currently under APHIS permits could be determined to be not regulated under the provisions of the proposed regulations after a regulatory status review because they are unlikely to pose a plant pest risk. Thus, such plants could be grown outdoors without the need for permits and without APHIS oversight. Federal oversight of outdoor plantings of PMPI-producing plants could be necessary to prevent the unlawful introduction into the human or animal food supply of pharmaceutical or industrial PMPI products, even when the principal purpose of the plants is not for human or animal food use. APHIS estimates that current PMPI inspections cost roughly $26,000 in total annually or about $800 each on average. Assuming that oversight continues in the same manner as APHIS oversight, a similar government expenditure could be expected under any Federal PMPI oversight scenario.

PIPs are plants that are genetically engineered to produce plant-incorporated protectants, *i.e.,* pesticides. APHIS regulates those that are captured by our current regulations, *i.e.,* when plant pests are used. PIPs also fall under the regulatory oversight of EPA. However, currently only APHIS exercises regulatory oversight of PIP plantings on 10 acres or less of land. Many GE PIP-producing plants that are currently regulated under APHIS permits or notifications could be determined not regulated under the provisions of the proposed regulations after a regulatory status review because they are unlikely to pose plant pest risks. Thus, such plants could be grown outdoors without the need for an APHIS permit and without undergoing APHIS oversight. This proposal would shift Federal oversight of small-scale (10 or fewer acres) outdoor plantings of some PIPs to EPA. EPA may decide to require experimental use permits for all, some, or none of such PIPs, and may conduct inspections of all, some, or none of those PIPs under permit. As described above, current inspection costs incurred by APHIS average roughly $800 per inspection.

A quicker APHIS evaluation process and related reduction to regulatory uncertainty may facilitate small companies' ability to raise venture capital. Reduced regulatory requirements may also lead to greater participation by the public and private academic institutions in GE research and product development. These indirect benefits of the proposed rule may spur GE innovations, particularly in small acreage crops where genetic engineering has not been widely utilized due to the expense of regulation.

GE crop varieties, in general, are not required to be reviewed or approved for safety by the FDA before going to market. However, the developer is responsible for ensuring product safety, and some developers consider voluntary consultations with FDA on food safety to be an absolute necessity for applicable GE products.[15] It would be in a GE plant developer's own best interest to maintain the same level of supervision and control over the development process as at present to prevent undesired cross-pollination or commingling with non-GE crops. Developers also have various legal, quality control and marketing motivations to maintain rigorous voluntary stewardship measures. APHIS therefore believes that developers would continue to utilize such measures for field testing even in cases where USDA would not require a permit.

Farmers who adopt GE crops may benefit from the proposed rule. The adoption of GE crops in the United States has generally reduced costs and improved profitability at the farm level. As mentioned, under the proposed rule, regulatory costs are expected to be lower, thereby potentially spurring developer innovation, especially among small companies and universities. Farmers may benefit by having access to a wider variety of traits as well as a greater number of new GE crop species, affording them a broader selection of crops to suit their particular management needs. Among the types of innovations expected are crops with greater resistance to disease and insect pests, greater tolerance of stress conditions such as drought, high temperature, low temperature, and salt, and more efficient use of fertilizer. These types of traits can lower farmer input costs (water, fertilizer, pesticide) and increase yields during times of adverse growing conditions.

In addition to the compliance costs associated with regulation, there are opportunity costs of delayed innovation if the approval process for a plant is longer than necessary to ensure safety with reasonable scientific certainty. Regulatory delays mean that the benefits of innovation occur later than they otherwise would have and most likely, at lower levels. The forgone benefits due to delayed innovation can be substantial and developers, producers, and consumers all lose from regulatory delays. The foregone benefits stemming from even a relatively brief delay in product release overshadow both research and regulatory costs. It should be noted that while the proposed rule would alter the evaluation process of GE plants for APHIS, it does not affect the evaluation by FDA or EPA, which operate under different authorities and evaluate for different endpoints, or international regulatory agencies, all of whom would have impact opportunity costs. When FDA and/or EPA also have a regulatory role, time savings would only be realized in those instances in which APHIS' process takes the longest time. When APHIS is the only agency with oversight, such as for some new horticultural varieties, there could be significant time savings over the current petition process.

Some farmers (*e.g.,* growers of organic and or identity-preserved crops) could be indirectly negatively impacted by these same innovations. Some consumers choose not to purchase products derived from GE crops and instead purchase commodities such as those labeled ''non-GMO (Genetically Modified Organism)'' or organic. In addition, the organic standard does not allow for the use of GE seeds. When crops intended for the non-GE or identity-preserved marketplace contain unintended GE products, the profitability of the non-GE or identity-preserved product may be diminished. Effects of the proposed rule on the variety of GE crop species grown in the United States and their wider adoption may increase the possibility of cross-pollination or commingling. As acreage of any given GE crop increases and as a greater variety of crops are modified using genetic engineering, the potential for more instances of unintended presence of a GE organism increases. Unauthorized releases of regulated GE crop plants and the entry of regulated plant material in the commercial food and feed supply can have impacts on domestic or international markets. While such releases have occurred and may occur again, such incidents are expected to be rare.

Entities potentially affected by the proposed rule fall under various categories of the North American Industry Classification System. While economic data are not available on business size for some entities, based on industry data obtained from the Economic Census and the Census of Agriculture we can assume that the majority of the businesses affected by the proposed rule would be small.

[15] *Genetically Engineered Crops: Past Experience and Future Prospects.* Committee on Genetically Engineered Crops: Past Experience and Future Prospects; Board on Agriculture and Natural Resources; Division on Earth and Life Studies; National Academies of Sciences, Engineering, and Medicine.

APHIS welcomes public comment on the proposed rule's possible impacts. The following table provides a summary statement of the expected direct costs and cost savings of the proposed rule:

TABLE 1—EXPECTED COSTS AND COSTS SAVINGS OF THE PROPOSED RULE FOR THE BIOTECHNOLOGY INDUSTRY AND FOR USDA, 2016 DOLLARS

| Entity: | | | |
|---|---|---|---|
| Biotechnology Industry<br>Developer costs (recordkeeping and rule familiarization) [1] | Costs ($1,000).<br>1,290. | | |
| | Cost savings *per Trait* ($1,000) | | |
| Developer Savings [2] | | Proposed Rule, lower bound | Proposed Rule, upper bound |
| USDA sole regulatory agency<br>USDA with FDA and/or EPA oversight | | −1,546<br>−538 | −5,574<br>−924 |
| APHIS Biotechnology Regulatory Services<br>Costs for public outreach, training, and e-permitting [3] | Costs ($1,000).<br>77. | | |

[1] Costs of rule familiarization, one-time costs, would total about $576,000. Annual recordkeeping costs would total about $714,000.

[2] These savings are shown on a per trait basis. On average, if 5 new GE organisms are developed annually without USDA permits (all with no USDA permit, but 4 still with EPA and/or FDA evaluation), the annual savings would be $6.5 million. If 10 new GE organisms are developed annually without USDA permits (all with no USDA permit, but 8 still with EPA and/or FDA evaluation), the annual savings would be $13.0 million.

[3] Requests for regulatory status and response letters under the proposed rule could be handled in a manner similar to the current 'Am I Regulated' process outside the electronic permitting system without incurring new costs.

As shown in the economic analysis accompanying this proposed rule, we have some data pertaining to the potential effects of this proposed rule on small entities; however, we do not currently have all of the data necessary for a comprehensive analysis of those potential effects. Therefore, we are inviting comments on the potential effects. In particular, we are interested in additional information on the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

**Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

**Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

**Executive Order 13175**

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The Animal and Plant Health Inspection Service has assessed the impact of this rule on Indian Tribes. APHIS sent a letter to Tribal leaders upon publication of a notice of intent to conduct a programmatic environmental impact statement in support of the proposed rule. In addition, APHIS held a conference call for Tribal leaders to provide information and answer questions regarding our plan to publish a proposed rule.

In an email dated December 21, 2018, one California Tribe contacted APHIS requesting consultation on the proposed rule. This request has led USDA's Office of Tribal Relations (OTR) to determine that the rule has potential tribal implications that require continued outreach efforts to determine if tribal consultation under Executive Order 13175 is required. As of February 2019, APHIS is following up with that Tribe to determine whether formal consultation is warranted or needed. If this or another tribe requests formal consultation, APHIS will work with the OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified herein are not expressly mandated by Congress.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2018–0034. Please send a copy of your comments to the USDA using one of the methods described under **ADDRESSES** at the beginning of this document.

We are proposing to revise our regulations regarding the movement (importation, interstate movement, and environmental release) of certain GE organisms. The proposed revisions include, but are not limited to, the following new information collection activities: Requests for confirmation from APHIS of developers' self-determinations that the GE plant is not within the scope of part 340, procedures for permits and record reporting, marking and labeling of organisms under permit, State and Tribal regulatory officials' review of permit applications, regulatory status reviews, and recordkeeping. In addition, the proposed revisions would remove the current petition process for

nonregulated status and associated burdens.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

*Estimate of burden:* Public burden for this collection of information is estimated to average 17.73 hours per response.

*Respondents:* Businesses and State and Tribal regulatory officials.

*Estimated annual number of respondents:* 321.

*Estimated annual number of responses per respondent:* 3.

*Estimated annual number of responses:* 1,097.

*Estimated total annual burden on respondents:* 19,453 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

A copy of the information collection may be viewed on the *Regulations.gov* website or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

**E-Government Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

**List of Subjects**

*7 CFR Part 340*

Administrative practice and procedure, Packaging and containers, Plant diseases and pests, Reporting and recordkeeping requirements, Transportation.

*7 CFR Part 372*

Environmental impact statements.

Accordingly, we are proposing to amend 7 CFR parts 340 and 372 as follows:

■ 1. Part 340 is revised to read as follows:

## PART 340—MOVEMENT OF ORGANISMS MODIFIED OR PRODUCED THROUGH GENETIC ENGINEERING

Sec.

340.1 Applicability of this part.
340.2 Scope of this part.
340.3 Definitions.
340.4 Regulatory status review.
340.5 Permits.
340.6 Record retention, compliance, and enforcement.
340.7 Confidential business information.
340.8 Costs and charges.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

### § 340.1 Applicability of this part.

(a) The regulations in this part apply to those genetically engineered (GE) organisms described in § 340.2.

(b) The regulations in this part do not apply to plants modified such that they belong to one of the categories listed below:

(1) The genetic modification is solely a deletion of any size; or

(2) The genetic modification is a single base pair substitution; or

(3) The genetic modification is solely introducing nucleic acid sequences from within the plant's natural gene pool or from editing of nucleic acid sequences in a plant to correspond to a sequence known to occur in that plant's natural gene pool; or

(4) The plant is an offspring of a GE plant that does not retain the genetic modification in the parent.

(c) The regulations in this part do not apply to a GE plant-trait-mechanism of action combination that has previously undergone an analysis in accordance with § 340.4 and has been found by the Administrator to be unlikely to pose a plant pest risk.

(d) Developers may request confirmation from APHIS that the plant is not within the scope of this part.

### § 340.2 Scope of this part.

Except under a permit issued by the Administrator in accordance with § 340.5, no person shall move any GE organism that:

(a) Is a plant that has a plant-trait-mechanism of action combination that has not been evaluated by APHIS in accordance with § 340.4; or

(b) Meets the definition of a *plant pest* in § 340.3; or

(c) Is not a plant but has received deoxyribonucleic acid (DNA) from a plant pest, as defined in § 340.3, and the DNA from the donor organism either is capable of producing an infectious agent that causes plant disease or encodes a compound that is capable of causing plant disease; or

(d) Is a microorganism used to control plant pests or an invertebrate predator or parasite (parasitoid) used to control invertebrate plant pests and could pose a plant pest risk.

### § 340.3 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

*Access.* The ability during regular business hours to enter, or pass to and from, a location, inspect, and/or obtain or make use or copies of any records, data, or samples necessary to evaluate compliance with this part and all conditions of a permit issued in accordance with § 340.5.

*Administrator.* The Administrator of the Animal and Plant Health Inspection Service (APHIS) or any other employee of APHIS to whom authority has been or may be delegated to act in the Administrator's stead.

*Agent.* A person who is designated by the responsible person to act in whole or in part on behalf of the permittee to maintain control over an organism under permit during its movement and ensure compliance with all conditions contained in any applicable permit and the requirements in this part. Multiple agents may be associated with a single responsible person or permit. Agents may be, but are not limited to, brokers, farmers, researchers, or site cooperators. An agent must be at least 18 years of age and be a legal resident of the United States.

*Animal and Plant Health Inspection Service (APHIS).* An agency of the United States Department of Agriculture.

*Article.* Any material or tangible object that could harbor plant pests or noxious weeds.

*Contained facility.* A structure for the storage and/or propagation of living organisms designed with physical barriers capable of preventing the escape of the organisms. Examples include but are not limited to laboratories, growth chambers, fermenters, and containment greenhouses.

*Donor organism.* The organism from which genetic material is obtained for transfer to the recipient organism.

*Environment.* All the land, air, and water; and all living organisms in association with land, air, and water.

*Genetic engineering (GE).* Techniques that use recombinant or synthetic nucleic acids to modify or create a genome.

*Import (importation).* To move into, or the act of movement into, the territorial limits of the United States.

*Inspector.* Any individual authorized by the Administrator or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

*Interstate.* From one State into or through any other State or within the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

*Mechanism of action.* The biochemical process(es) through which genetic material determines a trait.

*Move (moving, movement).* To carry, enter, import, mail, ship, or transport; aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting; to offer to carry, enter, import, mail, ship, or transport; to receive to carry, enter, import, mail, ship, or transport; to release into the environment; or to allow any of the above activities to occur.

*Organism.* Any active, infective, or dormant stage of life form of an entity characterized as living, including vertebrate and invertebrate animals, plants, bacteria, fungi, mycoplasmas, mycoplasma-like organisms, as well as entities such as viroids, viruses, or any entity characterized as living, related to the foregoing.

*Permit.* A written authorization, including by electronic methods, by the Administrator to move organisms regulated under this part and associated articles under conditions prescribed by the Administrator.

*Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

*Plant.* Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, or a seed.

*Plant pest.* Any living stage of a protozoan, nonhuman animal, parasitic plant, bacterium, fungus, virus or viroid, infectious agent or other pathogen, or any article similar to or allied with any of the foregoing, that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product.

*Plant pest risk.* The possibility of harm to plants resulting from introducing or disseminating a plant pest or exacerbating the impact of a plant pest.

*Plant product.* Any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant or any manufactured or processed plant or plant part.

*Recipient organism.* The organism whose nucleic acid sequence will be modified through the use of genetic engineering.

*Release into the environment (environmental release).* The use of a GE organism outside the physical constraints of a contained facility.

*Responsible person.* The person responsible for maintaining control over a GE organism under permit during its movement and ensuring compliance with all conditions contained in any applicable permit as well as other requirements in this part. A responsible person may be, but is not limited to, the signatory of a permit, or the institution the signatory represents at the time of application. A responsible person must be at least 18 years of age and be a legal resident of the United States.

*Secure shipment.* Shipment in a container or a means of conveyance of sufficient strength and integrity to withstand leakage of contents, shocks, pressure changes, and other conditions incident to ordinary handling in transportation.

*State.* Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, the Virgin Islands of the United States, or other Territories or possessions of the United States.

*State or Tribal regulatory official.* State or Tribal official with responsibilities for plant health, or any other duly designated State or Tribal official, in the State or on the Tribal lands where the movement is to take place.

*Trait.* An observable (able to be seen or otherwise identified) characteristic of an organism.

*Unauthorized release.* The intentional or accidental movement of an organism under a permit issued pursuant to this part in a manner not authorized by the permit; or the intentional or accidental movement without a permit of an organism that is subject to the regulations in this part.

**§ 340.4 Regulatory status review.**

(a)(1) Any person may submit a request to APHIS for an Agency regulatory status review of whether a GE plant is subject to the regulations in this part, based on its plant-trait-mechanism of action combination.

(2) Any person may request re-review of a GE plant previously found to be subject to this part, provided that the request is supported by new, scientifically valid evidence bearing on the plant pest risk associated with movement of the plant.

(3) APHIS may also initiate a regulatory status review or re-review of a GE plant to identify whether it is subject to regulation under this part.

(4) Information submitted in support of a request for a regulatory status review or re-review must meet the requirements listed in this paragraph. Additional guidance on how to meet these requirements may be found on the APHIS website.

(i) A description of the comparator plant, to include genus, species, and any relevant subspecies information;

(ii) The genotype of the modified plant, including a detailed description of the differences in genotype between the modified and unmodified plant; and

(iii) A detailed description of the new trait(s) of the modified plant.

(b)(1) When APHIS receives a request for a regulatory status review of a GE plant, the Agency will conduct an initial review of the potential plant pest risk posed by the GE plant and any sexually compatible relatives that could acquire the engineered trait, relative to that of the plant pest risk posed by their respective non-GE or other appropriate comparator(s), based on the following factors:

(i) The biology of the comparator plant and its sexually compatible relatives;

(ii) The trait and mechanism-of-action of the modification(s); and

(iii) The effect of the trait and mechanism-of-action on:

(A) The distribution, density, or development of the plant and its sexually compatible relatives;

(B) The production, creation, or enhancement of a plant pest or a reservoir for a plant pest;

(C) Harm to non-target organisms beneficial to agriculture; and

(D) The weedy impacts of the plant and its sexually compatible relatives.

(2) If the Agency is unable to identify potential plant pest risks in the initial review, the GE plant will not be subject to the regulations in this part, and APHIS will post the finding on its website.

(3)(i) If the Agency does identify potential plant pest risks in the initial review, APHIS will conduct a more robust evaluation of the factor(s) of concern to determine the likelihood and consequence of the potential plant pest risk posed by the GE plant.

(ii) APHIS will make available information on the results of both the initial review and one conducted pursuant to this paragraph in a notice in the **Federal Register** and will take comments on its findings from the public. After reviewing the comments, APHIS will make a final determination regarding the regulatory status of the GE plant and announce that determination in a subsequent **Federal Register** notice.

(iii) If the GE plant is found unlikely to pose a plant pest risk and, therefore, not to require regulation under this part, APHIS will post the finding on its website.

(iv) If APHIS is unable to find the GE plant unlikely to pose a pest risk it will require regulation under this part and its movement will be allowed only under permit in accordance with § 340.5.

(c) APHIS will maintain on its website information on all requests for and results of regulatory status reviews.

**§ 340.5 Permits.**

(a) *Permit issuance.* A permit must be issued by APHIS for the movement of all GE organisms subject to the regulations under this part.

(b) *Permit application requirements and permitting exemptions.* The responsible person must apply for and obtain a permit through a method listed on APHIS' website. The application must also include the following information:

(1) *General information requirements.* All permit applications must include the name, title, and contact information of the responsible person and agent; the country and locality where the organism was collected, developed, manufactured, reared, cultivated, or cultured; the intended activity (*i.e.,* importation, interstate movement, or release into the environment of the GE organism); and information on the intended trait and the genotype of the intended trait.

(2) *Permits for interstate movement or importation.* Applications for permits for interstate movement or importation of GE organisms must meet the requirements of paragraph (b)(1) of this section and include the following additional information:

(i) The origin and destination of the GE organism, including information on the addresses and contact details of the sender and recipient, if different from the responsible person;

(ii) The method of shipment, and means of ensuring the security of the shipment against unauthorized release of the organism; and

(iii) The manner in which packaging material, shipping containers, and any other material accompanying the organism will be disposed of to prevent unauthorized release.

(3) *Permits for release into the environment.* Applications for permits for release of GE organisms into the environment must meet the requirements of paragraph (b)(1) of this section and include information on the size of all proposed environmental release sites, including area, geographic coordinates, addresses, and land use history of the site and adjacent areas; and the name and contact information of a person at each environmental release site, if different from the responsible person. In the event that additional release sites are requested after the issuance of a permit, APHIS will continue the practice of evaluating and amending permits to add new release sites.

(4) *Additional information.* APHIS will require additional information as needed.

(c) *Exemption for GE Arabidopsis thaliana.* A permit for interstate movement is not required for GE *Arabidopsis thaliana,* provided that it is moved as a secure shipment, the cloned genetic material is stably integrated into the plant genome, and the cloned material does not include the complete infectious genome of a plant pest.

(d) *Exemption for GE disarmed Agrobacterium tumefaciens.* A permit for interstate movement is not required for GE disarmed *Agrobacterium tumefaciens,* provided that it is moved as a secure shipment, the cloned genetic material is stably integrated into the genome, and the cloned material does not include the complete infectious genome of a plant pest.

(e) *Exemption for certain microbial pesticides.* A permit is not required for any GE microorganism that is currently registered with the Environmental Protection Agency as a microbial pesticide so long as it is not a plant pest as defined in § 340.3.

(f) *Administrative actions*—(1) *Review of permit applications.* APHIS will review the permit application to determine if it is complete. APHIS will notify the applicant orally or in writing if the application is incomplete, and the applicant will be provided the opportunity to revise the application. Once an application is complete, APHIS will review it to determine whether to approve or deny the application in accordance with paragraph (h) of this section.

(2) *APHIS assignment of permit conditions.* If a permit application is approved, the Administrator will issue a permit with conditions as described in paragraph (g) of this section. Prior to issuance of a permit, the responsible person must agree in writing, in a manner prescribed by the Administrator, that the responsible person and all agents of the responsible person are aware of, understand, and will comply with the permit conditions. Failure to comply with this provision will be grounds for the denial of a permit.

(3) *Inspections.* All premises associated with the permit are subject to inspection before and after permit issuance, and all materials associated with the movement are subject to sampling after permit issuance. The responsible person and agents must provide inspectors access to premises, facilities, release locations, storage areas, waypoints, materials, equipment, means of conveyance, documents, and records related to the movement of organisms permitted under this part. Failure to provide access for inspection prior to the issuance of a permit will be grounds for the denial of a permit. Failure to provide access for inspection following permit issuance will be grounds for withdrawal of the permit.

(4) *State or Tribal review and comment.* The Administrator will submit for notification and review a copy of the permit application, without confidential business information (CBI), and any permit conditions to the appropriate State or Tribal regulatory official. Timely comments received from the State or Tribal regulatory official will be considered by the Administrator prior to permit issuance.

(g) *Permit conditions.* The standard conditions listed in this paragraph will be assigned to all permits issued under this section. The Administrator may assign supplemental permit conditions as deemed necessary to ensure confinement of the GE organism. The responsible person, and his or her agents, must ensure compliance with

these conditions, as well as any supplemental conditions listed in the permit:

(1) The organism under permit must be maintained and disposed of in a manner so as to prevent its unauthorized release, spread, dispersal, and/or persistence in the environment.

(2) The organism under permit must be kept separate from other organisms, except as specifically allowed in the permit.

(3) The organism under permit must be maintained only in areas and premises specified in the permit.

(4) The identity of the organism under permit must be maintained and verifiable at all times.

(5) Authorized activities may only be done while the permit is valid; the duration for which the permit is valid will be listed on the permit itself.

(6) Records related to activities carried out under the permit must be maintained by the responsible person and be of sufficient accuracy, quality, and completeness to demonstrate compliance with all permit conditions and requirements under this part. APHIS must be allowed access to all records, to include visual inspection and reproduction (photocopying, digital reproduction, etc.). The responsible person must submit reports and notices to APHIS at the times specified in the permit and containing the information specified within the permit. At a minimum:

(i) Following an environmental release, environmental release reports must be submitted for all authorized release locations where the release occurred. Environmental release reports must contain details of sufficient accuracy, quality, and completeness to identify the location, shape, and size of the release and the organism(s) released into the environment. In the event no release occurs at an authorized location, an environmental release report of no environmental release must be submitted for all authorized locations where an environmental release did not occur.

(ii) When the environmental release is of a plant, reports of volunteer monitoring activities and findings must be submitted for all authorized release locations where an environmental release occurred. If no monitoring activities are conducted, a volunteer monitoring report of no monitoring must be submitted indicating why no volunteer monitoring was done.

(7) Inspectors must be allowed access, during regular business hours, to all locations related to the permitted activities.

(8) The organism under permit must undergo the application of measures determined by the Administrator to be necessary to prevent its unauthorized release, spread, dispersal, and/or persistence in the environment.

(9) In the event of a possible or actual unauthorized release, the responsible person must contact APHIS as described in the permit within 24 hours of discovery and subsequently supply a statement of facts in writing no later than 5 business days after discovery.

(10) The responsible person for a permit remains the responsible person for the permit unless a transfer of responsibility is approved by APHIS. The responsible person must contact APHIS to initiate any transfer. The new responsible person assumes all responsibilities for ensuring compliance with the existing permit and permit conditions and for meeting the requirements of this part.

(h) *Denial or withdrawal of a permit.* Permit applications may be denied, or permits withdrawn, in accordance with this paragraph.

(1) *Denial of permits.* The Administrator may deny, either orally or in writing, any application for a permit. If the denial is oral, the Administrator will then communicate the denial and the reasons for it in writing as promptly as circumstances allow. The Administrator may deny a permit application if:

(i) The Administrator concludes that, based on the application or on additional information, the proposed actions, *e.g.,* movements under permit, may not prevent the unauthorized release, spread, dispersal, and/or persistence in the environment of the organism; or

(ii) The Administrator determines that the responsible person or any agent of the responsible person has failed to comply at any time with any provision of this part, any permit that has previously been issued in accordance with this part or any other regulations issued pursuant to the Plant Protection Act, 7 U.S.C. 7701 *et seq.;*

(iii) In addition, no permit will be issued if the responsible person and his or her agents do not agree in writing, in accordance with paragraph (f)(2) of this section, to comply with the permit conditions or, in accordance with paragraph (f)(3) of this section, to allow inspection by APHIS.

(2) *Withdrawal of permits.* The Administrator may withdraw, either orally or in writing, any permit that has been issued. If the withdrawal is oral, the Administrator will communicate the withdrawal and the reasons for it in writing as promptly as circumstances allow. The Administrator may withdraw a permit if:

(i) Following issuance of the permit, the Administrator receives information that would otherwise have provided grounds for APHIS to deny the permit application;

(ii) The Administrator determines that actions taken under the permit have resulted in the unauthorized release, spread, dispersal, and/or persistence in the environment of the organism under permit; or

(iii) The Administrator determines that the responsible person or any agent of the responsible person has failed to comply at any time with any provision of this part or any other regulations issued pursuant to the Plant Protection Act, 7 U.S.C. 7701 *et seq.* This includes failure to comply with the conditions of any permit issued.

(i) *Appeal of denial or withdrawal of permit.* Any person whose permit application has been denied or whose permit has been withdrawn may appeal the decision in writing to the Administrator. The applicant must submit in writing an acknowledgment of the denial or withdrawal and a statement of intent to appeal within 10 days after receiving written notification of the denial or withdrawal. The applicant may request additional time to prepare the appeal. The appeal must state all of the facts and reasons upon which the person relies to assert that the permit was wrongfully denied or withdrawn. The Administrator will grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict.

(j) *Amendment of permits*—(1) *Amendment at responsible person's request.* If the responsible person determines that circumstances have changed since the permit was initially issued and wishes the permit to be amended accordingly, he or she must request the amendment by contacting APHIS directly. The responsible person will have to provide supporting information justifying the amendment. APHIS will review the amendment request, and may amend the permit if only minor changes are necessary. Requests for more substantive changes may require a new permit application. Prior to issuance of an amended permit, the responsible person will be required to agree in writing or electronically that he or she and his or her agents will comply with the conditions of the amended permit. If the responsible person does not agree to the conditions, the amendment will be denied.

(2) *Amendment initiated by APHIS.* APHIS may amend any permit and its conditions at any time, upon determining that the amendment is needed to address plant pest risks presented by the organism. APHIS will notify the responsible person of the amendment to the permit and, as soon as circumstances allow, the reason(s) for it. The responsible person may have to agree in writing or electronically that he or she and his or her agents will comply with the conditions of the amended permit before APHIS will issue it. If APHIS requests such an agreement, and the responsible person does not accept it, the existing permit will be withdrawn.

(k) *Shipping under a permit.* (1) All shipments of organisms under permit must be secure shipments. Organisms under permit must also be shipped in accordance with the regulations in 49 CFR part 178.

(2) The container must be accompanied by a document that includes the names and contact details for the sender and recipient.

(3) For any organism to be imported into the United States, the outmost container must bear information regarding the nature and quantity of the contents; the country and locality where collected, developed, manufactured, reared, cultivated, or cultured; the name and address of the shipper, owner, or person shipping or forwarding the organism; the name, address, and telephone number of the consignee; the identifying shipper's mark and number; and the permit number authorizing the importation. For organisms imported under permits by mail, the container must also be addressed to a plant inspection station listed in the USDA Plants for Planting Manual, which can be accessed at: *https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf.* All imported containers of organisms under permits must be accompanied by an invoice or packing list indicating the contents of the shipment.

(4) Following the completion of the shipment, all packing material, shipping containers, and any other material accompanying the organism must be treated or disposed of in such a manner so as to prevent its unauthorized dissemination and establishment in the environment.

**§ 340.6 Record retention, compliance, and enforcement.**

(a) *Recordkeeping.* Responsible persons and their agents are required to establish, keep, and make available to APHIS the following records:

(1) Records and reports required under § 340.5(g);

(2) Addresses and any other information (*e.g.,* GPS coordinates, maps) needed to identify all locations where the organism under permit was stored or used; including all contained facilities and environmental release locations;

(3) A copy of the APHIS permit authorizing the permitted activity; and

(4) Legible copies of contracts between the responsible person and agents that conduct activities subject to this part for the responsible person, and copies of documents relating to agreements made without a written contract.

(b) *Record retention.* Records indicating that an organism under permit that was imported or moved interstate reached its intended destination must be retained for at least 2 years. All other records related to a permit must be retained for 5 years following the expiration of the permit, unless a longer retention period is determined to be needed by the Administrator and documented in the supplemental permit conditions.

(c) *Compliance and enforcement.* (1) Responsible persons and their agents must comply with all of the requirements of this part. Failure to comply with any of the requirements of this part may result in any or all of the following:

(i) Denial of a permit application or withdrawal of a permit in accordance with § 340.5(h);

(ii) Application of remedial measures in accordance with the Plant Protection Act, 7 U.S.C. 7701 *et seq.;* and

(iii) Criminal and/or civil penalties in accordance with the Plant Protection Act, 7 U.S.C. 7701 *et seq.*

(2) Prior to the issuance of a complaint seeking a civil penalty, the Administrator may enter into a stipulation, in accordance with § 380.10 of this chapter.

(d) *Liability for acts of an agent.* For purposes of enforcing this part, the act, omission, or failure of any agent for a responsible person may be deemed also to be the act, omission, or failure of the responsible person.

**§ 340.7 Confidential business information.**

Persons including confidential business information in any document submitted to APHIS under this part should do so in the following manner. If there are portions of a document deemed to contain confidential business information, those portions must be identified, and each page containing such information must be marked ''CBI Copy.'' A second copy of the document must be submitted with all such CBI deleted, and each page where the CBI was deleted must be marked ''CBI Deleted.'' In addition, any person submitting CBI must justify how each piece of information requested to be treated as CBI is a trade secret or is commercial or financial information and is privileged or confidential.

**§ 340.8 Costs and charges.**

The services of the inspector related to carrying out this part and provided during regularly assigned hours of duty and at the usual places of duty will be furnished without cost.[1] The U.S. Department of Agriculture will not be responsible for any costs or charges incidental to inspections or compliance with the provisions of this part, other than for the services of the inspector.

## PART 372—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

■ 2. The authority citation for part 372 continues to read as follows:

**Authority:** 42 U.S.C. 4321 *et seq.;* 40 CFR parts 1500–1508; 7 CFR parts 1b, 2.22, 2.80, and 371.9.

**§ 372.5 [Amended]**

■ 3. Section 372.5 is amended as follows:

■ a. By removing paragraph (b)(7);

■ b. In paragraph (c)(3)(iii), by removing the words '', or acknowledgment of notifications for,'' and adding the word ''for'' in their place; and

■ c. By removing and reserving paragraph (c)(4).

Done in Washington, DC, this 30th day of May 2019.

**Greg Ibach,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 2019–11704 Filed 6–5–19; 8:45 am]

**BILLING CODE 3410–34–P**

[1] The Department's provisions relating to overtime charges for an inspector's services are set forth in part 354 of this chapter.

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