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# Rules and Regulations

Federal Register

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## BUREAU OF CONSUMER FINANCIAL PROTECTION

### 12 CFR Part 1026

#### Truth in Lending (Regulation Z); Screening and Training Requirements for Mortgage Loan Originators With Temporary Authority

**AGENCY:** Bureau of Consumer Financial Protection.

**ACTION:** Interpretive rule.

**SUMMARY:** This interpretive rule construes the Bureau's Regulation Z, which implements the Truth in Lending Act (TILA). Generally, if a mortgage loan originator organization employs an individual loan originator who is not licensed and is not required to be licensed, Regulation Z requires the loan originator organization to perform specific screening of that individual before permitting the individual to act as a loan originator and to provide certain ongoing training. Regulation Z is ambiguous as to whether these requirements apply to loan originator organizations employing individual loan originators who have temporary authority to originate loans pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (EGRRCPA) amendments to the Secure and Fair Enforcement of Mortgage Licensing Act of 2008 (SAFE Act). These amendments take effect on November 24, 2019. This interpretive rule concludes that a loan originator organization is not required to comply with certain screening and training requirements under Regulation Z if the individual loan originator employee is authorized to act as a loan originator pursuant to the temporary authority described in the SAFE Act.

**DATES:** This interpretive rule is effective on November 24, 2019.

**FOR FURTHER INFORMATION CONTACT:** Terry J. Randall, Senior Counsel, Office of Regulations, at 202-435-7700 or <https://>

[reginquiries.consumerfinance.gov/](https://www.consumerfinance.gov/). If you require this document in an alternative electronic format, please contact [CFPB\\_Accessibility@cfpb.gov](mailto:CFPB_Accessibility@cfpb.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Discussion

In 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) added TILA section 129B(b)(1), and imposed new requirements for loan originators, including the requirement for them to be qualified.<sup>1</sup> In 2013, the Bureau adopted amendments to Regulation Z, implementing the mortgage loan originator qualification requirements under TILA. These Regulation Z changes including adding § 1026.36(f)(3), which generally requires a loan originator organization that employs an individual loan originator who is not licensed and is not required to be licensed pursuant to the SAFE Act to: (1) Complete certain screenings of that individual prior to permitting the individual to act as a loan originator on a consumer credit transaction secured by a dwelling, and (2) to provide periodic training.<sup>2</sup> In adding these requirements, the Bureau took into account the SAFE Act's preexisting screening and training requirements for loan originators.<sup>3</sup>

The EGRRCPA amendments to the SAFE Act take effect on November 24, 2019.<sup>4</sup> These amendments permit certain individuals who were previously registered or State-licensed for a certain period of time pursuant to the SAFE Act to act as a loan originator in a State, if they have applied for a loan originator license in the State ("loan originators with temporary authority").<sup>5</sup>

Section 1026.36(f)(3) of Regulation Z is ambiguous as to whether its screening and training requirements for loan originator organizations employing individual loan originators who "are not licensed and are not required to be

licensed" apply to a loan originator organization employing a loan originator with temporary authority. As discussed below, the Bureau believes that interpreting these requirements not to apply is consistent with Congress's objectives in amending the SAFE Act. The Bureau also believes that interpreting these requirements not to apply is consistent with the agency's objectives in imposing the screening and training requirements in § 1026.36(f)(3). Accordingly, the Bureau concludes that if an individual loan originator has temporary authority in a particular State, the loan originator organization does not need to satisfy the screening and training requirements in § 1026.36(f)(3) with regard to that individual's loan origination activities in that State.

The Bureau is issuing this interpretive rule based on its authority to interpret Regulation Z, including under section 1022(b)(1) of the Dodd-Frank Act, which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws.<sup>6</sup>

By operation of TILA section 130(f), no provision of TILA sections 130, 108(b), 108(c), 108(e), or 112 imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.<sup>7</sup> The Bureau plans to incorporate the content of this interpretive rule into the Official Interpretations to Regulation Z at a later date.<sup>8</sup>

#### *Screening and Training for Licensed Loan Originators Under the SAFE Act*

The SAFE Act prohibits individuals from engaging in the business of a loan originator unless they are registered loan originators under Federal law or they obtain a State loan originator license and registration.<sup>9</sup> The SAFE Act requires loan originators who are employees of a depository institution,

<sup>1</sup> Public Law 111-203, sec. 1402(a)(2), 124 Stat. 1376, 2139 (2010) (codified at 15 U.S.C. 1639b).

<sup>2</sup> Loan Originator Compensation Requirements under the Truth in Lending Act (Regulation Z), 78 FR 11279, 11374-84, 11412-13 (Feb. 15, 2013) (promulgating 12 CFR 1026.36(f)(3)), amended 78 FR 60382, 60441-42 (Oct. 1, 2013). These requirements do not apply to loan originator organizations that are government agencies or State housing finance agencies. 12 CFR 1026.36(f).

<sup>3</sup> 78 FR at 11375.

<sup>4</sup> Public Law 115-174, title I, sec. 106(a), 132 Stat. 1296, 1302 (2018) (to be codified at 12 U.S.C. 5117).

<sup>5</sup> 12 U.S.C. 5117.

<sup>6</sup> 12 U.S.C. 5512(b)(1). The relevant provisions of Regulation Z form part of Federal consumer financial law. 12 U.S.C. 5481(12)(O), (14).

<sup>7</sup> 15 U.S.C. 1640(f).

<sup>8</sup> 12 CFR part 1026, supp. I.

<sup>9</sup> 12 U.S.C. 5103(a)(1).

employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration (FCA) (“registered loan originators”) to register with the Nationwide Mortgage Licensing System and Registry (NMLSR).<sup>10</sup> (The NMLSR is a system for registering, licensing, supervising, and tracking loan originators).

The SAFE Act also generally requires loan originators who are not registered loan originators to obtain a State license and to register with the NMLSR (“licensed loan originators”).<sup>11</sup> SAFE Act licensing is implemented by States. To grant an individual a SAFE Act-compliant loan originator license, section 1505 of the SAFE Act, 12 U.S.C. 5104, requires the State to conduct certain screening and to ensure that the loan originator has completed certain education and testing requirements. Generally speaking, section 1505 provides that the State must determine that the individual has never had a loan originator license revoked; has not been convicted of enumerated felonies within specified timeframes; has demonstrated financial responsibility, character, and fitness; has completed 20 hours of pre-licensing education that the NMLSR has approved; has passed a written test the NMLSR has approved; and has met net worth or surety bond requirements. Licensed loan originators also must take eight hours of continuing education classes the NMLSR has approved and must renew their licenses annually.<sup>12</sup> States may impose additional or higher minimum standards for licensing of individual loan originators under their SAFE Act-compliant licensing regimes.<sup>13</sup>

In contrast, the SAFE Act does not impose these specific screening or education requirements on registered loan originators. Section 1507 of the SAFE Act, 12 U.S.C. 5106, generally requires the Bureau to develop and maintain a system for registering individual loan originators who are subject to registration. In connection with loan originator registration, the

SAFE Act specifies that the following information must be furnished to the NMLSR: (1) Fingerprints to the NMLSR for a criminal history background check and (2) personal history and experience, including authorization for the NMLSR to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.<sup>14</sup>

#### *Screening and Training for Unlicensed Loan Originators Under Regulation Z*

In 2010, the Dodd-Frank Act added TILA section 129B(b)(1), and imposed new requirements for loan originators, including the requirement for them to be qualified.<sup>15</sup> In 2013, the Bureau amended Regulation Z to implement the requirement that they be qualified by, among other things,<sup>16</sup> establishing certain screening and training requirements for unlicensed loan originators.<sup>17</sup> If an individual loan originator is not required to be licensed and is not licensed, § 1026.36(f)(3) requires a loan originator organization to complete certain screening before permitting the individual to act as a loan originator in a consumer credit transaction secured by a dwelling and to provide periodic training. Generally, the

<sup>14</sup> 12 U.S.C. 5106. In addition, Regulation G, 12 CFR part 1007, which implements SAFE Act registration requirements, imposes an obligation on the employing covered financial institution, among other things, to adopt and follow written policies and procedures that establish a process for reviewing employee criminal history background reports, taking appropriate action consistent with applicable Federal law, including section 19 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. 1829, section 206 of the Federal Credit Union Act, 12 U.S.C. 1786(i), and section 5.65(d) of the Farm Credit Act of 1971, as amended, 12 U.S.C. 2277a–14(d), and complying with certain recordkeeping requirements. 12 CFR 1007.104(h). Regulation G defines “covered financial institution” to mean any national bank, member bank, insured State nonmember bank, savings association, Farm Credit System institution, or federally insured credit union as any such term is defined in 12 CFR 1007.101(c)(1). Regulation G also specifies that “covered financial institution” also includes a non-federally insured credit union that registers subject to the conditions of 12 CFR 1007.101(c)(3). 12 CFR 1007.102.

<sup>15</sup> Public Law 111–203, sec. 1402(a)(2), 124 Stat. 1376, 2139 (2010) (codified at 15 U.S.C. 1639b).

<sup>16</sup> In addition to the requirements described above, § 1026.36(f)(1) requires a loan originator organization to comply with all applicable State law requirements for legal existence and foreign qualification and § 1026.36(f)(2) requires a loan originator organization to ensure that each individual loan originator who works for the loan originator organization is licensed or registered to the extent the individual is required to be licensed or registered under the SAFE Act, its implementing regulations, and State SAFE Act implementing law. The requirements in § 1026.36(f)(1)–(3) do not apply to loan originator organizations that are government agencies or State housing finance agencies. 12 CFR 1026.36(f).

<sup>17</sup> 12 CFR 1026.36(f)(3). See also 78 FR at 11374–84.

loan originator organization must obtain: (1) A criminal background check about the individual; (2) a credit report, and (3) certain information from the NMLSR (or from the individual if the individual is not a registered loan originator) about any administrative, civil, or criminal findings by any government jurisdiction relating to the individual, and make substantially the same findings regarding the individual’s criminal history, financial responsibility, character, and general fitness that the SAFE Act requires for State loan originator licenses.<sup>18</sup> Loan originator organizations employing such individual loan originators must also provide periodic training for the loan originators about Federal and State legal requirements that apply to their loan origination activities.<sup>19</sup>

When the Bureau issued § 1026.36(f)(3), it generally applied only to registered loan originators and employees of bona fide nonprofit organizations that a State exempted from licensing under the criteria in Regulation H.<sup>20</sup> It did not apply to loan originators that were also subject to individual screening by a State as part of the State’s consideration of an application for a loan originator license. The Bureau intended to define certain minimum qualification standards for loan originators to allow consumers to be confident that loan originators meet core standards of integrity and competence, regardless of the type of institution for which they work.<sup>21</sup>

Thus, by adopting § 1026.36(f)(3), the Bureau established a scheme under which States perform screening of licensed loan originators and loan originator organizations generally perform the same screening of their unlicensed loan originator employees. Similarly, States ensure that licensed loan originators complete specific training and testing and loan originator organizations generally provide training

<sup>18</sup> 12 CFR 1026.36(f)(3)(i) and (ii). Regulation Z excludes individual loan originators hired prior to January 1, 2014, from these requirements unless there were no applicable statutory or regulatory background standards in effect at the time of hire used to screen the individual or unless, based on reliable information known to the loan originator organization, the individual likely does not meet the standards in § 1026.36(f)(3)(ii). 12 CFR 1026.36(f)(3); comment 36(f)(3)(ii).

<sup>19</sup> 12 CFR 1026.36(f)(3)(iii).

<sup>20</sup> Comment 36(f)(3)–1 (“Individual loan originators who are not subject to SAFE Act licensing generally include employees of depository institutions and their Federally regulated subsidiaries and employees of bona fide nonprofit organizations that a State has exempted from licensing under the criteria in 12 CFR 1008.103(e)(7).”).

<sup>21</sup> 78 FR at 11378.

<sup>10</sup> See 12 U.S.C. 5106.

<sup>11</sup> 12 U.S.C. 5102(8) and (12). Regulation H, 12 CFR part 1008, which implements SAFE Act standards applicable to State licensing, provides that a State is not required to impose licensing and registration requirements on certain individuals. 12 CFR 1008.103(e).

<sup>12</sup> 12 U.S.C. 5105. In addition to other requirements, the SAFE Act requires individuals who are subject to SAFE Act registration or State licensing to obtain a unique identification number from the NMLSR. 12 U.S.C. 5103(a)(2).

<sup>13</sup> 12 U.S.C. 5104 and 5105 (e.g., describing “minimum standards”).

for unlicensed loan originator employees.

#### *Loan Originators With Temporary Authority Under EGRRPCA*

The EGRRPCA amendments to the SAFE Act add a new category of loan originators, those with temporary authority, effective November 24, 2019.<sup>22</sup> The amendments, which are in a section of the EGRRPCA titled “Eliminating Barriers to Jobs for Loan Originators,” among other things, permit certain loan originators to act as a loan originator in a State for a temporary period of time while applying for a license in the State. Eligible loan originators include those who are employed by a State-licensed mortgage company, have applied for a license in a new State, were previously registered or licensed in a different State for a certain period of time prior to applying for the new license, and satisfy certain criminal and adverse professional history criteria.<sup>23</sup>

The SAFE Act amendments grant loan originators who meet these criteria “temporary authority to act as a loan originator in the application State” for a specified period of time, beginning when an eligible individual submits certain application information and ending upon the occurrence of one of four specified events (e.g., the State grants the license).<sup>24</sup> Thus, Congress chose to allow individuals who meet these criteria to engage in the business of a loan originator before the State had completed all of its processes for granting or denying an application for a loan originator license.

#### *Screening and Training Requirements Under Regulation Z for Loan Originator Organizations Employing Loan Originators With Temporary Authority*

As discussed above, § 1026.36(f)(3) imposes certain screening and training obligations on loan originator organizations for “each of its individual loan originator employees who [1] is not required to be licensed and [2] is not licensed as a loan originator pursuant to § 1008.103 of this chapter or State SAFE

Act implementing law.”<sup>25</sup> This language is ambiguous regarding whether the individual loan originators that it references include loan originators with temporary authority.

Although it is ambiguous, the Bureau believes that the most appropriate interpretation of § 1026.36(f)(3) is that it does not refer to a loan originator with temporary authority. A loan originator with temporary authority does not satisfy the first condition in § 1026.36(f)(3), because he or she is *not* an “individual loan originator employee[] who is not required to be licensed . . . .” He or she *is* an employee who is required to be licensed, although the employee can act as a loan originator while seeking the required license.

The Bureau’s interpretation of the ambiguous text of § 1026.36(f)(3) is based on the Bureau’s expertise in understanding and carrying out the objectives of the SAFE Act and Regulation Z. First, interpreting § 1026.36(f)(3) not to refer to loan originators with temporary authority would further Congress’s objectives in amending the SAFE Act. The Bureau believes that Congress aimed to permit a loan originator that satisfies certain enumerated criteria and who is transitioning to a new State to be able to begin acting as a loan originator in the application State with minimal burden and delay and before the State has completed all of its processes relating to determining whether to grant a State license. This purpose is evident in the amendment’s authorizing eligible loan originators to commence acting as a loan originator upon submitting certain application information and in the title of the relevant section of the EGRRPCA, “Eliminating Barriers to Jobs for Loan Originators.”<sup>26</sup> Requiring loan originator organizations to complete the § 1026.36(f)(3) screening before permitting a loan originator with temporary authority to begin acting as a loan originator would impose an

impediment on a loan originator from beginning to act as a loan originator, which would frustrate Congress’s objective.

Likewise, Congress established different and less onerous qualification criteria for loan originators with temporary authority than those required by the SAFE Act for licensed loan originators. For example, the SAFE Act and § 1026.36(f)(3) require a finding of financial responsibility before granting a State license or permitting an individual loan originator to act as a loan originator. The EGRRPCA amendments to the SAFE Act do not condition temporary authority on a finding concerning the individual’s financial fitness. Applying through Regulation Z the same SAFE Act standards to loan originators with temporary authority would be in tension with Congress’s decision to apply less onerous qualification criteria to these loan originators. The Bureau believes that it is most appropriate to instead read Regulation Z in a manner that aligns with Congress’s objectives in the SAFE Act, by not imposing the relevant Regulation Z requirements on loan originators with temporary authority.

A second and independently sufficient reason for interpreting § 1026.36(f)(3) to not include loan originators with temporary authority is that this reading is more consistent with the scheme for loan originator screening and training established by the Bureau. As the Bureau explained when adopting § 1026.36(f)(3), the Bureau sought to implement TILA section 129B(b)(1)’s requirement that, subject to regulations prescribed by the Bureau, each loan originator be “qualified,” by defining certain minimum qualification standards for loan originators.<sup>27</sup> The Bureau believed that those standards provided important consumer protections without imposing significant burdens on loan originator organizations.<sup>28</sup> When the Bureau adopted § 1026.36(f)(3), the category of loan originators with temporary authority under the SAFE Act did not exist. Instead, the Bureau’s main focus was on addressing the qualifications of employees of depository institutions, who are not subject to loan originator licensing under the SAFE Act at any point during their employment at those institutions.<sup>29</sup> Under the scheme the Bureau adopted in Regulation Z, an individual loan originator’s screening and training was either completed by the State (as part of reviewing an

<sup>25</sup> 12 CFR 1026.36(f)(3). Generally, the loan originator organization must obtain the individual’s criminal background check, a credit report, and certain information from the NMLSR (or from the individual if the individual is not a registered loan originator) about any administrative, civil, or criminal findings by any government jurisdiction, and make substantially the same findings regarding the individual loan originator’s criminal history, financial responsibility, character, and general fitness that the SAFE Act requires for compliant State-issued loan originator licenses. 12 CFR 1026.36(f)(3)(i) and (ii). Loan originator organizations employing such individual loan originators must also provide periodic training on Federal and State legal requirements that apply to the individual loan originator’s loan origination activities. 12 CFR 1026.36(f)(3)(iii).

<sup>26</sup> *Supra* note 4.

<sup>22</sup> *Supra* note 4.

<sup>23</sup> 12 U.S.C. 5117(b) and (c). Criminal history and adverse professional history criteria include that the individual has not had an application for a loan originator license denied, or a loan originator license revoked or suspended in any governmental jurisdiction; has not been subject to, or served with, a cease and desist order in any governmental jurisdiction or under section 1514(c) of the SAFE Act, and has not been convicted of a misdemeanor or felony that would preclude licensure under the law of the application State. 12 U.S.C. 5117(b)(1) and (c)(1)(A).

<sup>24</sup> 12 U.S.C. 5117(b)(2) and (c)(2).

<sup>27</sup> 78 FR at 11378; 15 U.S.C. 1639b(b)(1).

<sup>28</sup> 78 FR at 11378.

<sup>29</sup> 78 FR at 11378.

application for a license) or by the loan originator organization employing the individual loan originator (to comply with § 1026.36(f)(3)). Under that scheme, both the State and the loan originator organization did not have to complete screening and training. If § 1026.36(f)(3) were interpreted to apply to a loan originator organization that employs a loan originator with temporary authority, both the State (as part of reviewing the loan originator's application for a license) and the loan originator organization (to comply with § 1026.36(f)(3)) would have to obtain the required criminal background and credit history reports and make the required criminal, financial responsibility, and character and fitness findings at the same time on the same individual. Similarly, both the State and the loan originator organization would have responsibilities related to the loan originator's training. This duplication of efforts would be inconsistent with the Bureau's purpose in issuing § 1026.36(f)(3), because such duplication would not result in additional consumer protections that could justify these new burdens on loan originator organizations.

For these reasons, the Bureau concludes that the individual loan originators described in § 1026.36(f)(3) do not include the loan originators with temporary authority described in section 1518 of the SAFE Act, 12 U.S.C. 5117. Thus, if an individual loan originator employee has temporary authority to act as a loan originator in a State, the loan originator organization is not required to comply with the screening and training requirements in § 1026.36(f)(3) to permit that employee to act as a loan originator in that State.

Finally, the Bureau underscores that loan originator organizations continue to be subject to the obligation in § 1026.36(f)(2) to ensure that any individual loan originator who works for them is licensed or registered to the extent required by the SAFE Act, its implementing regulations, or State SAFE Act implementing laws before permitting the individual to act as a loan originator on a consumer credit transaction secured by a dwelling. Thus, when satisfying the loan originator organization's obligations under § 1026.36(f)(2), the loan originator organization must ensure that any individual loan originator that works for it is either registered or licensed as required by the SAFE Act or excluded from those requirements because the

individual may act as a loan originator with temporary authority.<sup>30</sup>

## II. Effective Date

Because this rule is solely interpretive, it is not subject to the 30-day delayed effective date for substantive rules under section 553(d) of the Administrative Procedure Act.<sup>31</sup> Therefore, this rule is effective on November 24, 2019, the same date that the EGRRCPA amendments to the SAFE Act take effect.

## III. Regulatory Requirements

This rule articulates the Bureau's interpretation of Regulation Z. As an interpretive rule, it is exempt from the notice-and-comment rulemaking requirements of the Administrative Procedure Act.<sup>32</sup> Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.<sup>33</sup>

The Bureau has determined that this interpretive rule does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.<sup>34</sup>

## IV. Congressional Review Act

Pursuant to the Congressional Review Act,<sup>35</sup> the Bureau will submit a report containing this interpretive rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: November 12, 2019.

**Kathleen L. Kraninger,**

*Director, Bureau of Consumer Financial Protection.*

[FR Doc. 2019-24944 Filed 11-18-19; 8:45 am]

**BILLING CODE 4810-AM-P**

<sup>30</sup> The Bureau also reminds loan originator organizations that they continue to be subject to § 1026.36(f)(1)'s obligation to comply with all applicable State law requirements for legal existence and foreign qualification.

<sup>31</sup> 5 U.S.C. 553(d).

<sup>32</sup> 5 U.S.C. 553(b).

<sup>33</sup> 5 U.S.C. 603(a), 604(a).

<sup>34</sup> 44 U.S.C. 3501-3521.

<sup>35</sup> 59 U.S.C. 801-808.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2019-0400; Product Identifier 2019-NM-022-AD; Amendment 39-19776; AD 2019-21-10]

RIN 2120-AA64

#### Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes. This AD was prompted by a quality control review, which determined that the wrong aluminum alloy was used to manufacture several structural parts. This AD requires a one-time eddy current conductivity measurement of certain structural parts of the outer flaps to determine if the incorrect alloy was used, and replacement if necessary, as specified in a European Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective December 24, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 24, 2019.

**ADDRESSES:** For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0400.

#### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-

0400; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:**

Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019-0012, dated January 24, 2019 (“EASA AD 2019-0012”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Airbus SAS Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A321-111, -112, -131, -211, -212, -213, -231, and -232 airplanes. The NPRM published in the **Federal Register** on June 7, 2019 (84 FR 26598). The NPRM was prompted by a quality control review, which determined that the wrong aluminum alloy was used to manufacture several structural parts. The NPRM proposed to require a one-time eddy current conductivity measurement of certain structural parts of the outer flaps to determine if the incorrect alloy was used, and replacement if necessary.

The FAA is issuing this AD to address structural parts made of incorrect aluminum alloy, which could result in reduced structural integrity of the outer flaps and reduced controllability of the airplane. See the MCAI for additional background information.

**Explanation of Change to Format of Paragraph Designation References**

The FAA has revised the format used for referring to paragraph designations throughout this AD. This change is necessary to meet Office of the Federal Register’s drafting requirements. For example, where the FAA used to say paragraphs (g)(1) and (g)(2) of this AD, the FAA now says paragraphs (g)(1) and (2) of this AD. This change does not affect the requirements of this AD.

**Comment**

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

**Request To Revise Reporting Requirement**

American Airlines requested that paragraph (h) of the proposed AD be changed so operators would be required to report only positive findings. The commenter stated that negative findings are not value added and only serve to add unnecessary work for operators. In addition, the commenter requested that the compliance time for reporting findings be extended from 30 days after the inspection to 90 days after the inspection. The commenter remarked that it creates an undue burden for operators to report inspection results within 30 days after an inspection.

The FAA partially agrees with the commenter’s request. The FAA agrees to extend the compliance time in paragraph (h)(4)(ii) of this AD, which applies to inspections done before the effective date of this AD. This extension will provide flexibility to operators who have done the inspections required by this AD, but have not completed an inspection report. However, the FAA does not agree to change the compliance time in paragraph (h)(4)(i) of this AD, which applies to inspections done on or after the effective date of this AD, because the service information referenced in EASA AD 2019-0012 requires reporting within 30 days after the inspection is done. If the inspection was done on or after the effective date of this AD an operator must submit the

report within 30 days after the inspection. If the inspection was done before the effective date of this AD, an operator must submit the report within 90 days after the effective date of this AD.

The FAA does not agree with the commenter’s request to require that only positive findings be reported. Airbus uses the information from all findings, both positive and negative, to plan and provide corrective actions for the unsafe condition identified in this AD. The FAA has not revised this AD in regard to this issue.

**Conclusion**

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

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

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

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

EASA AD 2019-0012 describes procedures for a one-time eddy current conductivity measurement of certain structural parts on the outer flaps to determine if an incorrect aluminum alloy was used, and replacement of any affected part with a serviceable part.

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

**Costs of Compliance**

The FAA estimates that this AD affects 29 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS \***

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × \$85 per hour = \$510 .....	\$0	\$510	\$14,790

\* Table does not include estimated costs for reporting.

The FAA estimates that it will take about one work-hour per product to comply with the reporting requirement in this AD. The average labor rate is \$85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be \$2,465, or \$85 per product.

The FAA has received no definitive data that will enable the agency 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. The FAA does not control warranty coverage for affected individuals. As a result, the agency has included all known costs in the cost estimate.

#### Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120-0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

#### Authority for This Rulemaking

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

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

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

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) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

**2019-21-10 Airbus SAS:** Amendment 39-19776; Docket No. FAA-2019-0400; Product Identifier 2019-NM-022-AD.

##### (a) Effective Date

This AD is effective December 24, 2019.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to all Airbus SAS Model A321-111, A321-112, A321-131, A321-211, A321-212, A321-213, A321-231, and A321-232 airplanes, certificated in any category.

##### (d) Subject

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

##### (e) Reason

This AD was prompted by a quality control review, which determined that the wrong aluminum alloy was used to manufacture several structural parts. The FAA is issuing this AD to address structural parts made of incorrect aluminum alloy, which could result in reduced structural integrity of the outer flaps and reduced controllability of the airplane.

##### (f) Compliance

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

##### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Aviation Safety Agency (EASA) AD 2019-0012, dated January 24, 2019 ("EASA AD 2019-0012").

##### (h) Exceptions to EASA AD 2019-0012

(1) Where EASA AD 2019-0012 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2019-0012 does not apply to this AD.

(3) Where paragraph (5) of EASA AD 2019-0012 mandates a parts installation limitation, this AD requires the following parts installation limitation: From the effective date of this AD, only serviceable parts as defined in EASA AD 2019-0012 are allowed to be installed on any airplane.

(4) Where any service information referenced in EASA AD 2019-0012 specifies reporting, this AD requires reporting all inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD. If operators have reported findings as part of obtaining any corrective actions approved by Airbus SAS's EASA Design Organization Approval (DOA), operators are not required to report those findings as specified in this paragraph.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 90 days after the effective date of this AD.

##### (i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto: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 DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* For any service information referenced in EASA AD 2019-0012 that contains RC procedures and tests: Except as required by paragraphs (h)(4) and (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(4) *Paperwork Reduction Act Burden Statement:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory as required by this AD; the nature and extent of confidentiality to be provided, if any. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

#### (j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3223.

#### (k) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2019-0012, dated January 24, 2019.

(ii) [Reserved]

(3) For information about EASA AD 2019-0012, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); Internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0400.

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

Issued in Des Moines, Washington, on November 1, 2019.

**Jeffrey E. Duven,**

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

[FR Doc. 2019-24994 Filed 11-18-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2018-0739; Product Identifier 2015-NE-07-AD; Amendment 39-1978; AD 2019-22-03]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Pratt & Whitney Canada Corp. Turboshaft Engines**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2015-20-04 for certain Pratt & Whitney Canada Corp. (P&WC) PT6B-37A turboshaft engines. AD 2015-20-04 required initial and repetitive inspections until replacement of the No. 10 bearing, and eventual replacement of the No. 9 bearing, both located in the engine

reduction gearbox (RGB) assembly. This AD requires removal from service and replacement of the No. 9 and No. 10 position bearings. This AD was prompted by reports of incorrect engine torque for PT6B-37A turboshaft engines. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective December 24, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 24, 2019.

**ADDRESSES:** For service information identified in this final rule, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800-268-8000; fax: 450-647-2888; website: <https://www.pwc.ca/en/>. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0739.

#### **Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0739; 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 AD, the mandatory continuing airworthiness information (MCAI), regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

#### **FOR FURTHER INFORMATION CONTACT:**

Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7146; fax: 781-238-7199; email: [barbara.caufield@faa.gov](mailto:barbara.caufield@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015-20-04, Amendment 39-18282 (80 FR 61717, October 14, 2015), ("AD 2015-20-04"). AD 2015-20-04 applied to certain P&WC PT6B-37A turboshaft engines. The NPRM published in the **Federal Register** on September 17, 2018 (83 FR

46898). The NPRM was prompted by reports of incorrect engine torque for PT6B-37A turboshaft engines. The NPRM proposed to require removal from service and replacement of the No. 9 and No. 10 position bearings. The FAA is issuing this AD to address the unsafe condition on these products.

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Transport Canada AD CF-2015-01R1, dated November 18, 2016 (referred to after this as “the MCAI”), to address the unsafe condition on these products. The MCAI states:

Five incidents of incorrect engine torque indication have been reported for PT6B-37A engine installations on AW119MKII helicopters. A lower than actual engine torque indication due to a faulty indication system, particularly on a helicopter being operated at max allowable torque (90 to 110%) range, may result in undetected over-torque condition.

Repeat undetected over-torque conditions that are not corrected in accordance with conditional inspection requirements of original equipment manufacturer (OEM) Instructions for Continued Airworthiness (ICAs), may have a negative impact on the operational life of aircraft components. Investigation by P&WC has determined the root cause of the subject torque indication anomaly to be an axial migration of the #9 and #10 bearings at the engine torque sensing gear location.

P&WC has introduced a new bearing configuration through its SB No. PT6B-72-39108, Revision No. 1, dated September 5, 2017, that effectively addresses the axial movement issue at No. 9 and No. 10 bearing positions. You may obtain further information by examining the MCAI in the AD docket

on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2018-0739.

**Comments**

The FAA gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA’s response to each comment.

**Support for the AD**

An individual commenter expressed support for the NPRM as written.

**Miscellaneous Comments**

An individual commenter provided comments not relevant to this AD. The FAA did not change this AD.

**Update to the Service Information**

The FAA determined the need to incorporate the latest service information in this AD. The FAA revised the reference to P&WC SB No. PT6B-72-39108 in the paragraph (g) of this AD from the original issue, dated September 30, 2016, to Revision No. 1, dated September 5, 2017.

The FAA also updated the reference in paragraph (g) of this AD to P&WC SB No. PT6B-72-39092 from Revision No. 4, dated December 29, 2014, to Revision No. 5, dated October 27, 2017.

**Addition of Credit for Previous Action**

The FAA determined the need to add a Credit for Previous Action section to allow credit for previous replacement of the No. 9 and No 10 position bearings if accomplished using P&WC SB No. PT6B-72-39108, dated September 30, 2016.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. The FAA has determined that these minor changes:

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

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

The FAA reviewed P&WC SB No. PT6B-72-39108, Revision No. 1, dated September 5, 2017. The SB describes procedures for replacing affected bearings. 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.

**Other Related Service Information**

The FAA reviewed P&WC SB No. PT6B-72-39092, Revision No. 5, dated October 27, 2017. The service information describes procedures for removing affected bearings.

**Costs of Compliance**

The FAA estimates that this AD affects 119 engines installed on helicopters of U.S. registry.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace No. 9 and No. 10 bearings.	65 work-hours × \$85 per hour = \$5,525 .....	\$37,874	\$43,399	\$5,164,481

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil

aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation 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) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (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) 2015–20–04, Amendment 39–18282 (80 FR 61717, October 14, 2015), and adding the following new AD:

**2019–22–03 Pratt & Whitney Canada Corp.:**  
Amendment 39–19782; Docket No. FAA–2018–0739; Product Identifier 2015–NE–07–AD.

#### (a) Effective Date

This AD is effective December 24, 2019.

#### (b) Affected ADs

This AD replaces AD 2015–20–04, Amendment 39–18282 (80 FR 61717, October 14, 2015).

#### (c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) PT6B–37A turboshaft engines with serial number (S/N) PCE–PU0275 or earlier or with engine S/N PCE–PU0278.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 7210, Turbine Engine Reduction Gear.

#### (e) Unsafe Condition

This AD was prompted by reports of incorrect engine torque for PT6B–37A turboshaft engines. The FAA is issuing this AD to prevent axial movement at the No. 10 bearing position in the engine reduction gearbox (RGB) assembly. The unsafe condition, if not addressed, could result in engine overtorque, failure of the engine, in-flight shutdown, and loss of the helicopter.

#### (f) Compliance

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

#### (g) Required Actions

(1) For affected engines that did not have the bearings replaced in accordance with P&WC Service Bulletin (SB) No. PT6B–72–39092, Revision No. 5, dated October 27, 2017, or earlier revision: Remove from service and replace the No. 9 and No. 10 position bearings at the next engine shop visit after the effective date of this AD, but no later than December 31, 2020, whichever occurs first, in accordance with the Accomplishment Instructions, paragraphs 3.A. and B., of P&WC SB PT6B–72–39108, Revision No. 1, dated September 5, 2017.

(2) For affected engines that had the bearings replaced in accordance with P&WC SB No. PT6B–72–39092, Revision No. 5, dated October 27, 2017, or earlier revision: Remove from service and replace the No. 9 and No. 10 position bearings before December 31, 2020, in accordance with the Accomplishment Instructions, paragraphs 3.A. and B., of P&WC SB PT6B–72–39108, Revision No. 1, dated September 5, 2017.

#### (h) Credit for Previous Action

You may take credit for the No. 9 and No. 10 position bearing replacement required by paragraph (g) of this AD, if you performed the replacement before the effective date of this AD using P&WC SB No. PT6B–72–39108, dated September 30, 2016.

#### (i) Definition

For the purpose of this AD, an “engine shop visit” is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, or any removal of the RGB assembly.

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

(1) The Manager, ECO 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)(1) of this AD. You may email your request to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@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.

#### (k) Related Information

(1) For more information about this AD, contact Barbara Caufield, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA, 01803; phone: 781–238–7146; fax: 781–238–7199; email: [barbara.caufield@faa.gov](mailto:barbara.caufield@faa.gov).

(2) Refer to Transport Canada AD CF–2015–01R1, dated November 18, 2016, for more information. You may examine the Transport Canada AD in the AD docket on

the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2018–0739.

#### (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) Pratt & Whitney Canada Corp. (P&WC) Service Bulletin No. PT6B–72–39108, Revision No. 1, dated September 5, 2017.

(ii) [Reserved]

(3) For P&WC service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; website: <https://www.pwc.ca/en/>.

(4) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA, 01803. For information on the availability of this material at the FAA, call 781–238–7759.

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

Issued in Burlington, Massachusetts, on November 4, 2019.

**Robert J. Ganley,**

*Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.*

[FR Doc. 2019–25010 Filed 11–18–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2019–0258; Product Identifier 2018–NM–134–AD; Amendment 39–19783; AD 2019–22–04]

**RIN 2120–AA64**

#### Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 96–25–04, which applied to certain Airbus SAS Model A320 series airplanes. AD 96–25–04 required repetitive inspections of the wire looms in the wing and the horizontal stabilizer and in certain areas of the main landing gear (MLG) bays; repair or replacement, protection, and

realignment, if necessary; installation of protective sleeves; and realignment of certain bundles. This AD partially retains the requirements of AD 96–25–04 and requires modification of the wing electrical installation; as specified in a European Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD was prompted by a determination that there were issues with protective sleeves previously installed as specified in AD 96–25–04. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective December 24, 2019.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 24, 2019.

**ADDRESSES:** For the material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 1000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0258.

#### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0258; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD

2018–0200, dated September 6, 2018 (“EASA AD 2018–0200”) (also referred to as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus SAS Model A320–211, –212, and –231 airplanes. EASA AD 2018–0200 supersedes Direction Générale de l’Aviation Civile (DGAC) AD 91–182–020(B) R2, dated December 7, 1994 (which corresponds to FAA AD 96–25–04, Amendment 39–9846 (61 FR 66881, December 19, 1996) (“AD 96–25–04”).

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 96–25–04. AD 96–25–04 applied to certain Airbus SAS Model A320 series airplanes. The NPRM published in the **Federal Register** on May 7, 2019 (84 FR 19885). The NPRM was prompted by a determination that there were issues with protective sleeves previously installed as specified in AD 96–25–04. The NPRM proposed to partially retain the requirements of AD 96–25–04 and require modification of the wing electrical installation. The FAA is issuing this AD to address electrical short circuiting due to chafing of the wire bundles in the wing, horizontal stabilizer, or MLG bay, which could result in a fire.

#### Comments

The FAA gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA’s response to each comment. Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

#### Request To Clarify and Provide Procedures for Previously Installed Sleeves

Delta Air Lines (Delta) requested clarification and further provisioning to address previously installed protective sleeves that are identified as having issues in the NPRM and EASA AD 2018–0200. Delta requested that the FAA explain the issue with the previously installed protective sleeves and specify corrective action referring to the previous requirements of AD 96–25–04. Delta stated that the instructions in Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018, and EASA AD 2018–0200 do not identify procedures for removal of previously installed protective sleeves and do not explain the deficiency with those sleeves.

The FAA agrees to clarify. Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018, does include instructions for removing

the previously installed heat shrink tubing (wire loom protection) prior to installation of new wire loom protection. Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018, also states the unsafe condition associated with previously installed wire loom protection, which allowed the wire loom to be held in contact with the edge of harness breakout from conduits on wing trailing edge harnesses. Subsequent vibration initiated chafing and the eventual short circuit.

The new modification requirement in this AD introduces a full-length protective sleeve to protect the wire looms at harness breakout from conduits on wing trailing edge harnesses in Zone 574 and Zone 674. As specified in paragraph (13) of EASA AD 2018–0200, doing the new modification terminates inspections required by paragraph (1) of EASA AD 2018–0200 (which retains the requirements that correspond to paragraph (c) of AD 96–25–04). The AD has not been changed in this regard.

#### Request To Revise the Applicability

Delta requested the applicability of the proposed AD be changed to only include airplanes produced with the unsafe condition. Delta noted that the applicability exception statement (*i.e.*, except those on which Airbus modification (mod) 22626 has been embodied in production) means the proposed AD would be applicable to any future production airplanes if mod 22626 is not embodied. Delta stated that it assumed the certification basis of new aircraft would address this unsafe condition either through mod 22626 or other mods or design features that would address the unsafe condition.

The FAA agrees to clarify. As specified in EASA AD 2018–0200, the AD is applicable to Airbus SAS Model A320–211, A320–212 and A320–231 airplanes, all manufacturer serial numbers except those on which Airbus modification 22626 has been installed in production. The intent for airplanes modified in production via modification 22626 is that they will not be de-modified and therefore the unsafe condition will not apply. The AD is not applicable if production modification 22626 is installed; however, it is the responsibility of operators to maintain that modification in accordance with the type design requirements of the airplane. The AD has not been changed in this regard.

#### Request To Clarify if Another AD Is Affected

Delta requested clarification on whether the proposed AD might affect

AD 2016–19–02, Amendment 39–18651 (81 FR 64051, September 19, 2016) (“AD 2016–19–02”). Delta raised concerns over the risk to inadvertently de-modify the impacted airplanes identified in EASA AD 2018–0200 and therefore no longer be in compliance with AD 2016–19–02. Delta stated that due to the proximity of the modifications specified in Airbus Service Bulletin A320–92–1049, Revision 01, dated November 28, 2011 (referred to in AD 2016–19–02) and Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018 (referred to in EASA AD 2018–0200) there is potential for de-modification of an AD requirement.

The FAA agrees to clarify. The modifications specified in Airbus Service Bulletin A320–92–1049, Revision 01, dated November 28, 2011 (required by paragraph (h)(1) of AD 2016–19–02); and Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018 (required by paragraphs (7) through (9) of EASA AD 2018–0200), are in close proximity, but the risk to inadvertently de-modify the airplane is small. There is clearance

between the protective sleeve installed using Airbus Service Bulletin A320–92–1049, Revision 01, dated November 28, 2011, and the insert (protective sleeve) installed using Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018. In addition, Airbus Service Bulletin A320–92–1115, Revision 01, dated August 14, 2018, does not include procedures to remove the protective sleeve installed using Airbus Service Bulletin A320–92–1049, Revision 01, dated November 28, 2011. The AD has not been changed in this regard.

**Conclusion**

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

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and

- Do not add any additional burden upon the public than was already proposed in the NPRM.

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

EASA AD 2018–0200 describes procedures for repetitive inspections to detect chafing, signs of overheating, and misalignment of the wire looms (bundles) in the wing and the horizontal stabilizer and in certain areas of the MLG bays; repair or replacement, protection, and realignment, if necessary; realignment of bundles that are not guided centrally into the conduit end fittings; and modification of the wing electrical installation.

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

**Costs of Compliance**

The FAA estimates that this AD affects 27 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 96–25–04 .....	62 work-hours × \$85 per hour = \$5,270 .....	Negligible .....	\$5,270	\$142,290
New actions .....	25 work-hours × \$85 per hour = \$2,125 .....	(*) .....	*2,125	* 57,375

\* The FAA has received no definitive data on the parts costs for the new actions.

The FAA has received no definitive data that would enable us to provide cost estimates for the on-condition actions 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.

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

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) Will not affect intrastate aviation in Alaska, and

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

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

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD)

96–25–04, Amendment 39–9846 (61 FR 66881, December 19, 1996), and adding the following new AD:

**2019–22–04 Airbus SAS:** Amendment 39–19783; Docket No. FAA–2019–0258; Product Identifier 2018–NM–134–AD.

**(a) Effective Date**

This AD is effective December 24, 2019.

**(b) Affected ADs**

This AD replaces AD 96–25–04, Amendment 39–9846 (61 FR 66881, December 19, 1996) (“AD 96–25–04”).

**(c) Applicability**

This AD applies to Airbus SAS Model A320–211, –212, and –231 airplanes, certificated in any category, as identified in European Aviation Safety Agency (EASA) AD 2018–0200, dated September 6, 2018 (“EASA AD 2018–0200”).

**(d) Subject**

Air Transport Association (ATA) of America Code 24, Electrical power.

**(e) Reason**

This AD was prompted by a report that electrical short-circuiting could occur in the wire bundles in the wing, horizontal stabilizer, or main landing gear (MLG) bays. This AD was also prompted by a determination that there were issues with protective sleeves previously installed as specified in AD 96–25–04. The FAA is issuing this AD to address electrical short circuiting due to chafing of the wire bundles in the wing, horizontal stabilizer, or MLG bay, which could result in a fire.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2018–0200.

**(h) Exceptions to EASA AD 2018–0200**

(1) Where EASA AD 2018–0200 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2018–0200 refers to “the effective date of DGAC France AD 91–182–020 at original issue” or refers to “the effective date of DGAC France AD 91–182–020 at Rev.2,” this AD requires using January 27, 1997 (the effective date of AD 96–25–04).

(3) The “Remarks” section of EASA AD 2018–0200 does not apply to this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District

Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: [9-ANM-116-AMOC-REQUESTS@faa.gov](mailto: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 2018–0200 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

**(k) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on December 24, 2019.

(i) European Aviation Safety Agency (EASA) AD 2018–0200, dated September 6, 2018.

(ii) [Reserved]

(4) For information about EASA AD 2018–0200, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 89990 6017; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); Internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(5) You may view this material at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at

<https://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0258.

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

Issued in Des Moines, Washington, on November 5, 2019.

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

[FR Doc. 2019–24995 Filed 11–18–19; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 9883]

RIN 1545–BM90

**Ownership Attribution for Purposes of Determining Whether a Person Is Related to a Controlled Foreign Corporation; Rents Derived in the Active Conduct of a Trade or Business**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations regarding the attribution of ownership of stock or other interests for purposes of determining whether a person is a related person with respect to a controlled foreign corporation (“CFC”) under section 954(d)(3). In addition, the final regulations provide rules for determining whether a CFC is considered to derive rents in the active conduct of a trade or business for purposes of computing foreign personal holding company income. This document finalizes the proposed regulations published on May 20, 2019. The regulations affect United States persons with direct or indirect ownership interests in certain foreign corporations.

**DATES:**

*Effective Date:* These regulations are effective on November 19, 2019.

*Applicability Date:* For the dates of applicability, see §§ 1.954–1(f)(3), 1.954–2(i)(2), and 1.958–2(h).

**FOR FURTHER INFORMATION CONTACT:** Kristine A. Crabtree at (202) 317–6934.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 20, 2019, the Department of the Treasury (“Treasury Department”)

and the IRS published proposed regulations (REG-125135-15) under sections 954 and 958 in the **Federal Register** (84 FR 22751) (the “proposed regulations”). No public hearing was requested or held. All written comments received in response to the proposed regulations are available at [www.regulations.gov](http://www.regulations.gov) or upon request. Because no comments suggested revisions to the proposed regulations, this Treasury decision adopts the proposed regulations as final regulations without change.

**Summary of Comments**

The proposed regulations and the final regulations limit the application of the section 318(a)(3) constructive ownership rules for purposes of the definition of related person in section 954(d)(3) to avoid inappropriately treating entities, including CFCs, that do not have a significant relationship to each other as related persons. Comments agreed with the Treasury Department and the IRS that limiting the application of the downward attribution rules of section 318(a)(3)(A) incorporated by section 958(b) for purposes of section 954(d)(3) avoids inappropriate results, and one comment urged the Treasury Department and the IRS to provide a similar limitation on the application of those rules for purposes of determining whether a foreign corporation is a CFC. The Treasury Department and the IRS are separately studying the application of section 958(b) following the repeal of section 958(b)(4) by the Tax Cuts and Jobs Act, Public Law 115-97 (2017), and the final regulations do not address the application of the constructive ownership rules of section 958(b) for purposes other than section 954(d)(3).

**Effect on Other Documents**

Section 7(d) of Notice 2007-9, 2007-1 C.B. 401, is obsolete.

**Special Analyses**

OIRA has waived review of this final rule in accordance with section 6(a)(3)(A) of E.O. 12866.

Because this rulemaking is an interpretive rule and does not impose a collection of information on small entities, under 5 U.S.C. 603(a) the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Pursuant to section 7805(f), the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment

on its impact on small businesses. No comments were received.

**Drafting Information**

The principal author of the final regulations is James Beatty of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the Treasury Department and the IRS participated in the development of these proposed regulations.

**Statement of Availability of IRS Documents**

Notice 2007-9 is published in the Internal Revenue Bulletin (or Cumulative Bulletin) and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 1.954-1 also issued under 26 U.S.C. 954(b) and (c). Section 1.954-2 also issued under 26 U.S.C. 954(b) and (c).

\* \* \* \* \*

■ **Par. 2.** Section 1.954-0 is amended in paragraph (b) by adding entries for §§ 1.954-1(f)(3), (f)(3)(i) through (iii), (g), and (g)(1) through (4) and 1.954-2(c)(2)(v) through (viii), (d)(2)(v), (i), and (i)(1) through (3) to read as follows:

**§ 1.954-0 Introduction.**

\* \* \* \* \*  
(b) \* \* \*

**§ 1.954-1 Foreign base company income.**

\* \* \* \* \*

- (f) \* \* \*
  - (3) Applicability dates.
    - (i) General rule.
    - (ii) Option rule in paragraph (f)(2)(iv)(B)(2) of this section.
    - (iii) Anti-abuse rule.
    - (g) Distributive share of partnership income.
      - (1) Application of related person and country of organization tests.
      - (2) Application of related person test for sales and purchase transactions between a partnership and its controlled foreign corporation partner.
      - (3) Examples.

(4) Effective date.

**§ 1.954-2 Foreign personal holding company income.**

\* \* \* \* \*

- (c) \* \* \*
- (2) \* \* \*
  - (v) Leased in foreign commerce.
  - (vi) Leases acquired by the CFC lessor.
  - (vii) Marketing of leases.
  - (viii) Cost sharing arrangements (CSAs).

\* \* \* \* \*

- (d) \* \* \*
- (2) \* \* \*
  - (v) Cost sharing arrangements (CSAs).

\* \* \* \* \*

- (i) Applicability dates.
  - (1) Paragraphs (c)(2)(v) through (vii).
  - (2) Paragraphs (c)(2)(iii)(B) and (c)(2)(iv)(A) of this section.
  - (3) Other paragraphs.

■ **Par. 3.** Section 1.954-1 is amended by revising paragraph (f)(2)(iv) and adding paragraph (f)(3) to read as follows:

**§ 1.954-1 Foreign base company income.**

\* \* \* \* \*

- (f) \* \* \*
- (2) \* \* \*

(iv) *Direct or indirect ownership.* For purposes of section 954(d)(3) and this paragraph (f), to determine direct or indirect ownership—

(A) The principles of § 1.958-1 and section 958(a) apply without regard to whether a corporation, partnership, trust, or estate is foreign or domestic or whether an individual is a citizen or resident of the United States; and

(B) The principles of § 1.958-2 and section 958(b) apply, except that—

(1) Neither section 318(a)(3), nor § 1.958-2(d) or the principles thereof, applies to attribute stock or other interests to a corporation, partnership, estate, or trust; and

(2) Neither section 318(a)(4), nor § 1.958-2(e) or the principles thereof, applies to treat dividends, interest, rents, or royalties received or accrued from a foreign corporation as received or accrued from a controlled foreign corporation payor if a principal purpose of the use of an option to acquire stock or an equity interest, or an interest similar to such an option, that causes the foreign corporation to be a controlled foreign corporation payor is to qualify dividends, interest, rents, or royalties paid by the foreign corporation for the section 954(c)(6) exception. For purposes of this paragraph (f)(2)(iv)(B)(2), an interest that is similar to an option to acquire stock or an equity interest includes, but is not limited to, a warrant, a convertible debt instrument, an instrument other than debt that is convertible into stock or an

equity interest, a put, a stock or equity interest subject to risk of forfeiture, and a contract to acquire or sell stock or an equity interest.

(3) Neither section 318(a)(4), nor § 1.958–2(e) or the principles thereof, applies to treat a person that has an option to acquire stock or an equity interest, or an interest similar to such an option, as owning the stock or equity interest if a principal purpose for the use of the option or similar interest is to treat a person as a related person with respect to a controlled foreign corporation under this paragraph (f). For purposes of this paragraph (f)(2)(iv)(B)(3), an interest that is similar to an option to acquire stock or an equity interest includes, but is not limited to, a warrant, a convertible debt instrument, an instrument other than debt that is convertible into stock or an equity interest, a put, a stock or equity interest subject to risk of forfeiture, and a contract to acquire or sell stock or an equity interest.

(3) *Applicability dates*—(i) *General rule*. Except as otherwise provided in this paragraph (f)(3), paragraph (f)(2)(iv) of this section applies to taxable years of controlled foreign corporations ending on or after November 19, 2019, and taxable years of United States shareholders in which or with which such taxable years end.

(ii) *Option rule in paragraph (f)(2)(iv)(B)(2) of this section*. Paragraph (f)(2)(iv)(B)(2) of this section applies to taxable years of controlled foreign corporations beginning after December 31, 2006, and ending before November 19, 2019, and taxable years of United States shareholders in which or with which such taxable years end.

(iii) *Anti-abuse rule*. Paragraphs (f)(2)(iv)(B)(1) and (3) of this section apply to taxable years of controlled foreign corporations ending on or after May 17, 2019, and to taxable years of United States shareholders in which or with which such taxable years end, with respect to amounts that are received or accrued by a controlled foreign corporation on or after May 17, 2019 to the extent the amounts are received or accrued in advance of the period to which such amounts are attributable with a principal purpose of avoiding the application of paragraph (f)(2)(iv)(B)(1) or (3) of this section with respect to such amounts.

\* \* \* \* \*

■ **Par. 4.** Section 1.954–2 is amended by:

- 1. Revising paragraphs (c)(2)(iii)(B) and (c)(2)(iv)(A).
- 2. Revising the heading of paragraph (i).

■ 3. Redesignating paragraph (i)(2) as paragraph (i)(3).

■ 4. Adding new paragraph (i)(2).

The revisions and addition read as follows:

**§ 1.954–2 Foreign personal holding company income.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(iii) \* \* \*

(B) Deductions for amounts (including rents and royalties) paid or incurred by the lessor for the right to use the property (or a component thereof) that generated the rental income;

\* \* \* \* \*

(iv) \* \* \*

(A) Amounts (including rents and royalties) paid or incurred by the lessor for the right to use the property (or a component thereof) that generated the rental income;

\* \* \* \* \*

(i) *Applicability dates.* \* \* \*

(2) *Paragraphs (c)(2)(iii)(B) and (c)(2)(iv)(A) of this section.* Paragraphs (c)(2)(iii)(B) and (c)(2)(iv)(A) of this section apply for taxable years of controlled foreign corporations ending on or after November 19, 2019, and for the taxable years of United States shareholders in which or with which such taxable years end.

\* \* \* \* \*

■ **Par. 5.** Section 1.958–2 is amended by revising paragraph (d)(1) introductory text and the first sentence of paragraph (e) and adding paragraph (h) to read as follows:

**§ 1.958–2 Constructive ownership of stock.**

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \* Except as otherwise provided in paragraph (d)(2) of this section and § 1.954–1(f)—

\* \* \* \* \*

(e) \* \* \* Except as otherwise provided in § 1.954–1(f), if any person has an option to acquire stock, such stock shall be considered as owned by such person. \* \* \*

\* \* \* \* \*

(h) *Applicability date.* Paragraphs (d)(1) and (e) of this section apply for taxable years of controlled foreign corporations ending on or after November 19, 2019, and for the taxable years of United States shareholders in

which or with which such taxable years end.

\* \* \* \* \*

**Sunita Lough,**

*Deputy Commissioner for Services and Enforcement.*

Approved: October 28, 2019.

**David J. Kautter,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2019–24985 Filed 11–18–19; 8:45 am]

**BILLING CODE 4830–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R05–OAR–2019–0032; FRL–10002–26–Region 5]**

**Air Plan Approval; Illinois; Emissions Reduction Market System Sunsetting**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Illinois Environmental Protection Agency (Illinois EPA) on January 11, 2019, concerning the State’s Emissions Reduction Market System (ERMS) program for the Chicago ozone nonattainment area (NAA) in Illinois. The revision sunsets the ERMS program and removes 35 Illinois Administrative Code (35 IAC) Part 205, from the SIP as the ERMS program is no longer effective in providing additional emissions reductions or environmental benefit. The submittal includes a demonstration under section 110(l) of the Clean Air Act (CAA) that addresses emission impacts associated with the sunsetting of the program.

**DATES:** This final rule is effective on December 19, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0032. All documents in the docket are listed in the <http://www.regulations.gov> website. Publicly available docket materials may be obtained either from <http://www.regulations.gov>, or from the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard,

Chicago, Illinois 60604, (312) 886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

**I. What is being addressed by this document?**

The ERMS program was originally implemented in Illinois as a cap-and-trade program designed to reduce the emissions of volatile organic compounds (VOC<sup>1</sup>) in the Chicago ozone NAA below the levels required by reasonably available control technology (RACT) and other regulations. The program was intended to achieve additional emission reductions needed for the post-1999 ozone Rate of Progress (ROP) plan for the now-revoked 1979 1-hour ozone standard, while providing sources with more flexibility than is typically present in other regulations.

The ERMS program was adopted by Illinois in 1997 and approved as part of the Illinois SIP by EPA on October 15, 2001 (66 FR 52343). The program was amended in 2005 and approved by EPA on July 7, 2008 (73 FR 38328).

Illinois has achieved all the reductions needed under the ROP plan for the Chicago NAA, and is now terminating the ERMS program, as it is no longer effective in providing environmental benefit. Since the implementation of ERMS in 2000, actual emissions from sources in ERMS have continued to decrease. These emissions reductions are due to various factors, including the shutdown of the original affected sources. New sources and emission units that have become subject to ERMS do not emit at the rate of these older, shut down sources. Additionally, as discussed in EPA’s proposal, several State and Federal regulations addressing VOC emissions have been promulgated since ERMS began, resulting in a significant decline in both allowable and actual emissions. As part of their SIP submittal, Illinois EPA requested EPA’s approval of the State’s action to sunset the ERMS program as of April 30, 2018, which would therefore allow EPA to remove 35 IAC Part 205 provisions from the SIP. Illinois EPA submitted an anti-backsliding analysis in accordance with section 110(l) of the CAA to demonstrate that the discontinuation of the ERMS program as of April 30, 2018 will not interfere with attainment or

maintenance of the ozone NAAQS in the Chicago NAA.

**II. What comments did we receive on the proposed SIP revision?**

Our August 19, 2019 proposed rule provided a 30-day comment period (84 FR 42872). The comment period closed on September 19, 2019. EPA received one comment during the public comment period. The comment supported EPA’s proposed action to allow the ERMS sunset in Illinois’ SIP and encouraged EPA to make the SIP revision effective as soon as possible.

**III. What action is EPA taking?**

EPA is approving the revision to the Illinois SIP submitted by the Illinois EPA on January 11, 2019, because the sunset of Illinois’ ERMS program in the SIP meets all applicable requirements and would not interfere with reasonable further progress or attainment of the ozone NAAQS. As a result, EPA is removing the ERMS provisions (35 IAC Part 205) from the SIP.

**IV. Incorporation by Reference**

In this document, EPA is finalizing regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, EPA is removing provisions of the EPA-Approved Illinois Regulations and Statutes from the Illinois SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the SIP generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

**V. Statutory and Executive Order Reviews**

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not expected to be an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant 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 submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in

<sup>1</sup> Illinois uses the term “Volatile Organic Material” (VOM) rather than VOC. The State’s definition of VOM is equivalent to EPA’s definition of VOC at 40 CFR 51.100. The two terms are interchangeable when discussing volatile organic emissions. For consistency with the CAA and EPA policy, this rulemaking uses the term VOC.

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 January 21, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA.)

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

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

Dated: November 6, 2019.

**Cathy Stepp,**

*Regional Administrator, Region 5.*

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

#### 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 O—Illinois

##### § 52.720 [Amended]

■ 2. In § 52.720, the table in paragraph (c) is amended by removing the undesignated headings “Subchapter b: Alternative Reduction Program” and “Part 205: Emissions Reduction Market System” and all the undesignated subheadings and entries up to and including the entry “205.760”.

[FR Doc. 2019–24938 Filed 11–18–19; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R05–OAR–2019–0216; FRL–10002–25–Region 5]

#### Air Plan Approval; Ohio; Second Limited Maintenance Plans for 1997 Ozone NAAQS

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving as a revision to the Ohio State Implementation Plan (SIP), the State’s plan for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) through 2028. On April 12, 2019, the Ohio Environmental Protection Agency submitted the 1997 ozone NAAQS Limited Maintenance Plan (LMP) for the Canton-Massillon (Stark County), Lima (Allen County), and Toledo (Lucas and Wood Counties) areas and the Ohio portion of the Parkersburg-Marietta [OH–WV] (Washington County), Steubenville-Weirton [OH–WV] (Jefferson County), Wheeling [OH–WV] (Belmont County), and Youngstown-Warren-Sharon [OH–PA] (Columbiana, Mahoning, and Trumbull Counties) multi-state areas. The effect of this action makes certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Ohio SIP.

**DATES:** This final rule is effective on December 19, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0216. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, [hatten.charles@epa.gov](mailto:hatten.charles@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we”, “us”, and “our” refer to EPA.

#### I. What is being addressed in this document?

This rule approves Ohio’s April 12, 2019 submission to provide for the maintenance of the 1997 ozone NAAQS LMPs for the Canton-Massillon (Stark County), Lima (Allen County), and Toledo (Lucas and Wood Counties) areas and the Ohio portion of the Parkersburg-Marietta [OH–WV] (Washington County), Steubenville-Weirton [OH–WV] (Jefferson County), Wheeling [OH–WV] (Belmont County), and Youngstown-Warren-Sharon [OH–PA] (Columbiana, Mahoning, and Trumbull Counties) multi-state areas through 2028. The background for this action is discussed in detail in EPA’s notice of proposed rulemaking (NPRM), dated August 19, 2019 (84 FR 42881).

#### II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on September 18, 2019. We received no adverse comments on the proposed rule.

#### III. What action is EPA taking?

EPA is approving, as a revision to the Ohio SIP, the State’s LMPs for maintaining the 1997 ozone NAAQS for Canton-Massillon (Stark County), Lima (Allen County), Toledo (Lucas and Wood Counties) areas, and the Ohio portion of the Parkersburg-Marietta (Washington County), Steubenville-Weirton (Jefferson County), Wheeling (Belmont County), Youngstown-Warren-Sharon (Columbiana, Mahoning, and Trumbull Counties) multi-state areas through 2028.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 it is not a significant regulatory action 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 disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: November 6, 2019.

**Cathy Stepp,**

*Regional Administrator, Region 5.*

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.*

- 2. In § 52.1870, the table in paragraph (e) is amended under the sub-heading “Summary of Criteria Pollutant Maintenance Plan” by revising all the entries for Ozone to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA—APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*
<b>Summary of Criteria Pollutant Maintenance Plan</b>				
Ozone 1-Hour.	Cincinnati (Butler, Clermont, Hamilton, and Warren Counties).	6/28/1999	7/5/2000, 65 FR 37879.	
Ozone 1-Hour.	Columbiana County .....	3/25/1994	3/10/1995, 59 FR 48395.	
Ozone 1-Hour.	Columbus (Franklin, Delaware and Licking Counties).	1/1/1994	4/1/1996, 61 FR 3591.	
Ozone 1-Hour.	Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties).	11/8/1993	7/5/1995, 60 FR 22289.	
Ozone 1-Hour.	Jefferson County .....	3/25/1994	3/10/1995, 58 FR 66334.	
Ozone 1-Hour.	Youngstown (Mahoning and Trumbull Counties) and Canton (Stark County).	3/25/1994	4/1/1996, 61 FR 3319.	
Ozone (8-Hour, 1997).	Canton (Stark County) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Cincinnati (Butler, Clermont, Clinton, Hamilton, and Warren Counties).	12/14/2009	5/11/2010, 75 FR 26118.	
Ozone (8-Hour, 1997).	Cleveland (Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties).	3/17/2009	9/15/2009, 74 FR 47414.	
Ozone (8-Hour, 1997).	Columbus (Delaware, Fairfield, Franklin, Knox, Licking, and Madison Counties).	3/17/2009	9/15/2009, 74 FR 47404.	
Ozone (8-Hour, 1997).	Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties).	4/12/2019	10/1/2019, 84 FR 52001.	
Ozone (8-Hour, 1997).	Lima (Allen County) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Parkersburg-Marietta (Washington County).	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	

EPA—APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
Ozone (8-Hour, 1997).	Steubenville-Weirton (Jefferson County)	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Toledo (Lucas and Wood Counties) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Wheeling (Belmont County) .....	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 1997).	Youngstown (Columbiana, Mahoning and Trumbull Counties).	4/12/2019	11/19/2019, [insert <b>Federal Register</b> citation].	
Ozone (8-Hour, 2015).	Columbus (Delaware, Fairfield, Franklin, and Licking Counties).	4/23/2019	8/21/2019, 84 FR 43508.	
*	*	*	*	*

[FR Doc. 2019-24937 Filed 11-18-19; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[EPA-HQ-OPPT-2017-0464; FRL-10001-43]

RIN 2070-AB27

**Significant New Use Rules on Certain Chemical Substances (17-3); Technical Correction**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 18, 2019 for 19 chemical substances that were the subject of premanufacture notices (PMNs). For the chemical substance that was the subject of PMN P-17-170, EPA made several errors when including hazard communication requirements. Certain references are inconsistent with the hazards identified for this chemical substance by EPA. This document is being issued to correct these errors.

**DATES:** This technical correction is effective on November 19, 2019.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2017-0464, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through

Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

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

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

**SUPPLEMENTARY INFORMATION:**

**I. What does this technical correction do?**

EPA issued a final rule in the **Federal Register** of September 18, 2019 (84 FR 49025) (FRL-9998-12) for significant new uses for 19 chemical substances that were the subject of PMN notices. EPA made several errors when specifying hazard communication requirements for the chemical substance listed in the significant new use rule (SNUR) codified in 40 CFR 721.11107 (PMN P-17-170). This action corrects these errors as follows:

- In 40 CFR 721.11107—Alkanediol, 2,2-bis (substituted alkyl)-polymer with substituted alkane, heteromonocycles, alkenoate (generic); the hazard communication requirements in paragraph (a)(2)(ii) of the SNUR will be corrected to remove the reference to 40

CFR 721.72(g)(1)(v) and instead reference 40 CFR 721.72(g)(1)(iv). It will also be corrected to remove the reference to 40 CFR 721.72(g)(4).

**II. Why is this correction issued as a final rule?**

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. Correcting the hazard communication requirements specified in the September 18, 2019 SNUR is necessary for the proper identification of the human health and environmental hazards associated with PMN substance P-17-170 consistent with the associated TSCA section 5(e) Order for the substance. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

**III. Do any of the statutory and Executive Order reviews apply to this action?**

No. For a detailed discussion concerning the statutory and Executive Order review, refer to Unit XII. of the September 18, 2019 final rule.

**IV. Congressional Review Act (CRA)**

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

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

#### List of Subjects in 40 CFR Part 721

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

Dated: November 5, 2019.

**Tala Henry,**

*Deputy Director, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is corrected as follows:

#### PART 721—[AMENDED]

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

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

■ 2. In § 721.11107, revise paragraph (a)(2)(ii) to read as follows:

**§ 721.11107 Alkanediol, 2,2-bis (substituted alkyl)-polymer with substituted alkane, heteromonocycles, alkenoate (generic).**

- (a) \* \* \*  
(2) \* \* \*

(ii) *Hazard communication.*

Requirements as specified in § 721.72(a) through (e) (concentration set 0.1 percent), (f), (g)(1)(i), (ii), (iv), (vii), (ix), (respiratory sensitization), (g)(2)(i), (v), and (g)(5). Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

\* \* \* \* \*

[FR Doc. 2019-24945 Filed 11-18-19; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 45 CFR Part 75

#### Notification of Nonenforcement of Health and Human Services Grants Regulation

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notification of exercise of enforcement discretion.

**SUMMARY:** This notification is to inform the public that the U.S. Department of Health and Human Services (HHS) has determined that the rulemaking that resulted in the regulatory provisions promulgated on Dec. 12, 2016, regarding HHS’s grant regulations, raises significant concerns about compliance with the Regulatory Flexibility Act. The provisions will not be enforced pending

a repromulgation that complies with the Act.

**DATES:** November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Richard Brundage at (202) 401-6107.

**SUPPLEMENTARY INFORMATION:** The Department of Health and Human Services has determined that the rulemaking which promulgated or amended 45 CFR 75.101(f), 75.110(a), 75.300(c) and (d), 75.305(a), 75.365, 75.414(c) and (f), and 75.477, published at 81 FR 89393 (Dec. 12, 2016), raises significant concerns about compliance with the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* The Department has accordingly determined to exercise its enforcement discretion not to enforce the regulations until they have been repromulgated with a proper RFA analysis.

#### I. Statutory Background

The RFA generally requires that when an agency issues a proposed rule, or a final rule (after publishing a proposed rule) pursuant to section 553(b) of the APA or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604. The RFA is a “[p]urely procedural” statute, but “set[s] out precise, specific steps an agency must take.” *Nat’l Telephone Co-op Ass’n v. FCC*, 563 F.3d 536, 540 (D.C. Cir. 2009) (internal quotation marks omitted). Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis. Such analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. The RFA defines a “small entity” as (1) a proprietary firm meeting the size standards of the Small Business Administration (SBA);<sup>1</sup> (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000. 5 U.S.C. 601(3)–(6).<sup>2</sup> The requirement does not apply if the head of the agency “certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.” *Id.* section 605(b). The agency must, however, publish the certification in the **Federal Register** at the time of

<sup>1</sup> Depending on the industry, SBA considers businesses to be small by virtue of having less than between \$7.5 million and \$38.5 million in average annual revenue.

<sup>2</sup> The Department considers a rule to have a significant economic impact on a substantial number of small entities if at least 5% of small entities experience an impact of more than 3% of revenue.

publication of the proposed or final rule, “along with a statement providing the factual basis for such certification.” *Id.* The RFA also requires the agency to provide the certification and the statement with the factual justification to the SBA Chief Counsel for Advocacy. *Id.*

If the agency head has not waived the requirements for a regulatory flexibility analysis in accordance with the RFA’s waiver provision, and no other RFA exception applies, the agency must prepare the regulatory flexibility analysis and publish it in the **Federal Register** at the time of promulgation or, if the rule is promulgated in response to an emergency that makes timely compliance impracticable, within 180 days of publication of the final rule. 5 U.S.C. 604(a), 608(b).<sup>3</sup> In addition, the RFA provides for judicial review of an agency’s compliance with its provisions under some circumstances, which can result in a court ordering the agency to take corrective action by remanding the rule to the agency and deferring enforcement of the rule against small entities. *Id.* section 611(a)(4).

#### II. Absence of RFA Analysis or Certification

The rulemaking that promulgated and amended 45 CFR 75.101(f), 75.110(a), 75.300(c) and (d), 75.305(a), 75.365, 75.414(c) and (f), and 75.477, published at 81 FR 89393 (Dec. 12, 2016), raises significant concerns about compliance with the requirements of the RFA, 5 U.S.C. 601 *et seq.* The Department neither performed the RFA analysis described in 5 U.S.C. 602–604, nor expressly certified that the rules “will not . . . have a significant economic impact on a substantial number of small entities” and provided a statement with the factual basis for such certification as provided for by section 605(b). *See* 81 FR 89393 (Dec. 12, 2016). The rulemaking simply declared that it would “not have a significant economic

<sup>3</sup> Section 608(b) provides that except as provided in section 605(b), an agency head may not waive the requirements of section 604 for final rules. An agency head may delay the completion of the requirements of section 604 of the title for a period of not more than one hundred and eighty days after the date of publication in the **Federal Register** of a final rule by publishing in the **Federal Register**, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of the title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of the title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency. 5 U.S.C. 608(b).

impact beyond HHS's current regulations," without even mentioning small entities or grappling with the obvious interests of such entities that should have been protected by the RFA process. The Department is accordingly exercising its enforcement discretion and as such, these regulatory provisions will not be enforced, pending repromulgation.

*The Department failed to make the certification, and provide the factual statement, described by the statute.*

Where an agency engaged in notice and comment rulemaking pursuant to section 553 does not perform a RFA analysis, the head of the agency normally must certify that a rule will not have a significant impact on small entities, and the agency must ordinarily provide a statement that lays out the facts that support the certification. The agency's **Federal Register** publication must, thus, include a certification under section 605(b) that discusses the impact of a rule on a substantial number of small entities and "a statement providing the factual basis for such certification." While this is not a high bar, the Government must, at a minimum, show that it made a reasonable, good faith effort to consider at least some facts relevant to small entities impacted by the rule. *Compare North Carolina Fisheries Ass'n, Inc. v. Daley*, 16 F. Supp. 2d 647, 651–53 (E.D. Va. 1997) (finding that certification was noncompliant because it did not discuss any facts regarding the impact on small entities in the time period subject to the rule), with *Nat. Women, Infants and Children Grocers Ass'n v. Food and Nutrition Serv.*, 416 F. Supp. 2d 92, 108–09 (D.D.C. 2006) (holding that certification complied because it explained that the challenged rule applied to the states, which had varying market conditions), and *Cactus Corner, LLC v. U.S. Dep't of Agric.*, 346 F. Supp. 2d 1075 (E.D. Cal. 2004) (finding that certification complied because it defined and discussed the small wholesalers impacted by the rule and made predictions about the likely impact of the rule).

In the preamble to the December 12, 2016 final rules, the Department stated it had an obligation under the RFA to "provide a final regulatory flexibility analysis or to certify that the rule[s] will not have a significant economic impact on a substantial number of small entities." 81 FR at 89394. It then listed a subset of the regulatory changes: Aligning the grants regulation at part 75 "with various regulatory and statutory provisions," implementing Supreme Court decisions, and codifying long-standing policies. Without explaining

whether or how these regulatory changes might apply to small entities, the Department simply concluded that, "[i]n order to ensure that the public receives the most value, it is essential that HHS grant programs function as effectively and efficiently as possible, and that there is a high level of accountability to prevent waste, fraud, and abuse. The additions provide enhanced direction for the public and will not have a significant economic impact beyond HHS's current regulations." See 81 FR at 89394.<sup>4</sup>

This statement in the **Federal Register** raises serious questions about compliance with the RFA's requirement that the agency head must certify that the rules will not have a significant economic effect on a substantial number of small entities. The statement fails to mention the economic impact on small entities in particular or to even acknowledge that the regulation would apply to small entities. Furthermore, there is nothing in the final rules that provides a factual basis for any inference that the rules would not have a significant economic impact on a substantial number of small entities. Indeed, if anything, there are indications that the rulemaking likely did have a significant economic impact on a substantial number of small entities. The absence of a factual basis for a required section 605 certification, too, would be inconsistent with the requirements of the RFA. See 5 U.S.C. 605(b).

*The rules were not submitted to the SBA Chief Counsel for Advocacy.*

When a certification is required, the RFA further requires that the agency "provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration." 5 U.S.C. 605(b). The Chief Counsel for Advocacy of the SBA maintains records of the proposed and final rules submitted to it pursuant to the RFA. The Office of the Chief Counsel has informed the Department's General Counsel that it does not have a record of having received the rules pursuant to the RFA.

*The rules may have affected a significant number of small entities.*

The provisions in the final rules may have affected a significant number of small entities, which underscores why Congress prohibited agency heads from waiving the requirement to conduct an otherwise required regulatory impact analysis except in the narrow

circumstance where an agency can provide the factual basis for a certification by the agency head that there is no significant economic impact on a substantial number of small entities.<sup>5</sup> For example, § 75.477(b) precludes a grantee from including as allowable costs those payments that it may make to the Internal Revenue Service in lieu of providing minimum essential coverage (MEC) to its employees. While nearly all large employers offer their employees MEC, in 2015, among companies with 50 to 199 employees, around 8 percent did not. The 8 percent equates to approximately 14,000 small businesses. See <http://files.kff.org/attachment/report-2015-employer-health-benefits-survey> at 44; <https://www.sba.gov/advocacy/firm-size-data> (2014). Moreover, if an entity (including governmental or non-profit entities) with at least 50 full-time employees failed to meet the MEC requirements, it could be assessed a penalty equal to the number of its full-time employees for the year (minus up to 30 employees) times \$2,000 if at least one full-time employee purchased health coverage with premium tax credits through the health insurance exchange. Any reasonable certification under section 605(b) necessarily would have had to reflect the potential impact on those 14,000 small businesses from this single provision.

A similar showing would have been sensible to perform with respect to the other regulatory provisions contained in the rulemaking that culminated in the December 12, 2016 final rules. Indeed, the data that existed at the time of the rulemaking revealed that various provisions could, in fact, affect a significant number of small entities. For example, § 75.414(c) limits reimbursement for indirect costs on training grants to eight percent. The proposed rule (see 81 FR 45270 (July 13, 2016)) indicated that the amendment to paragraph (c) reflected HHS's longstanding policy. However, under the Richardson Waiver (see 36 FR 2532 (Feb. 5, 1971)), such policy, absent rulemaking, is not binding. Thus, there was no valid, binding limit on reimbursement of indirect costs prior to the issuance of this rule, and no corresponding showing of the economic implications for small entities, including non-profits, of this new

<sup>4</sup> The RFA discussion in the preamble to the proposed rule was virtually identical. See *Health and Human Services Grants Regulation*, 81 FR 45270, 45272 (July 13, 2016).

<sup>5</sup> Even in the case of an emergency, the agency must conduct a regulatory flexibility analysis. Congress simply gave the agency an additional 180 days to conduct the analysis in case of an emergency, underscoring how important Congress considered the regulatory flexibility analysis to be. See 5 U.S.C. 608(b).

limitation on overhead reimbursement. A proper RFA analysis likely should have considered the effect that moving from a nonbinding policy to binding rule would have on small entities. *Cf. Am. Federation of Labor v. Chertoff*, 552 F. Supp. 2d 999, 1013 (N.D. Cal. 2007) (noting “serious questions [about] whether DHS violated the RFA” when it refused to conduct a final flexibility analysis about a rule that “as good as mandates costly compliance with a new 90-day timeframe”). There was also no showing concerning § 75.300(c) and (d), which may impose compliance costs on recipients by subjecting the recipients to conflicting statutory and non-statutory requirements.

*The regulatory provisions promulgated in the final rules will not be enforced pending rulemaking.*

As described above, unless waived pursuant to section 605(b), the RFA generally requires an agency to prepare a final regulatory flexibility analysis. See 5 U.S.C. 604(a), 611(a). The preparation of such analysis may be delayed by up to 180 days after the publication of the final rule in cases of emergency. See 5 U.S.C. 608(b). Moreover, flawed RFA analyses have been the basis for judicial review of rulemakings.

Because the Department has serious concerns about whether the RFA analysis performed here complied with the RFA, the Department is announcing that it will not enforce the regulatory provisions, pending repromulgation of the Rule. The majority of the Department’s grantees are small entities,<sup>6</sup> and the RFA process undertaken with respect to this Rule raises significant concerns about whether their interests were protected in the manner the statute prescribes. Rather than apply a nonenforcement policy only to small entities, however, the Department is exercising its discretion to not enforce the rules with respect to any grantees until the rules have been properly re-promulgated with an impact analysis that hews to the requirements of the RFA. Applying these rules differently to agency grantees depending on size would be unfair, create increased compliance costs for all entities as they seek to determine whether they are or are not still subject to the rules, and impose additional administrative burdens on the Department disproportionate to the benefit of enforcement.

Accordingly, the regulatory actions, promulgated through the December 12, 2016 final rules, 81 FR 89393, namely,

the additions of 45 CFR 75.101(f), 75.300(c) and (d), 75.414(c)(1)(i) through (iii), and 75.477, and the amendments to 45 CFR 75.110(a), 75.305(a), 75.365, and 75.414(f), will not be enforced pending repromulgation.<sup>7</sup>

Dated: November 1, 2019.

**Eric D. Hargan**,  
Deputy Secretary, Department of Health and Human Services.

[FR Doc. 2019–24384 Filed 11–18–19; 8:45 am]

BILLING CODE 4150–24–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 74, 78, and 101**

[GN Docket No. 82–334; WT Docket No. 00–19, RM–9418; FCC 02–218; and WT Docket No. 94–148, FCC 96–51]

**Establishment of a Spectrum Utilization Policy for the Fixed and Mobile Services’ Use of Certain Bands Between 947 MHz and 40 GHz; Streamline Processing of Microwave Applications in the Wireless Telecommunications Services and Telecommunications Industry Association Petition for Rulemaking; Terrestrial Microwave Fixed Radio Services**

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendments.

**SUMMARY:** The Federal Communications Commission (FCC/Commission) is correcting final rules that had typographical errors that were published in three separate reports in the *Federal Register*. In those documents, the Commission used table 8 MHz maximum authorized bandwidth channels that had an error in various rules. This document corrects the errors.

**DATES:** Effective November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Stephen Buenzow of the Wireless Telecommunications Bureau, Broadband Division at (717) 338–2647 or *Stephen.Buenzow@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** The Commission’s documents GN Docket No. 82–334, published March 9, 1987 (52 FR 7136, pages 7142 and 7144); WT Docket No. 00–19, RM–9418, FCC 02–218, published May 28, 1996 (61 FR 26677, as amended at 62 FR 4924, Feb. 3, 1997, page 4925); and WT Docket No. 94–148, FCC 96–51, published May 28,

1996 (61 FR 26677, pages 26708, 26712, and 26725) contained typographical errors. The correcting amendments in this document fix those errors. The Commission is also correcting an error in a footnote and table—*Table 3—Paired Frequencies (MHz), [12.5 kHz bandwidth]*. The corrected rules are §§ 74.602(i)(2), 78.18(a)(5)(ii), 101.115(b)(2), 101.147(b)(2) and 101.803(e)(2).

**List of Subjects**

*47 CFR Part 74*

Communications equipment, Radio, Television.

*47 CFR Part 78*

Cable television, television, Communications equipment, Radio.

*47 CFR Part 101*

Communications equipment, Radio.

Accordingly, 47 CFR parts 74, 78, and 101 are corrected by making the following correcting amendments:

**PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES**

■ 1. The authority citation for part 74 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 307, 309, 310, 336, and 554.

■ 2. In § 74.602, amend the table in paragraph (i)(2) by revising the entry for “6446.0” to read as follows:

**§ 74.602 Frequency assignment.**

\* \* \* \* \*  
(i) \* \* \*  
(2) \* \* \*

Transmit (or receive MHz)		Receive (or transmit) (MHz)	
*	*	*	*
	6446.0		6496.0
*	*	*	*

\* \* \* \* \*

**PART 78—CABLE TELEVISION RELAY SERVICE**

■ 3. The authority citation for part 78 continues to read as follows:

**Authority:** 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309.

■ 4. In § 78.18, amend paragraph (a)(5)(ii) by revising entry for “6446.0” read as follows:

<sup>7</sup> Elsewhere in this issue of the *Federal Register*, the Department publishes a notice of proposed rulemaking to begin the process of repromulgating, as appropriate, these rules.

<sup>6</sup> See, e.g., <https://tags.hhs.gov/ReportsGrants/GrantsByRecipClass>.

**§ 78.18 Frequency assignment. [CORRECTION]**

*	*	*	*	*
(a)	*	*	*	
(5)	*	*	*	
(ii)	*	*	*	

  

Transmit (or receive MHz)	Receive (or transmit) (MHz)
*	*
6446.0	6496.0
*	*

  

*	*	*	*	*
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**PART 101—FIXED MICROWAVE SERVICES**

■ 5. The authority citation for part 101 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303.

■ 6. In § 101.115, amend the table in paragraph (b)(2) by revising the text of footnote 7 to read as follows:

**§ 101.115 Directional antennas.**

*	*	*	*	*
(b)	*	*	*	
(2)	*	*	*	

<sup>7</sup> For stations authorized or pending on April 1, 2003, the minimum radiation suppression for Category B is 35dB in the 10,550–10,680 MHz band and 36 dB in the 21,200–23,600 MHz band for discrimination angles from 100° to 180°.

■ 7. In § 101.147, amend table 3 in paragraph (b)(2) by revising entry for 928.36875” and in the table in paragraph (j)(2) by revising the entry for “6446.0” to read as follows:

**§ 101.147 Frequency assignments.**

*	*	*	*	*
(b)	*	*	*	
(2)	*	*	*	

  

**TABLE 3—PAIRED FREQUENCIES (MHz)**  
[12.5 kHz bandwidth]

Remote transmit	Master transmit
*	*
928.36875	928.36875
*	*

  

*	*	*	*	*
(j)	*	*	*	
(2)	*	*	*	

Transmit (or receive MHz)	Receive (or transmit) (MHz)
*	*
6446.0	6496.0
*	*

■ 8. In § 101.803, amend the table in paragraph (e)(2) by revising entry for “6446.0” to the table to read as follows:

**§ 101.803 Frequencies.**

*	*	*	*	*
(e)	*	*	*	
(2)	*	*	*	

  

Transmit (or receive MHz)	Receive (or transmit) (MHz)
*	*
6446.0	6496.0
*	*

Federal Communications Commission.  
**Marlene Dortch,**  
*Secretary, Office of the Secretary.*  
[FR Doc. 2019–24669 Filed 11–18–19; 8:45 am]  
**BILLING CODE 6712–01–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 180117042–8884–02]

**RTID 0648–XT027**

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries**

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

**ACTION:** Temporary rule; quota transfer.

**SUMMARY:** NMFS is transferring 53.2 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Reserve category to the General category, to account for an accrued overharvest of 33.7 mt from previous time period subquotas. This action is intended to provide opportunities for General category fishermen to participate in the December General category fishery, which is scheduled to reopen on December 1, 2019, and is based on consideration of the regulatory determination criteria regarding

inseason adjustments. This action would affect Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

**DATES:** Effective November 18, 2019 through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Nicholas Velseboer, 978–281–9260, or Larry Redd, 301–427–8503.

**SUPPLEMENTARY INFORMATION:**

Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline General and Reserve category quotas are 555.7 mt and 29.5 mt, respectively. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a “subquota” or portion of the annual General category quota. The baseline subquotas for each time period are as follows: 29.5 mt for January; 277.9 mt for June through August; 147.3 mt for September; 72.2 mt for October through November; and 28.9 mt for December. Any unused General category quota rolls forward from one time period to the next and is available for use in subsequent time periods. To date for 2019, NMFS has taken seven actions that resulted in adjustments to the Reserve category, leaving 65.3 mt of quota currently available (84 FR 3724, February 13, 2019; 84 FR 6701, February 28, 2019; 84 FR 35340, July 23, 2019; 84 FR 47440, September 10, 2019; and 84 FR 48566, September 16, 2019; 84 FR

52806, October 3, 2019; and 84 FR 55507, October 17, 2019.)

For the January 2019 subquota period, NMFS transferred 19.5 mt of BFT quota from the December 2019 subquota period, and transferred 51 mt from the Reserve category, resulting in an adjusted subquota of 100 mt for the January 2019 period and a subquota of 9.4 mt for the December 2019 period (83 FR 67140, December 28, 2018, 83 FR 3724, February 13, 2019, and 84 FR 6701, February 28, 2019). NMFS closed the October through November General category fishery when the subquota (172.2 mt) was projected to be reached, effective October 13, 2019 (84 FR 55507, October 17, 2019). The 2019 General category fishery reopens December 1, 2019, and will remain open until December 31, 2019, or until the General category quota is reached, whichever comes first.

#### **Transfer of 53.2 mt From the Reserve Category to the General Category**

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering regulatory determination criteria provided under § 635.27(a)(8). NMFS has considered all of the relevant determination criteria and their applicability to this inseason quota transfer. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT in the General category would support the collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including during the summer/fall and winter fisheries in the last several years), and the likelihood of closure of that segment of the fishery if no adjustment is made (§ 635.27(a)(8)(ii) and (ix)). Preliminary landings data as of November 13, 2019, indicate that the General category has landed 791.1 mt this year, which exceeds the overall General category adjusted quota of 766.8 mt. For all commercial categories, however, approximately 17 percent (189.9 mt) of the total of the BFT category quotas remains available as of November 13, 2019 (*i.e.*, 978.1 mt of

1167.99 mt has been harvested), and NMFS anticipates that some amount of quota may remain unused by the end of the year even with the transfer. Absent a transfer, the December General category fishery would remain closed, even though quota remains available within the overall quota for the year and NMFS anticipates that commercial-sized BFT will be readily available on the fishing grounds when the fishery is otherwise scheduled to re-open December 1, 2019. Transferring 53.2 mt of BFT quota from the Reserve category would allow the General category fishery to resume as scheduled and would result in 28.9 mt being available to the General category in December after accounting for 33.7 mt of accrued overharvest. It would also leave 12.1 mt in the Reserve category to account for any BFT mortalities associated with research and/or any overharvests that may occur in December.

Regarding the projected ability of the vessels fishing under the particular category quota (here, the General category) to harvest the additional amount of BFT quota transferred before the end of the fishing year (§ 635.27(a)(8)(iii)), NMFS considered General category landings over the last several years and landings to date this year. Landings are highly variable and depend on access to commercial-sized BFT and fishing conditions, among other factors. A portion of the transferred quota covers the 33.7 mt overharvest in the category to date, and NMFS anticipates that General category participants will be able to harvest the remaining 28.9 mt of transferred BFT quota by the end of the fishing year.

NMFS also considered the estimated amounts by which quotas for other gear categories of the fishery might be exceeded (§ 635.27(a)(8)(iv)) and the ability to account for all 2019 landings and dead discards. In the last several years, total U.S. BFT landings have been below the available U.S. quota such that the United States has carried forward the maximum amount of underharvest allowed by ICCAT from one year to the next. NMFS will need to account for 2019 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that, even with this 53.2 mt transfer to the General category.

NMFS also considered the effects of the adjustment on the BFT stock and the effects of the transfer on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). This transfer would be consistent with the current quotas, which were established and analyzed in the 2018 BFT quota final

rule (83 FR 51391, October 11, 2018), and with objectives of the 2006 Consolidated HMS FMP and amendments and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)). Specific to the General category, this includes providing opportunity equitably across all time periods.

Based on the considerations above, NMFS is transferring 53.2 mt from the Reserve category to the General category. Therefore, NMFS adjusts the General category December 2019 subquota quota to 28.9 mt and adjusts the Reserve category quota to 12.1 mt. The General category fishery reopens December 1, 2019, and will remain open until December 31, 2019, or until the adjusted General category quota is reached, whichever comes first.

#### **Monitoring and Reporting**

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustment, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required to report the catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing [hmspermits.noaa.gov](https://hmspermits.noaa.gov) or by using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action (*e.g.*, quota adjustment or closure) is necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281-9260, or access [hmspermits.noaa.gov](https://hmspermits.noaa.gov), for updates on

quota monitoring and inseason adjustments.

NMFS reminds General category participants that when the fishery reopens December 1, 2019, the BFT General category daily retention limit will be one large medium or giant BFT per vessel per day/trip.

#### Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason quota transfers to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2019 is impracticable and contrary to the public interest as such a delay would result in continued closure of the General category fishery (because the available quota has been exceeded) and the need to re-open the fishery later in the December time period, rather than the fishery automatically re-opening on December 1, 2019. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.27(a)(9) (Inseason adjustments) and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 14, 2019.

**Jennifer M. Wallace,**

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

[FR Doc. 2019-25014 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

**RTID 0648-XX025**

#### Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From MD to NJ

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

**ACTION:** Announcement of quota transfer.

**SUMMARY:** NMFS announces that the State of Maryland is transferring a portion of its 2019 commercial summer flounder quota to the State of New Jersey. This quota adjustment is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised 2019 commercial quotas for Maryland and New Jersey.

**DATES:** Effective November 18, 2019, through December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, (978) 281-9225.

**SUPPLEMENTARY INFORMATION:** Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2019 allocations were published on May 17, 2019 (84 FR 22392).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP), as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would preclude the

overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and, the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Act.

Maryland is transferring 15,220 lb (6,904 kg) of summer flounder commercial quota to New Jersey. This transfer was requested to repay landings made by a Maryland-permitted vessel in New Jersey under a safe harbor agreement. Based on the revised Summer Flounder, Scup, and Black Sea Bass Specifications, the summer flounder quotas for fishing year 2019 are now: Maryland, 208,734 lb (94,680 kg); and, New Jersey, 1,855,396 lb (841,593 kg).

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

Dated: November 14, 2019.

**Jennifer M. Wallace,**

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

[FR Doc. 2019-25053 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

**[Docket No. 180831813-9170-02]**

**RIN 0648-XY025**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet length overall (LOA) using hook-and-line gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2019 Pacific cod total allowable catch apportioned to catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), November 16, 2019, through 2400 hours, A.l.t., December 31, 2019.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The 2019 Pacific cod total allowable catch (TAC) apportioned to catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA is 382 metric tons (mt), as established by the final 2019 and 2020 harvest specifications for groundfish of the GOA (84 FR 9416, March 14, 2019).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2019 Pacific cod TAC apportioned to catcher vessels greater than or equal to 50 feet LOA

using hook-and-line gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 275 mt and is setting aside the remaining 107 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### **Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public

interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod by catcher vessels greater than or equal to 50 feet LOA using hook-and-line gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 12, 2019.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: November 13, 2019.

**Jennifer M. Wallace,**

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

[FR Doc. 2019-24983 Filed 11-14-19; 4:15 pm]

**BILLING CODE 3510-22-P**

# Proposed Rules

Federal Register

Vol. 84, No. 223

Tuesday, November 19, 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.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[Docket No. PRM-50-111; NRC-2015-0124]

### Power Reactor In-Core Monitoring

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; denial.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM), dated March 13, 2015, submitted by Mark Edward Leyse (petitioner). The petition was docketed by the NRC on April 24, 2015, and assigned Docket No. PRM-50-111. The petitioner requested that the NRC require all holders of operating licenses for nuclear power plants to operate them with in-core temperature-monitoring devices (e.g., thermoacoustic sensors or thermocouples) located at different elevations and radial positions throughout the reactor core. The NRC is denying the petition because current regulations provide a sufficient level of safety, such that additional requirements for in-core temperature-monitoring devices as specified in the petition are not needed.

**DATES:** The docket for the petition for rulemaking, PRM-50-111, is closed on November 19, 2019.

**ADDRESSES:** Please refer to Docket ID NRC-2015-0124 when contacting the NRC about this petition. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2015-0124. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System*

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in Section III, "Availability of Documents," of this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** James O'Driscoll, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1325; email: [James.O'Driscoll@nrc.gov](mailto:James.O'Driscoll@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), "Petition for rulemaking—requirements for filing," provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. The NRC received a petition dated March 13, 2015, from Mark Edward Leyse and assigned it Docket No. PRM-50-111. The NRC published a notice of docketing in the **Federal Register** on July 16, 2015 (80 FR 42067). The NRC did not request public comment on PRM-50-111 because the staff had sufficient information to review the issues raised in the petition.

The NRC identified three issues that provide the bases for the request in PRM-50-111:

1. Measurement of the temperatures at various locations within the reactor core would enable nuclear power plant operators to better understand the condition of the core under normal and transient conditions and to more clearly foresee incipient or impending damage to the reactor core.

2. The use of in-core temperature-monitoring devices is needed in boiling-water reactors.

3. The use of in-core temperature-monitoring devices would satisfy recommendations regarding enhanced reactor instrumentation made in the near-term task force report, "Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident," dated July 12, 2011 (ADAMS Accession No. ML111861807).

The petitioner requested that the NRC amend its regulations at 10 CFR part 50, "Domestic Licensing of Production and Utilization Facilities," to require all holders of operating licenses for nuclear power plants to operate them with in-core temperature-monitoring devices (e.g., thermoacoustic sensors or thermocouples) located at different elevations and radial positions throughout the reactor core. The petitioner stated that the use of the devices would enable nuclear power plant operators to accurately measure in-core temperatures, thereby providing crucial information to help them track the progression of core damage and manage an accident (e.g., by indicating the correct time to transition from emergency operating procedures to implementing severe accident management guidelines).

The petitioner stated that installing in-core temperature-monitoring devices would satisfy the recommendations in the near-term task force report, "Recommendations for Enhancing Reactor Safety in the 21st Century," dated July 12, 2011, regarding enhanced reactor instrumentation. Specifically, the petitioner referenced the following from the report:

[A] new and dedicated portion of the regulations would allow the Commission to recharacterize its expectations for safety features beyond design basis more clearly and more positively as 'extended design-basis' requirements.

The petitioner asserted that a new regulation is needed, requiring that a wide range of in-core temperatures be accurately measured in the event of a severe accident.

#### II. Reasons for Denial

As discussed in this document, the NRC is denying PRM-50-111 because the petitioner does not demonstrate the need for a regulation that requires the use of in-core temperature-monitoring devices in nuclear power plants. The

NRC addressed a substantial portion of the request in this petition in its response to a previous petition. PRM-50-105 was submitted on February 28, 2012, and the NRC published a notice of receipt and request for comment in the **Federal Register** on May 23, 2012 (77 FR 30435). In PRM-50-105, the petitioner requested that the NRC require all holders of operating licenses for nuclear power plants to have in-core thermocouples at different elevations and radial positions throughout the reactor core to enable the operators to accurately measure a large range of in-core temperatures in nuclear power plant steady-state and transient conditions. The NRC limited the scope of the review of PRM-50-105 to only the use of in-core thermocouples in pressurized-water reactors because that was the primary focus of that petition, although the petitioner also mentioned boiling-water reactors. The NRC denied PRM-50-105 on September 12, 2013 (78 FR 56174).

#### *NRC's Response to Issue 1*

In its denial of PRM-50-105, the NRC evaluated the petitioner's claims that, in the event of a severe accident, in-core thermocouples would enable nuclear power plant operators to accurately measure in-core temperatures better than core exit thermocouples, and would provide crucial information to help operators manage the accident. In PRM-50-111, the petitioner reiterated the same assertions and updated the previous request by including other instrument types that might be used in the measurement of in-core temperatures (e.g., thermoacoustic sensors).

The NRC denied PRM-50-105 because the NRC concluded that knowledge of core temperatures at various elevations and radial positions would not enhance safety or change operator action. Core-exit thermocouples, despite known limitations, are sufficient to allow nuclear power plant operators to take timely and effective action in the event of an accident. In pressurized-water reactors, they provide an indication of initial core damage during accident conditions and provide the necessary indication to make operational decisions with respect to the approach to imminent core damage.

The current suite of instrumentation used in pressurized-water reactors, which includes core-exit thermocouples, provides sufficient information to determine the need for operator action well before the onset of significant core damage. Other indications include reactor coolant

system level and containment pressure. A more comprehensive description of the applications of core-exit thermocouples is provided in NRC's denial of PRM-50-105, Issue 1. In its denial of PRM-50-105, the NRC concluded that there is no need for more accurate measurement of temperatures throughout the core in pressurized-water reactors. The NRC concludes that the reasons for that decision remain valid and are applicable to PRM-50-111.

In PRM-50-111, the petitioner discussed core temperature measurement devices other than thermocouples. The NRC evaluated this information and concludes that the nature of the device is not relevant to the decision of whether or not to require the use of in-core temperature instrumentation.

As in the denial of PRM-50-105, the NRC has determined that precise in-core temperatures would not provide information that would enable nuclear power plant operators to better respond to and manage a reactor accident.

The NRC therefore concludes that more accurate and precise temperature distribution information within the reactor core that would be provided by such instrumentation is not necessary to provide adequate protection to the health and safety of the public or nuclear power plant staff, nor would it provide a substantial safety enhancement at nuclear power plants. Therefore, installation of such instrumentation need not be required by regulation.

#### *NRC's Response to Issue 2*

The petitioner asserted that in the event of a severe accident at a boiling-water reactor, in-core temperature-monitoring devices would be more accurate and immediate for detecting inadequate core cooling and core uncovering than readings of the reactor water level, reactor pressure, containment pressure, or wetwell water temperature. The petitioner also asserted that, after the onset of core damage, water level indicators in boiling-water reactors are unreliable.

The NRC determined that the current means to detect and respond to inadequate core cooling is already anticipatory in nature, and emergency operator actions would be no different if in-core temperature-monitoring devices were present. Therefore, no safety benefit would result from the availability of such devices.

Existing boiling-water reactor emergency operating procedures (EOPs) do not require operator assessment of core cooling. Instead, operators use

specific parametric data, such as the water level, containment pressure, containment radiation, and reactor pressure, in conjunction with the EOP actions to respond to the event. Under accident conditions, reactor vessel water level is an acceptable indication of conditions relating to imminent core damage, and drywell radiation monitors are typically the primary method for determining the presence of core damage and severe accident management guideline entry conditions. For boiling-water reactors, severe accident management guideline entry conditions are also tied to parameters such as water level, containment hydrogen concentration, and component failures. If reactor water level is unknown or conditions render water level instrumentation unreliable, then the EOPs require the operators to proactively flood the reactor vessel. In addition, the EOPs for boiling-water reactors describe steam cooling as a method of cooling the core when there is insufficient water to cover the core, typically available when water level is at or above two-thirds of core height. This method allows additional time to restore reactor coolant injection and reduce the likelihood of emergency reactor depressurization, which would be necessary for the injection of low pressure sources.

The intent of the NRC's regulations is to prevent or minimize significant core damage. The detection of inadequate core cooling and actual core uncovering is not necessary for managing emergency and accident scenarios. Nuclear power plant operators are directed by EOPs to take proactive emergency operating actions based on the indication of parameters that are anticipatory to actual inadequate core cooling conditions, while the instruments reading those parameters are still functioning within their acceptably-accurate performance ranges. If significant core damage were to occur, water level instrumentation and in-core temperature instrumentation (if installed) would no longer be relied upon for operator action.

The NRC has determined that boiling-water reactor operators do not need in-core temperature-monitoring devices to safely navigate emergency and accident scenarios. Because the use of water level instrumentation is sufficient to inform operator actions prior to significant core damage, the NRC finds that the information representing the temperature within specific core locations would not provide an improvement in the prevention of an accident or the mitigation of the consequences of an accident. The NRC

has further determined that having the core temperature data would not provide any additional safety margins in managing post accident or severe accident conditions. Therefore, the NRC concludes that more accurate and precise temperature distribution within the reactor core that would be provided by such instrumentation is not necessary to provide adequate protection of the health and safety of the public or nuclear power plant staff, nor would it provide a substantial safety enhancement at nuclear power plants. Therefore, installation of such instrumentation need not be required by regulation.

*NRC's Response to Issue 3*

The petitioner stated that in-core temperature-monitoring devices would satisfy the July 12, 2011, near-term task force report recommendations for enhanced reactor instrumentation. To support this claim, the petitioner cited Recommendation 8, in Section 4.2.5 of the report, which recommends strengthening and integrating onsite emergency response capabilities such as emergency operating procedures, severe accident management guidelines and extensive damage mitigation guidelines. The petitioner also cited Volume 10 of NUREG-1635, "Review and Evaluation of the Nuclear Regulatory Commission Safety Research Program: A Report to the U.S. Nuclear Regulatory Commission," dated October 31, 2012. The petitioner quoted sections from pages 11 and 12 of this report, in which the Advisory Committee on Reactor Safeguards stated that the NRC recognized the need for enhanced reactor instrumentation, that such

instrumentation would help clarify the transition points of various onsite emergency response capabilities, and that the NRC was in the process of adding this to the implementation of the near-term task force report recommendations. The petitioner gave, as an example of a transition point, the point at which nuclear power plant operators should transition from EOPs to implementing severe accident management guidelines.

The staff proposed plans to the Commission for resolving open near-term task force recommendations in SECY-15-0137, "Proposed Plans for Resolving Open Fukushima Tier 2 and 3 Recommendations," dated October 29, 2015. In SECY-15-0137, the staff described how remaining open recommendations from the near-term task force report should be resolved. The staff specifically assessed the need for enhanced reactor instrumentation for beyond-design-basis conditions in Enclosure 5 of SECY-15-0137. The staff recommended that the Commission not pursue additional regulatory action beyond the current requirements, including those imposed by orders EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events," and EA-12-051, "Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation." In SRM-SECY-15-0137, dated February 8, 2016, the Commission approved the staff's closure plan for these items. On January 24, 2019, in SRM-M190124A, the Commission directed agency staff to publish a final rule based on lessons learned from the March 2011 accident at

Japan's Fukushima Daiichi plant; the final rule was published in the **Federal Register** on August 9, 2019 and became effective on September 9, 2019 (84 FR 39684). That final rule made generically applicable the requirements from orders EA-12-049 and EA-12-051, taking into account lessons learned in the implementation of the orders and feedback received from stakeholders.

As discussed under Issues 1 and 2, the NRC evaluated the potential contribution that more accurate and precise temperature information would have on improving nuclear power plant safety for both boiling-water reactor and pressurized-water reactor plants. The NRC has determined that the availability of such information would not improve operator actions to prevent or mitigate a reactor accident. The NRC finds that the Commission's conclusions in SRM-SECY-15-0137 apply to the instrumentation proposed by the petitioner. The NRC concludes that more accurate and precise temperature distribution information that would be provided by such instrumentation is not necessary to provide adequate protection to the health and safety of the public or nuclear power plant staff, nor would it provide a substantial safety enhancement at nuclear power plants. Therefore, installation of such instrumentation need not be required by regulation.

**III. Availability of Documents**

The documents identified in the following table are available to interested persons as indicated. For more information on accessing ADAMS, see the **ADDRESSES** section of this document.

Date	Document	ADAMS Accession No./website/ <b>Federal Register</b> citation
Petition Documents:		
March 13, 2015 .....	PRM-50-111—Petition for Rulemaking from Mark E. Leyse Regarding In-Core Temperature Monitoring at Nuclear Power Plants.	ML15113B143.
July 16, 2015 .....	<b>Federal Register</b> notice: Petition for Rulemaking, Notice of Docketing, Power Reactor In-Core Monitoring.	80 FR 42067.
February 28, 2012 ...	Petition for Rulemaking submitted Mark Edward Leye, on PRM-50-105, Request NRC Require all Holders of Operating Licenses for Nuclear Power Plants to Operate with In-Core Thermocouples at Different Elevations and Radial Positions.	ML12065A215.
May 23, 2012 .....	<b>Federal Register</b> notice: Petition for Rulemaking; Receipt and Request for Comment, In-core Thermocouples at Different Elevations and Radial Positions in Reactor Core.	77 FR 30435.
September 12, 2013	<b>Federal Register</b> notice: Petition for rulemaking; Denial, In-core Thermocouples at Different Elevations and Radial Positions in Reactor Core.	78 FR 56174.
Other Documents:		
October 30, 1979 ....	The Need for Change, the Legacy of TMI: Report of the President's Commission on the Accident at Three Mile Island.	<a href="https://tmi2kml.inl.gov/Documents/Common/PresidentsCommission,(MainReport)TheNeedForChange,TheLegacyofTMI-2(1979-10-30).pdf">https://tmi2kml.inl.gov/Documents/Common/Presidents Commission,(MainReport)TheNeedForChange,The LegacyofTMI-2(1979-10-30).pdf</a> .

Date	Document	ADAMS Accession No./website/Federal Register citation
July 12, 2011 .....	SECY-11-0093—Enclosure: The Near Term Task Force Review of Insights from the Fukushima Dai-Ichi Accident.	ML111861807.
October 31, 2012 ....	NUREG-1635, Volume 10, "Review and Evaluation of the Nuclear Regulatory Commission Safety Research Program: A Report to the U.S. Nuclear Regulatory Commission".	ML12311A417.
October 29, 2015 ....	SECY-15-0137, "Proposed Plan for Resolving Open Fukushima Tier 2 and 3 Recommendations".	ML15254A006.
March 12, 2012 .....	EA-12-049 "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events".	ML12054A735.
March 12, 2012 .....	EA-12-051, "Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation".	ML12056A044.
February 8, 2016 .....	SRM-SECY-15-0137—Proposed Plans for Resolving Open Fukushima Tier 2 and 3 Recommendations.	ML16039A175.
January 24, 2019 ....	SRM-M190124A: Affirmation Session-SECY-16-0142: Final Rule: Mitigation of Beyond-Design-Basis Events (RIN 3150-AJ49).	ML19024A073.

#### IV. Conclusion

For the reasons cited in Section II of this document, the NRC is denying PRM-50-111. The NRC finds that the existing regulations provide a sufficient level of safety such that additional requirements are not necessary. Therefore, installation of in-core temperature monitoring devices need not be required by regulation.

Dated at Rockville, Maryland, this 14th day of November, 2019.

For the Nuclear Regulatory Commission.  
**Annette L. Vietti-Cook,**  
*Secretary of the Commission.*

[FR Doc. 2019-25018 Filed 11-18-19; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

[Docket No. PRM-50-120; NRC-2019-0180]

#### Alternative Method for Calculating Embrittlement for Steel Reactor Vessels

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of docketing, and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking from Thomas A. Bergman, on behalf of NuScale Power, LLC, dated August 19, 2019, requesting that the NRC revise its regulations to alleviate a requirement for calculating the embrittlement for advanced reactor designs and to add the embrittlement trend curve formula for calculating the mean value of the transition temperature shift described in American Society for Testing and Materials E900-

152 to the NRC's regulations and guidance documents. The petition was docketed by the NRC on September 11, 2019, and has been assigned Docket No. PRM-50-120. The NRC is examining the issues raised in PRM-50-120 to determine whether these issues should be considered in rulemaking. The NRC is requesting public comment on this petition at this time.

**DATES:** Submit comments by December 19, 2019. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0180. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email comments to:* [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic email reply confirming receipt, then contact us at 301-415-1677.

- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

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:** Yanely Malave-Velez, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1519; email [Yanely.Malave-Velez@nrc.gov](mailto:Yanely.Malave-Velez@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Obtaining Information and Submitting Comments

###### A. Obtaining Information

Please refer to Docket ID NRC-2019-0180 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0180.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One

White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

### B. Submitting Comments

Please include Docket ID NRC–2019–0180 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov>

as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

### II. The Petitioner and the Petition

The petition was submitted by Thomas A. Bergman on behalf of NuScale Power, LLC. Thomas A. Bergman is the Vice President of Regulatory Affairs. The petitioner requests that the NRC amend part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) to alleviate an unnecessarily burdensome requirement on advanced reactor designs by adding an alternative formula for calculating the mean value of the transition temperature shift. The petition can be found in ADAMS at Accession No. ML19254B848.

### III. Discussion of the Petition

The provisions in 10 CFR 50.61 and Regulatory Guide 1.99 were first published in 1988 and focus on determining embrittlement inside the surface of the reactor pressure vessel. Additional irradiation embrittlement data has been collected since the time 10 CFR 50.61 and Regulatory Guide 1.99 were developed. The petitioner states that small modular reactor design is unnecessarily burdened with an excessively conservative methodology for determining radiation embrittlement based on outdated information. The petitioner requests that the NRC amend 10 CFR part 50 to alleviate a requirement for calculating the embrittlement for advanced reactor designs and add the embrittlement trend curve formula for calculating the mean

value of the transition temperature shift described in American Society for Testing and Materials (ASTM) E900–15 to the NRC's regulations and guidance documents. The petitioner states that ASTM E900–15 represents the latest industry consensus embrittlement trend correlation and is derived from a much larger database than was available when Regulatory Guide 1.99 was issued and last revised.

### IV. Conclusion

The NRC has determined that the petition meets the threshold sufficiency requirements for docketing a petition for rulemaking under 10 CFR 2.803. The NRC is examining the issues raised in PRM–50–120 to determine whether these issues should be considered in rulemaking and is requesting public comment on this petition at this time.

Dated at Rockville, Maryland, this 13th day of November 2019.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2019–24936 Filed 11–18–19; 8:45 am]

**BILLING CODE 7590–01–P**

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 246

[Regulation TT; Docket No. R–1683]

RIN 7100–AF63

### Supervision and Regulation Assessments of Fees for Bank Holding Companies and Savings and Loan Holding Companies With Total Consolidated Assets of \$100 Billion or More

**AGENCY:** Board of Governors of the Federal Reserve System (Board).

**ACTION:** Notice of proposed rule; correction.

**SUMMARY:** The *Federal Register* document of November 12, 2019 proposing changes to the Board's Regulation TT provided an expired comment period end date. This document corrects that error.

**DATES:** Comments must be received on or before January 9, 2020.

**SUPPLEMENTARY INFORMATION:** This document corrects the comment period end date in 84 FR 60944 published on November 12, 2019 to read:

#### Correction

**DATES:** Comments must be received on or before January 9, 2020.

Board of Governors of the Federal Reserve System, November 12, 2019.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2019–24959 Filed 11–18–19; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2019–0683; Product Identifier 2015–NE–02–AD]

RIN 2120–AA64

### Airworthiness Directives; General Electric Company Turbofan Engines

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

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

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2017–09–06, which applies to all General Electric Company (GE) GENx–1B and GENx–2B model turbofan engines. AD 2017–09–06 requires updating electronic engine control (EEC) full authority digital electronic control (FADEC) software and replacing a certain fan hub frame assembly part installed on GENx–2B turbofan engines. Since the FAA issued AD 2017–09–06, GE has developed a design change to remove the unsafe condition. This proposed AD would require removal from service of certain EEC FADEC software on GENx–1B and GENx–2B model turbofan engines and would also require replacing the affected fan hub frame assembly booster outlet guide vanes. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by January 3, 2020.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513-552-3272; email: [geae.aoc@ge.com](mailto:geae.aoc@ge.com). You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0683; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Herman Mak, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7147; fax: 781-238-7199; email: [herman.mak@faa.gov](mailto:herman.mak@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2019-0683; Product Identifier 2015-NE-02-AD” at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of

this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

**Discussion**

The FAA issued AD 2017-09-06, Amendment 39-18868 (82 FR 21111, May 5, 2017), (“AD 2017-09-06”), for all GE GENx-1B and GENx-2B model turbofan engines. AD 2017-09-06 requires replacing certain EEC FADEC software with versions eligible for installation. AD 2017-09-06 also requires removing from service certain GE GENx-2B67, -2B67B, and -2B67/P fan hub stator assembly booster outlet guide vanes. AD 2017-09-06 resulted from reports of GENx-1B and GENx-2B model turbofan engines experiencing power loss in ice crystal icing (ICI) conditions. The FAA issued AD 2017-09-06 to prevent engine failure, loss of thrust control, and damage to the airplane.

**Actions Since AD 2017-09-06 Was Issued**

Since the FAA issued AD 2017-09-06, the FAA learned that the required actions in that AD do not adequately address the unsafe condition. Engine rollback still occurs as ICI mitigation software installed as required by AD 2017-09-06 does not activate during the climb phase of airplane flight. In response, GE developed revised software that will activate while the airplane is climbing. This AD requires removing from service certain EEC FADEC software.

**Related Service Information**

The FAA reviewed GE GENx-1B Service Bulletin (SB) 73-0082 R00, dated July 9, 2019, and GE GENx-2B SB 73-0077 R00, dated October 29, 2018. The service information describes procedures for installation of new EEC FADEC software on GENx-1B and GENx-2B model turbofan engines. The FAA also reviewed GE GENx-2B SB 72-0241 R00, dated March 16, 2016. The service information describes removal and installation procedures for the fan hub stator assembly booster outlet guide vane.

**FAA’s Determination**

The FAA is proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Proposed AD Requirements**

This proposed AD would retain certain requirements of AD 2017-09-06. This proposed AD would continue to require replacement of certain fan hub stator assembly booster outlet guide vanes installed on GE GENx-2B67, -2B67B, and -2B67/P engines. This proposed AD would also require removing from service certain EEC FADEC software versions installed on GE GENx-1B and GENx-2B model turbofan engines.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 110 engines installed on airplanes of U.S. registry. The FAA estimates that 15 engines will require replacement of the fan hub stator assembly booster outlet guide vanes.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove EEC software .....	1 work-hour × \$85 per hour = \$85 .....	\$0	\$85	\$9,350
Replace fan hub stator assembly booster outlet guide vanes.	60 work-hours × \$85 per hour = \$5,100 .....	387,800	392,900	5,893,500

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, “General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation Division.

### Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2017-09-06, Amendment 39-18868 (82 FR 21111, May 5, 2017), and adding the following new AD:

**General Electric Company:** Docket No. FAA-2019-0683; Product Identifier 2015-NE-02-AD.

#### (a) Comments Due Date

The FAA must receive comments on this AD action by January 3, 2020.

#### (b) Affected ADs

This AD replaces AD 2017-09-06, Amendment 39-18868 (82 FR 21111, May 5, 2017).

#### (c) Applicability

This AD applies to all General Electric Company (GE) GENx-1B and GENx-2B model turbofan engines.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 7600, Engine Controls.

#### (e) Unsafe Condition

This AD was prompted by reports of GENx-1B and GENx-2B model turbofan engines experiencing power loss in ice crystal icing conditions. The FAA is issuing this AD to prevent engine failure. The unsafe condition, if not addressed, could result in loss of thrust control and damage to the airplane.

#### (f) Compliance

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

#### (g) Required Actions

(1) Within 120 days after the effective date of this AD, for GE GENx-1B model turbofan engines, remove electronic engine control (EEC) full authority digital engine control (FADEC) software, version B195 or earlier, from the engine and from service.

(2) Within 120 days after the effective date of this AD, for GE GENx-2B model turbofan engines, remove EEC FADEC software, version C085 or earlier, from the engine and from service.

(3) At the next engine shop visit after June 9, 2017 (the effective date of AD 2017-09-06), or before further flight, whichever occurs later, remove from service all GE GENx-2B67, -2B67B, and -2B67/P fan hub stator assembly booster outlet guide vanes, part number B1316-00720, and replace with a part eligible for installation.

#### (h) Definition

For the purpose of this AD, an "engine shop visit" is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine case flanges, except for the following which do not constitute an engine shop visit:

- (1) Separation of engine flanges solely for the purposes of transportation without subsequent maintenance does not constitute an engine shop visit.
- (2) Separation of engine flanges solely for the purpose of replacing the fan or propulsor without subsequent maintenance does not constitute an engine shop visit.

#### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 (j)(1) of this AD. You may email your request to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@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.

#### (j) Related Information

(1) For more information about this AD, contact Herman Mak, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7147; fax: 781-238-7199; email:

[herman.mak@faa.gov](mailto:herman.mak@faa.gov).

(2) For service information identified in this AD, contact General Electric Company, GE Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215; phone: 513-552-3272; email: [geae.aoc@ge.com](mailto:geae.aoc@ge.com). You may view this referenced service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781-238-7759.

Issued in Burlington, Massachusetts, on November 12, 2019.

**Robert J. Ganley,**

*Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.*

[FR Doc. 2019-24786 Filed 11-18-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2019-0872; Product Identifier 2019-NM-156-AD]

RIN 2120-AA64

### Airworthiness Directives; Dassault Aviation Airplanes

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Dassault Aviation Model MYSTERE-FALCON 20-C5, 20-D5, 20-E5, and 20-F5 airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by January 3, 2020.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of

Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201-440-6700; internet <https://www.dassaultfalcon.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0872; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

### SUPPLEMENTARY INFORMATION:

#### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2019-0872; Product Identifier 2019-NM-156-AD” at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

### Discussion

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019-0201, dated August 20, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for Dassault Aviation Model MYSTERE-FALCON 20-C5, 20-D5, 20-E5, and 20-F5 airplanes, on which the Supplemental Structural Inspection Program (SSIP) (Dassault Service Bulletin 730) has been embodied into the airplane’s maintenance program. You may examine the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0872.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations relating to safe life limits and certification maintenance requirements are necessary. The FAA is proposing this AD to address fatigue cracking, damage, and corrosion in principal structural elements, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

### Relationship Between Proposed AD and AD 2010-26-05

This NPRM does not propose to supersede AD 2010-26-05, (Amendment 39-16544 (75 FR 79952, December 21, 2010)) (“AD 2010-26-05”). Rather, the FAA has determined that a stand-alone AD is more appropriate to address the changes in the MCAI. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Accomplishment of the proposed actions would then terminate paragraph (g)(1) of AD 2010-26-05 only for Model MYSTERE FALCON 20-C5, 20-D5, 20-E5, and 20-F5 airplanes on which the SSIP has been embodied into the airplane’s existing maintenance or inspection program.

### Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5-40-01, Airworthiness Limitations, of the Dassault Falcon 20 Retrofit 731 Maintenance Manual, Revision 10, dated January 1, 2019. This service information describes airworthiness limitations for safe life limits and certification maintenance requirements. This service information is reasonably

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

### FAA’s Determination

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

### Proposed Requirements of This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD.

### Costs of Compliance

The FAA estimates that this proposed AD affects 57 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD.

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

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

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

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

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

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

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Dassault Aviation:** Docket No. FAA-2019-0872; Product Identifier 2019-NM-156-AD.

#### (a) Comments Due Date

The FAA must receive comments by January 3, 2020.

#### (b) Affected ADs

This AD affects AD 2010-26-05, Amendment 39-16544 (75 FR 79952, December 21, 2010) ("AD 2010-26-05").

#### (c) Applicability

This AD applies to Dassault Aviation Model MYSTERE-FALCON 20-C5, 20-D5, 20-E5, and 20-F5 airplanes, certificated in any category, on which the Supplemental Structural Inspection Program (SSIP) (Dassault Service Bulletin 730) has been embodied into the airplane's existing maintenance or inspection program.

#### (d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

#### (e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements, which could result in reduced structural integrity of the airplane.

#### (f) Compliance

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

#### (g) Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5-40-01, Airworthiness Limitations, of the Dassault Falcon 20 Retrofit 731 Maintenance Manual, Revision 10, dated January 1, 2019. The initial compliance time for doing the tasks is at the time specified in Chapter 5-40-01, Airworthiness Limitations, of the Dassault Falcon 20 Retrofit 731 Maintenance Manual, Revision 10, dated January 1, 2019, or within 90 days after the effective date of this AD, whichever occurs later.

#### (h) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no

alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

#### (i) Terminating Action for AD 2010-26-05

Accomplishing the actions required by this AD terminates the requirements of paragraph (g)(1) of AD 2010-26-05 only for Model MYSTERE-FALCON 20-C5, 20-D5, 20-E5, and 20-F5 airplanes on which the SSIP has been embodied into the airplane's existing maintenance or inspection program.

#### (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 the European Union Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

#### (k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019-0201, dated August 20, 2019, for related information. This MCAI may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0872.

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

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201-440-6700; internet <https://www.dassaultfalcon.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued in Des Moines, Washington, on November 12, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019-24993 Filed 11-18-19; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2019-0871; Product Identifier 2019-NM-139-AD]**

**RIN 2120-AA64**

#### **Airworthiness Directives; The Boeing Company Airplanes**

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

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

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787-8 airplanes. This proposed AD was prompted by a report of fatigue cracking at certain frame tie rod locations of the wing. This proposed AD would require repetitive inspections for cracking of the left- and right-side frame tie rod assemblies and stub beam upper chords, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by January 3, 2020.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.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 <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0871.

#### **Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0871; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3529; email: [greg.rutar@faa.gov](mailto:greg.rutar@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2019-0871; Product Identifier 2019-NM-139-AD” at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

##### **Discussion**

The FAA has received a report indicating fatigue cracks were found at 3 of 8 frame tie rod locations in Section 11 of the wing during full-scale fatigue testing. The cracks were located at the frame tie rod end lugs or in the typical frame tie rod section. At 77,640 fatigue test cycles, the right-side station (STA) 1089 corrosion resistant steel (CRES) frame tie rod lug had failed and was replaced. At 132,000 fatigue test cycles,

the left-side STA 1041 aluminum frame tie rod had failed in the typical section, and was replaced. At 152,879 fatigue test cycles, the left-side STA 1089 CRES frame tie rod lug had failed and was replaced. This condition, if not addressed, could result in failure of a principal structural element to sustain limit load, which could adversely affect the structural integrity of the airplane and result in possible decompression of the airplane.

#### **Related Service Information Under 14 CFR Part 51**

The FAA reviewed Boeing Alert Requirements Bulletin B787-81205-SB570041-00 RB, Issue 001, dated March 7, 2019. The service information describes procedures for repetitive high frequency eddy current (HFEC) inspections for cracking of the left- and right-side frame tie rod assemblies, and repetitive ultrasonic (UT) inspections for cracking of the left- and right-side stub beam upper chords, and applicable on-condition actions. On-condition actions include repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### **FAA's Determination**

The FAA is proposing this AD because the agency evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

#### **Proposed AD Requirements**

This proposed AD would require accomplishment of the actions identified in Boeing Alert Requirements Bulletin B787-81205-SB570041-00 RB, Issue 001, dated March 7, 2019, described previously.

For information on the procedures and compliance times, see this service information at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0871.

#### **Explanation of Requirements Bulletin**

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are “required for compliance” (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the

actions needed to address the unsafe condition in the “Accomplishment Instructions.” The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.*, only the RC actions).

### Costs of Compliance

The FAA estimates that this proposed AD affects 55 airplanes of U.S. registry. The FAA estimates 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
Inspections .....	19 work-hours × \$85 per hour = \$1,615 per inspection cycle.	\$0	\$1,615 per inspection cycle.	\$88,825 per inspection cycle.

The FAA has received no definitive data that would enable the agency to provide cost estimates for the on-condition actions 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.

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

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

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

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**The Boeing Company:** Docket No. FAA–2019–0871; Product Identifier 2019–NM–139–AD.

#### (a) Comments Due Date

The FAA must receive comments by January 3, 2020.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin B787–81205–

SB570041–00 RB, Issue 001, dated March 7, 2019.

#### (d) Subject

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

#### (e) Unsafe Condition

This AD was prompted by a report of fatigue cracking at certain frame tie rod locations of the wing. The FAA is issuing this AD to address cracking in the frame tie rod assemblies and consequent failure of a principal structural element to sustain limit load, which could adversely affect the structural integrity of the airplane and result in possible decompression of the airplane.

#### (f) Compliance

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

#### (g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin B787–81205–SB570041–00 RB, Issue 001, dated March 7, 2019, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin B787–81205–SB570041–00 RB, Issue 001, dated March 7, 2019.

#### Note 1 to paragraph (g) of this AD:

Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin B787–81205–SB570041–00, Issue 001, dated March 7, 2019, which is referred to in Boeing Alert Requirements Bulletin B787–81205–SB570041–00 RB, Issue 001, dated March 7, 2019.

#### (h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Bulletin B787–81205–SB570041–00 RB, Issue 001, dated March 7, 2019, uses the phrase “the issue 001 date of Requirements Bulletin B787–81205–SB570041–00 RB,” this AD requires using the effective date of this AD.

(2) Where Boeing Alert Requirements Bulletin B787–81205–SB570041–00 RB, Issue 001, dated March 7, 2019, specifies contacting Boeing for repair instructions:

This AD requires doing the repair and applicable on-condition actions before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

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

(1) The Manager, Seattle 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 (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-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 Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle 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.

**(j) Related Information**

(1) For more information about this AD, contact Greg Rutar, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3529; email: *greg.rutar@faa.gov*.

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

Issued in Des Moines, Washington, on November 5, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019-24835 Filed 11-18-19; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

**[Docket No. FAA-2019-0870; Product Identifier 2019-NM-125-AD]**

**RIN 2120-AA64**

**Airworthiness Directives; Dassault Aviation Airplanes**

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

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

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2018-19-27 and AD 2014-16-12, which apply to certain Dassault Aviation Model FALCON 2000EX airplanes. Those ADs require revising the maintenance or inspection program, as applicable, to incorporate new maintenance requirements and airworthiness limitations. Since AD 2018-19-27 and AD 2014-16-12 were issued, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by January 3, 2020.

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

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; phone: 201-440-6700; internet: *http://www.dassaultfalcon.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.

**Examining the AD Docket**

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA-2019-0870; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA-2019-0870; Product Identifier 2019-NM-125-AD” at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. The FAA will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

**Discussion**

The FAA issued AD 2018-19-27, Amendment 39-19428 (83 FR 50479, October 9, 2018) (“AD 2018-19-27”), for certain Dassault Aviation Model FALCON 2000EX airplanes. AD 2018-19-27 requires revising the maintenance or inspection program, as applicable, to incorporate new maintenance requirements and airworthiness limitations. AD 2018-19-27 resulted from a determination that new or more restrictive maintenance requirements and airworthiness limitations are necessary. AD 2018-19-27 specifies that accomplishing the actions required by paragraph (g) of that AD terminates the requirements of AD 2014-16-12,

Amendment 39–17936 (79 FR 52187, September 3, 2014) (“AD 2014–16–12”), but it does not supersede AD 2014–16–12. In addition, AD 2018–19–27 specifies that accomplishing paragraph (g) of that AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (“AD 2010–26–05”), for Dassault Aviation Model FALCON 2000EX airplanes. This terminating provision of certain requirements of AD 2010–26–05 is included in this proposed AD.

This AD proposes to supersede AD 2018–19–27 and AD 2014–16–12, but does not propose to supersede AD 2010–26–05.

#### Actions Since AD 2018–19–27 Was Issued

Since the FAA issued AD 2018–19–27, the FAA has determined that new or more restrictive airworthiness limitations are necessary.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0154, dated July 3, 2019 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Dassault Aviation Model FALCON 2000EX airplanes. You may examine the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0870.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address reduced structural integrity of the airplane. See the MCAI for additional background information.

#### Related Service Information Under 14 CFR Part 51

Dassault has issued Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual. This service information describes instructions applicable to airworthiness and safe life limitations.

This proposed AD would also require Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual, which the Director of the Federal Register approved for incorporation by reference as of November 13, 2018 (83 FR 50479, October 9, 2018).

This service information is reasonably available because the interested parties

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

#### FAA’s Determination

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

#### Proposed Requirements of This NPRM

This proposed AD would retain all requirements of AD 2018–19–27. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.*, inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (l)(1) of this proposed AD.

#### Costs of Compliance

The FAA estimates that this proposed AD affects 173 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2018–19–27 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that the new revision of the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to

be \$7,650 (90 work-hours × \$85 per work-hour).

#### Authority for This Rulemaking

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

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

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

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

## The Proposed Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:  
 ■ a. Removing Airworthiness Directive (AD) 2018–19–27, Amendment 39–19428 (83 FR 50479, October 9, 2018); and AD 2014–16–12, Amendment 39–17936 (79 FR 52187, September 3, 2014); and  
 ■ b. Adding the following new AD:

**Dassault Aviation:** Docket No. FAA–2019–0870; Product Identifier 2019–NM–125–AD.

#### (a) Comments Due Date

The FAA must receive comments by January 3, 2020.

#### (b) Affected ADs

(1) This AD replaces AD 2018–19–27, Amendment 39–19428 (83 FR 50479, October 9, 2018) (“AD 2018–19–27”); and AD 2014–16–12, Amendment 39–17936 (79 FR 52187, September 3, 2014) (“AD 2014–16–12”).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (“AD 2010–26–05”).

#### (c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000EX airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 15, 2019.

#### (d) Subject

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

#### (e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address reduced structural integrity of the airplane.

#### (f) Compliance

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

#### (g) Retained Revision of Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2018–19–27, with no changes. Within 90 days after November 13, 2018 (the effective date of AD 2018–19–27), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40,

Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, of the Dassault Falcon 2000EX Maintenance Manual, or within 90 days after November 13, 2018, whichever occurs later; except for task number 52–20–00–610–801–01, the initial compliance time is within 24 months after October 8, 2014 (the effective date of AD 2014–16–12). The term “LDG” in the “First Inspection” column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total airplane landings. The term “FH” in the “First Inspection” column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total flight hours. The term “FC” in the “First Inspection” column of any table in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 11, dated November 2017, means total flight cycles.

#### (h) Retained Provision: No Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2018–19–27, with a new exception. Except as required by paragraph (i) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

#### (i) New Maintenance or Inspection Program Revision

Within 90 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, DGT 113877, Revision 12, dated November 2018, of the Dassault Falcon 2000EX Maintenance Manual, or within 90 days after the effective date of this AD, whichever occurs later; except for task number 52–20–00–610–801–01, the initial compliance time is within 24 months after October 8, 2014 (the effective date of AD 2014–16–12). The term “LDG” in the “First Inspection” column of any table in the service information specified in this paragraph means total airplane landings. The term “FH” in the “First Inspection” column of any table in the service information specified in this paragraph means total flight hours. The term “FC” in the “First Inspection” column of any table in the service information specified in this paragraph means total flight cycles. Doing the revision required by this paragraph terminates the actions required by paragraph (g) of this AD.

#### (j) New Provision: No Alternative Actions or Intervals

After the existing 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 (l)(1) of this AD.

#### (k) Terminating Action for Certain Actions in AD 2010–26–05

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model FALCON 2000EX airplanes.

#### (l) Other FAA AD Provisions

(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 (m)(2) of this AD. Information may be emailed to 9-ANM-116-AMOC-REQUESTS@faa.gov.

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

(ii) AMOCs approved previously for AD 2018–19–27 are not approved as AMOCs for this AD.

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

#### (m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2019–0154, dated July 3, 2019, for related information. This MCAI may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2019–0870.

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

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; phone: 201–440–6700; internet: <http://www.dassaultfalcon.com>. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines,

WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on November 7, 2019.

**Michael Kaszycki,**

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

[FR Doc. 2019–24834 Filed 11–18–19; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 541

[Docket No. BOP–1172–P]

RIN 1120–AB72

#### **Inmate Discipline Program: New Prohibited Act Code for Pressuring Inmates for Legal Documents**

**AGENCY:** Bureau of Prisons, Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to add a new code to the list of prohibited act codes in the inmate discipline regulations which will clarify that the Bureau may discipline inmates for pressuring or otherwise intimidating other inmates into producing copies of their own legal documents, such as presentence reports (PSRs), or statement of reasons (SORs).

**DATES:** Submit written comments on or before January 21, 2020.

**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street NW, Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Rules Unit, Office of General Counsel, Bureau of Prisons, phone (202) 353–8248.

#### **SUPPLEMENTARY INFORMATION:**

##### **Posting of Public Comments**

Please note that all comments received are considered part of the public record and made available for public inspection online at [www.regulations.gov](http://www.regulations.gov). Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase “PERSONAL IDENTIFYING INFORMATION” in the first paragraph of your comment. You must also locate

all the personal identifying information you do not want posted online in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase “CONFIDENTIAL BUSINESS INFORMATION” in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment contains so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted on [www.regulations.gov](http://www.regulations.gov).

Personal identifying information identified and located as set forth above will be placed in the agency’s public docket file, but not posted online. Confidential business information identified and located as set forth above will not be placed in the public docket file. If you wish to inspect the agency’s public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

##### **Proposed Rule**

In this document, the Bureau proposes to add a new code to *Table 1—Prohibited Acts and Available Sanctions* in the inmate discipline regulations. See 28 CFR 541.3. The new code will clarify that the Bureau may discipline inmates for pressuring or otherwise intimidating other inmates into producing copies of their own legal documents, such as presentence reports (PSRs), statement of reasons (SORs), or other such documents. New code 231 will put inmates on notice that they may be disciplined for “[r]equesting, demanding, pressuring, or otherwise intentionally creating a situation which causes an inmate to produce or display his/her own court documents for any purpose to another inmate.”

The Bureau has found that inmates, or inmate groups, frequently pressure other inmates for copies of their PSRs, SORs, or other similar sentencing documents from criminal judgments, to learn if they are informants, gang members, have financial resources, to find others involved in offenses, to prove affiliations, etc. Some inmates who produced, or refused to produce, the documents were threatened, assaulted, and/or sought protective custody, all of which jeopardized the Bureau’s ability to safely manage its institutions.

The Bureau holds inmates accountable for threatening and coercive

behavior under existing provisions of the disciplinary code. This provision, however, will clarify that this specific behavior may result in sanctions. The defense bar, federal sentencing courts and the Bureau identified this issue as one of concern that requires heightened disciplinary attention. We therefore propose to add the aforementioned code provision to underscore the severity of the conduct described.

##### **Regulatory Analyses**

*Executive Orders 12866, 13563, and 13771*

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined do not constitute “significant regulatory actions” under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB. The economic effects of this regulation are limited to the Bureau’s appropriated funds. It takes an average of 7.5 hours of staff time to process an incident report. One of the expected outcomes of this clarifying regulation is that inmates may be deterred from engaging in the prohibited behavior because violations are better defined. This expected outcome would save staff resources required to process incident reports. At this time, however, the Bureau cannot estimate precisely how many incidents will be avoided or the monetary value of the resulting cost/resource savings. Further, the Bureau would expect any anticipated savings generated by this rule to have minimal effect on the economy.

*Executive Order 13132*

This regulation will not have substantial direct effect on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, we determine that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

*Regulatory Flexibility Act*

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and certifies that it will not have a significant economic impact upon a substantial number of small entities. This regulation pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau’s appropriated funds.

*Unfunded Mandates Reform Act of 1995*

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

This regulation is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804. This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the

ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**List of Subjects in 28 CFR Part 541**

Prisoners.

**Kathleen Hawk Sawyer,**

*Director, Federal Bureau of Prisons.*

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons, we propose to amend 28 CFR part 541 as follows.

**SUBCHAPTER C—INSTITUTIONAL MANAGEMENT**

**PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS**

■ 1. The authority citation for part 541 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

**SUBPART A—GENERAL**

■ 2. Amend § 541.3 by adding an entry 231 under “High Severity Level Prohibited Acts” in Table 1—Prohibited Acts and Available Sanctions to read as follows:

**§ 541.3 Prohibited acts and available sanctions.**

\* \* \* \* \*

TABLE 1—PROHIBITED ACTS AND AVAILABLE SANCTIONS

High Severity Level Prohibited Acts	
231	Requesting, demanding, pressuring, or otherwise intentionally creating a situation, which causes an inmate to produce or display his/her own court documents for any purpose to another inmate.

\* \* \* \* \*  
[FR Doc. 2019–24935 Filed 11–18–19; 8:45 am]  
BILLING CODE 4410–50–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**45 CFR Part 75**

**RIN 0991–AC16**

**Office of the Assistant Secretary for Financial Resources; Health and Human Services Grants Regulation**

**AGENCY:** Division of Grants, Office of Grants Policy, Oversight, and Evaluation, Office of the Assistant Secretary for Financial Resources, Department of Health and Human Services.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This is a notice of proposed rulemaking to repromulgate or revise certain regulatory provisions of the Department of Health and Human Services, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards.

**DATES:** Comments must be submitted on or before December 19, 2019.

**ADDRESSES:** Comments must be identified by RIN 0991–AC16. Because of staff and resource limitations, comments must be submitted electronically to [www.regulations.gov](http://www.regulations.gov). Follow the “Submit a comment” instructions.

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including personally identifiable or confidential business information that is included in a comment. Before or after the close of the comment period, the Department of Health and Human Services will post all comments that were received before the end of the comment period on [www.regulations.gov](http://www.regulations.gov). Follow the search instructions on that website to view the public comments.

**FOR FURTHER INFORMATION CONTACT:** Richard Brundage at (202) 401–6107.

**SUPPLEMENTARY INFORMATION:** This is a notice of proposed rulemaking by which the Department proposes to repromulgate provisions of 45 CFR part 75 that were set forth in a final rule

published in the **Federal Register** at 81 FR 89393 (Dec. 12, 2016) (Final Rule). The Department, in a document published in this edition of the **Federal Register**, publishes its decision to exercise its enforcement discretion to not enforce the regulatory provisions adopted or amended by the Final Rule due to HHS’s serious concerns about compliance with certain requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–12. In this document, the Department proposes to repromulgate some of the provisions of the Final Rule, not to repromulgate others, and to replace or modify certain provisions that were included in the Final Rule with other provisions.

**I. Background**

On December 26, 2013, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (UAR or uniform regulations) that “set standard requirements for financial management of Federal awards across the entire federal government.” 78 FR 78590 (Dec. 26, 2013). On December 19, 2014, the Department, in conjunction

with OMB and other federal award-making agencies, issued an interim final rule to implement the UAR. Federal Awarding Agency Regulatory Implementation of Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule, 79 FR 75867 (Dec. 19, 2014).

On July 13, 2016, the Department issued a notice of proposed rulemaking ("NPRM"), proposing additional changes to its implementation of the UAR. 81 FR 45270 (July 13, 2016). That rule proposed changes to:

- § 75.102, concerning requirements related to the Indian Self Determination and Education Assistance Act (ISDEAA);
- § 75.300, concerning certain public policy requirements and Supreme Court cases, and § 75.101, concerning the applicability of those provisions to the Temporary Assistance for Needy Families Program (Title IV–A of the Social Security Act, 42 U.S.C. 601–19);
- § 75.305, concerning the applicability to states of certain payment provisions;
- § 75.365, concerning certain restrictions on public access to records;
- § 75.414, concerning indirect cost rates for certain grants; and
- § 75.477, concerning shared responsibility payments and payments for failure to offer health coverage to employees.

On December 12, 2016, the Department finalized all of these provisions without substantive change, except that the Department explained it was choosing not to finalize the proposed change to § 75.102 at that time.<sup>1</sup> (81 FR 89393) The Final Rule went into effective on January 11, 2017.

In a document published elsewhere in this edition of the **Federal Register**, the Department explains that HHS is exercising enforcement discretion regarding compliance with the Final Rule, due to serious concerns about the Final Rule's compliance with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–12. With respect to the Final Rule, the Department is concerned about whether it provided a sufficient rationale and certification that the rule would not have a significant economic impact on a substantial number of small entities,<sup>2</sup>

<sup>1</sup> The Final Rule also made a technical change not set forth in the proposed rule, amending § 75.110(a) by removing "75.355" and adding, in its place, "75.335."

<sup>2</sup> To the extent that the Department believed that the Final Rule did not have a significant economic impact on a substantial number of small entities, the certification and statement with the factual

or a sufficient final regulatory flexibility analysis at the time of publication of the Final Rule in the **Federal Register**. As a result, the Department is choosing not to enforce the provisions of the Final Rule. See 5 U.S.C. 608(b) and 611.

However, merely because a regulation is not being enforced does not mean that it has been repealed or replaced. The Final Rule still appears in the Code of Federal Regulations. Therefore, this NPRM should be properly viewed as a proposal to modify or to repeal certain provisions in the Final Rule.

## II. Summary of the Notice of Proposed Rulemaking

The Department proposes to repromulgate some (but not all) of the regulatory provisions included in the Final Rule and to issue new and amended provisions.

### A. Technical Correction, § 75.110

The Department is proposing to retain, without change, § 75.110, as it corrected a typographical error in the pre-2017 rule.

### B. Statutory and National Policy Requirements, § 75.300, and Related Provisions at § 75.101

The Department is modifying § 75.300 and proposing not to retain § 75.101(f) from the Final Rule. This is because the Department has faced several complaints, requests for exceptions, and lawsuits concerning § 75.300(c) and (d). The Department is also currently preliminarily enjoined from enforcing § 75.300(c) in the State of Michigan as to a particular subgrantee's protected speech and religious exercise. See *Buck v. Gordon*, No. 1:19-cv-286 (W.D. Mich. Sept. 26, 2019) (ECF No. 70) ("Defendant Azar shall not take any enforcement action against the State under 45 CFR 75.300(c) based upon [plaintiff's] protected religious exercise. . . ."). Some non-Federal entities have expressed concerns that requiring compliance with certain non-statutory requirements of those paragraphs violates the Religious Freedom Restoration Act (RFRA), 42 U.S.C. 2000bb, *et seq.*, or the U.S. Constitution, exceeds the Department's statutory authority, or reduces the effectiveness of programs, for example, by reducing foster care placements in the Title IV–E program of HHS's Administration for Children and Families. The existence of these complaints and legal actions indicates

basis for such certification was also not provided to the Chief Counsel for Advocacy of the Small Business Administration, contrary to the requirements of the Regulatory Flexibility Act. See 5 U.S.C. 605(b).

that § 75.300(c) and (d) imposed regulatory burden and created a lack of predictability and stability for the Department and stakeholders with respect to these provisions' viability and enforcement.

Some members of the public have submitted comments to the Department citing possible burdens created by paragraphs (c) and (d) as they were included in the Final Rule.<sup>3</sup> To date, the Department has granted, pursuant to 45 CFR 75.102(b), one request for an exception to the application of the religious nondiscrimination requirement of § 75.300(c).<sup>4</sup> That grant of an exception has been challenged under the Administrative Procedure Act. Some Federal grantees have stated that they will require their subgrantees to comply with the non-statutory requirements of § 75.300(c) and (d), even if it means some subgrantees with religious objections will leave the program(s) and cease providing services rather than comply. The Department believes that such an outcome would likely reduce the effectiveness of programs funded by federal grants by reducing the number of entities available to provide services under these programs. The Department is also aware that certain grantees and subgrantees that may cease providing services if forced to comply with § 75.300(c) and (d) are providing a substantial percentage of services pursuant to some Department-funded programs and are effective partners of federal and state government in providing such services.

The Department accordingly proposes that § 75.300 include different provisions in paragraphs (c) and (d) than those that were included in the Final Rule. The Department takes this action as an exercise of its discretion to establish requirements for its grant programs and to establish enforcement priorities with respect to those programs.

This document proposes that paragraph (c) state, "It is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by federal statute."

<sup>3</sup> See <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&s=75.300&dct=PS&D=HHS-OS-2017-0002>.

<sup>4</sup> That waiver is available on the State of South Carolina's website at <https://governor.sc.gov/sites/default/files/Documents/newsroom/HHS%20Response%20Letter%20to%20McMaster.pdf>.

The Department considers this proposed language for paragraph (c) appropriate because it affirms that HHS grants programs will be administered consistent with the Federal statutes that govern the programs, including the nondiscrimination statutes that Congress has adopted and made applicable to the Department's programs, RFRA, and with all applicable Supreme Court decisions. The proposed language would provide guidance for compliance when non-statutory public policy requirements conflict with statutory requirements (e.g., RFRA). Section 75.300(a) does not, on its face and standing alone, provide a clear pathway for compliance in such situations. The adoption of regulatory language that makes compliance more predictable and simpler for federal grant recipients is generally consistent with the concept of controlling regulatory costs and relieving regulatory burdens. Exec. Order No. 13771, 82 FR 9339 (Feb. 3, 2017).

This document also proposes that paragraph (d) state, "HHS will follow all applicable Supreme Court decisions in administering its award programs."

Paragraph (d) as included in the Final Rule specified two Supreme Court decisions. But the Department is committed to complying not just with those decisions, but with all applicable Supreme Court decisions and all applicable court orders. Because Federal courts issue new decisions daily, and courts often adjust, clarify, expand upon, or narrow prior holdings, the Department believes that, if its Department-wide regulations include general provisions addressing compliance with Supreme Court decisions, the regulations should do so without singling out specific cases, since it is not possible to list every applicable case, nor to change the regulations each time new decisions are issued.<sup>5</sup>

In light of the considerations discussed above, the Department proposes to modify paragraphs (c) and (d) to require compliance with all applicable nondiscrimination statutes and Supreme Court decisions. The Department believes the proposed language of paragraphs (c) and (d) would allow its programs to comply

with all applicable laws and court decisions, to minimize disputes and litigation, and to remove regulatory barriers. OMB's UAR, at 2 CFR 200.300, does not impose specific public policy requirements beyond U.S. statutory requirements. The Department considers it appropriate for paragraph (c) to similarly focus on statutory requirements and for paragraph (d) to inform grantees that the Department complies with applicable Supreme Court decisions in administering its grant programs.

The Department does not propose to include paragraph (f) in § 75.101, which was included in the Final Rule to ensure that the specific statutory requirements of the Temporary Assistance for Needy Families Program (Title IV–A of the Social Security Act, 42 U.S.C. 601–619) governed applicable grants. This language would not be necessary under the proposed language of § 75.300(c), because the latter would already be limited to applicable statutory nondiscrimination requirements.

#### C. Payment, § 75.305

The Department is proposing to repromulgate 45 CFR 75.305 as it currently appears in the Code of Federal Regulations. Because the language prior to the Final Rule applied the provisions of Treasury-State Cash Management Improvement Act agreements and default procedures codified at 31 CFR part 205 and TM 4A–2000, and such agreements may not contain specific provisions addressed by § 75.305, the Department seeks to modify the language to ensure clarity. In doing so, to the extent that the governing provisions are silent as to the payment provisions described in the UAR, there should be no effect on states, as they had been subject to these same provisions pursuant to 45 CFR 92.21. However, the Department proposes the clarification so that all states are aware of the necessity to, for example, expend refunds and rebates prior to drawing down additional grant funds.

#### D. Restrictions on Public Access to Records, § 75.365

The Department proposes to repromulgate 45 CFR 75.365 as it currently appears in the Code of Federal Regulations. That section clarifies the limits on the restrictions that can be placed on nonfederal entities that limit public access to records pertinent to certain federal awards. That section also implements Executive Order 13,642 (May 9, 2013), and corresponding law. See, e.g., <https://www.federalregister.gov/documents/2013/05/14/2013-11533/making-open->

*and-machine-readable-the-new-default-for-government-information*, and Departments of Labor, Health, and Human Services, and Education Appropriations Act of 2014, Public Law 113–76, Div. H, Sec. 527 (requiring "each Federal agency, or in the case of an agency with multiple bureaus, each bureau (or operating division) funded under this Act that has research and development expenditures in excess of \$100,000,000 per year [to] develop a Federal research public access policy"). Although this language was not included in subsequent appropriations acts, the Department considers it an appropriate exercise of agency discretion and implementation of the Executive Order. The proposed language would codify permissive authority for the Department's awarding agencies to require public access to manuscripts, publications, and data produced under an award, consistent with applicable law. The Department recognizes that this provision could be interpreted as having a financial impact on small entities. These requirements, however, have been operational since the publication of the Final Rule, and therefore grantees would not need to make any changes to their current practice in response to this rulemaking. As a result, this portion of this rulemaking, if finalized, would have no impact other than informing the public of the Department's stance on public access to manuscripts, publications, and data produced under awards.

#### E. Indirect (Facilities & Administration) Costs, § 75.414

The Department is proposing to repromulgate language from the Final Rule amending 45 CFR 75.414(c) as it currently appears in the Code of Federal Regulations. That provision restricted indirect cost rates for certain grants. It is long-standing HHS policy to restrict training grants to a maximum eight percent indirect cost rate. In addition to proposing to implement this limit for training grants, the Department proposes to impose this same limitation on foreign organizations and foreign public entities, which typically do not negotiate indirect cost rates, and to add clarifying language to § 75.414(f), which would permit an entity that had never received an indirect cost rate to charge a de minimis rate of ten percent, in order to ensure that the two provisions do not conflict. In this proposed rule, the American University, Beirut, and the World Health Organization are exempted specifically from the indirect-cost-rate limitation because they are eligible for negotiated facilities and administration (F&A) cost

<sup>5</sup> In this regard, the Department distinguishes between the regulations it promulgates that are generally applicable to all of the Department's activities, such as all of its grants and grant-making programs, and regulations that are promulgated to implement a particular program—and between Supreme Court decisions that are generally applicable to the federal government and those that specifically address and bind the Department (or a component of the Department) with respect to a specific program.

reimbursement. This proposed restriction on indirect costs, as indicated by 45 CFR 75.101, would flow down to subawards and subrecipients. The Department recognizes that this provision could be interpreted as having a financial impact on small entities. These limits, however, have been operational since the publication of the Final Rule, and therefore grantees would not need to make any changes to their current practice in response to this rulemaking. As a result, this portion of this rulemaking, if finalized, would have no impact other than informing the public of the Department's stance on indirect cost rates for certain grants.

#### *F. Payments for Failure To Offer Health Coverage to Employees, § 75.477*

The Department proposes to repromulgate language from the Final Rule specifying a selected item of cost for codification in the cost principles as 45 CFR 75.477, regarding shared responsibility payments by employers. The Department does not, however, propose to repromulgate a related provision from the Final Rule concerning shared responsibility payments for individuals.

In 2013, the Department announced in a program policy document that any payments or assessments imposed on an individual or individuals pursuant to 26 U.S.C. 5000A(b) as a result of any failure to maintain minimum essential coverage as required by 26 U.S.C. 5000A(a) were not allowable costs under a particular grant program. See HAB Policy Notice 13–04, at 2–3. Consistent with that policy, in 2016 in the Final Rule, 45 CFR 75.477, the Department excluded as allowable expense under a grant both payments imposed on an individual or individuals pursuant to 26 U.S.C. 5000A(b) and payments imposed on employers that fail to offer health coverage to their employees pursuant to 26 U.S.C. 4980H.

Congress subsequently reduced to \$0 the penalties or assessments imposed on individuals as a result of their failure to maintain minimum essential coverage, effective after December 31, 2018. Public Law 115–97, 131 Stat. 2092 (Dec. 22, 2017). Accordingly, the Department does not propose to repromulgate the provision from the Final Rule, at § 75.477(a), excluding such payments or assessments as allowable costs under an HHS grant. Given that the penalty imposed on individuals for failure to maintain minimum essential coverage was reduced to \$0, effective after December 31, 2018, and it is possible that some individuals are still making such payments for tax year 2018, the Department seeks comment on whether

to repromulgate the provision, with a sunset date to ensure that the cost of the individual penalty is excluded from allowable costs for tax years when such penalties could be imposed.

The Department does propose to repromulgate language from the Final Rule excluding, from allowable costs under an HHS grant, employer payments for failure to offer health coverage to employees as required by 26 U.S.C. 4980H. The Internal Revenue Service began to enforce the Internal Revenue Code provision in 2017, after the issuance of the Final Rule. The Department recognizes that the HHS regulatory provision—excluding such employer shared responsibility payments from allowable costs under HHS grants—could be interpreted as having a financial impact on small entities. These requirements, however, have been operational since the publication of the Final Rule, and therefore grantees would not need to make any changes to their current practice in response to this rulemaking. As a result, this portion of this rulemaking, if finalized, would have no impact other than informing the public of the Department's stance on financing shared responsibility payments using grant funding.

### **III. Request for Comment**

The Department seeks comment on this proposed rule, including its likely impacts as compared to the previous Final Rule. The Department is particularly interested in comments relating to the comparative effects and impact of its own enforcement discretion, specifically were the previous Final rule to be fully enforced, as well as whether HHS were to fully exercise its enforcement discretion regarding the Final Rule.

### **IV. Regulatory Impact Analysis**

The Department has examined the impacts of the proposed rule as required under Executive Order 12866 on Regulatory Planning and Review (Sept. 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (Jan. 18, 2011), Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (Jan. 30, 2017), the Regulatory Flexibility Act (September 19, 1980, Pub. L. 96–354, 5 U.S.C. 601–612), section 202 of the Unfunded Mandates Reform Act of 1995 (Mar. 22, 1995, Pub. L. 104–04), Executive Order 13132 on Federalism (Aug. 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), the Assessment of Federal Regulation and Policies on Families, and the Paperwork Reduction Act of 1995.

#### *Executive Orders 12866 and 13563 Determination*

Pursuant to Executive Order 12866, the Department has designated this final rule to be economically non-significant. This rulemaking has been designated as a “significant regulatory action” under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget. Similarly, under Executive Order 13563, this proposed rule harmonizes and streamlines rules, and promotes flexibility by removing unnecessary burdens.

#### *Executive Order 13771*

The White House issued Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs on January 30, 2017. Section 2(a) of Executive Order 13771 requires an agency, unless prohibited by law, to identify at least two existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this requirement, section 2(c) of Executive Order 13771 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations. This rulemaking, while significant under Executive Order 12866, will impose de minimis costs and therefore is not anticipated to be a regulatory or deregulatory action under Executive Order 13771. Public comments will inform the ultimate designation of this proposed rule.

#### *Regulatory Flexibility Act*

The Department has examined the economic implications of this proposed rule as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612). The RFA requires an agency to describe the impact of a proposed rulemaking on small entities by providing an initial regulatory flexibility analysis unless the agency expects that the proposed rule will not have a significant impact on a substantial number of small entities, provides a factual basis for this determination, and proposes to certify the statement. 5 U.S.C. 603(a), 605(b). If an agency must provide an initial regulatory flexibility analysis, this analysis must address the consideration of regulatory options that would lessen the economic effect of the rule on small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. HHS considers a rule to have a significant

impact on a substantial number of small entities if it has at least a three percent impact on revenue on at least five percent of small entities. As discussed, the proposed rule would

- Require grantees to comply with applicable federal statutory nondiscrimination provisions.
- Provide that HHS complies with applicable Supreme Court decisions in administering its grant programs.
- Not re-impose the exclusion from allowable costs of the now-repealed tax imposed on individuals for failure to maintain minimum essential coverage.
- Otherwise re-promulgate the provisions of the Final Rule.

Affected small entities include all small entities which may apply for HHS grants; these small entities operate in a wide range of sections involved in the delivery of health and human services. Grantees are required to comply with applicable federal statutory nondiscrimination provisions by operation of such laws and pursuant to 45 CFR 75.300(a); HHS is required to comply with applicable Supreme Court decisions. Thus, there would be no economic impact associated with proposed sections 75.300(c) and (d). Since the individual tax for failure to comply with the individual mandate has been reduced to \$0, there would be no economic impact associated with not proposing to re-impose an allowable costs exclusion for such payments. Moreover, the provisions of the proposed rule have been operational since the publication of the Final Rule, and therefore grantees, including small entities, would not need to make any changes to their current practice in response to this rulemaking. Thus, the Department anticipates that this rulemaking, if finalized, would have no impact beyond providing information to the public. The Department anticipates that this information will allow affected entities to better deploy resources in line with established requirements for HHS grantees. As a result, HHS has determined, and the Secretary certifies, that this proposed rule will not have a significant impact on the operations of a substantial number of small entities.

The Department seeks comment on this analysis of the impact of the proposed rule on small entities, and the assumptions that underlie this analysis.

#### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in

the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. Currently, that threshold is approximately \$154 million. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The Department has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of \$154 million or more in any one year. Accordingly, the Department has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

#### *Executive Order 13132—Federalism*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments or has federalism implications. The Department has determined that this proposed rule does not impose such costs or have any Federalism implications.

#### *Congressional Review Act*

The Congressional Review Act defines a “major rule” as “any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget finds has resulted in or is likely to result in—(A) an annual effect on the economy of \$100,000,000 or more; (B) a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; or (C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.” 5 U.S.C. 804(2). The Department has determined that this proposed rule is not likely to result in an annual effect of \$100,000,000 or more and is not otherwise a major rule for purposes of the Congressional Review Act.

#### *Assessment of Federal Regulation and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal departments and agencies to determine whether a proposed policy or regulation could affect family well-being. If the

determination is affirmative, then the Department or agency must prepare an impact assessment to address criteria specified in the law. The Department has determined that these proposed regulations will not have an impact on family well-being, as defined in the Act.

#### *Paperwork Reduction Act of 1995*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR part 1320 appendix A.1), the Department has reviewed this proposed rule and has determined that there are no new collections of information contained therein.

#### **List of Subjects in 45 CFR Part 75**

Accounting, Administrative practice and procedure, Cost principles, Grant programs, Grant programs—health, Grants administration, Hospitals, Nonprofit organizations reporting and recordkeeping requirements, and State and local governments.

#### **Proposed Rule**

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend part 75 of title 45 of the Code of Federal Regulations as follows:

#### **PART 75—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR HHS AWARDS**

- 1. The authority citation for 45 CFR part 75 continues to read as follows:

**Authority:** 5 U.S.C. 301.

#### **§ 75.101 [Amended]**

- 2. Amend § 75.101 by removing and reserving paragraph (f).
- 3. Amend § 75.300 by revising paragraphs (c) and (d) to read as follows:

#### **§ 75.300 Statutory and national policy requirements.**

\* \* \* \* \*

(c) It is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by federal statute.

(d) HHS will follow all applicable Supreme Court decisions in administering its award programs.

- 4. In § 75.305, revise paragraph (a) to read as follows:

#### **§ 75.305 Payment.**

(a)(1) For States, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR part 205 and TFM

4A-2000 Overall Disbursing Rules for All Federal Agencies.

(2) To the extent that Treasury-State CMLA agreements and default procedures do not address expenditure of program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds, such funds must be expended before requesting additional cash payments.

\* \* \* \* \*

■ 5. Revise § 75.365 to read as follows:

**§ 75.365 Restrictions on public access to records.**

Consistent with § 75.322, HHS awarding agencies may require recipients to permit public access to manuscripts, publications, and data produced under an award. However, no HHS awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award identified in §§ 75.361 through 75.364, except for protected personally identifiable information (PII) or when the HHS awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) (FOIA) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the HHS awarding agency. The FOIA does not apply to those records that remain under a non-

Federal entity's control except as required under § 75.322. Unless required by Federal, State, local, or tribal statute, non-Federal entities are not required to permit public access to their records identified in §§ 75.361 through 75.364. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

■ 6. In § 75.414, revise paragraphs (c)(1)(i) through (iii) and the first sentence of paragraph (f) to read as follows:

**§ 75.414 Indirect (F&A) costs.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) Indirect costs on training grants are limited to a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$25,000;

(ii) Indirect costs on grants awarded to foreign organizations and foreign public entities and performed fully outside of the territorial limits of the U.S. may be paid to support the costs of compliance with federal requirements at a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$25,000; and,

(iii) Negotiated indirect costs may be paid to the American University, Beirut, and the World Health Organization.

\* \* \* \* \*

(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in paragraphs (c)(1)(i) and (ii) and section (D)(1)(b) of appendix VII to this part, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. \* \* \*

\* \* \* \* \*

■ 7. Revise § 75.477 to read as follows:

**§ 75.477 Payments for failure to offer health coverage to employees.**

Any payments or assessments imposed on an employer pursuant to 26 U.S.C. 4980H as a result of the employer's failure to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage under an eligible employer-sponsored plan are not allowable expenses under Federal awards from an HHS awarding agency.

Dated: November 1, 2019.

**Alex M. Azar II,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2019-24385 Filed 11-18-19; 8:45 am]

**BILLING CODE 4150-24-P**

# Notices

Federal Register

Vol. 84, No. 223

Tuesday, November 19, 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

### Foreign Agricultural Service

#### Privacy Act of 1974: New System of Records

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of a New System of Records.

**SUMMARY:** The Foreign Agricultural Service (FAS) proposes to add a new system of records notice to its inventory of records systems subject to the Privacy Act of 1974. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency. The Integrated Management Administrative Resources Tool (iMART) will serve as a comprehensive personnel management system to manage and store all personnel and career data, along with organizational and historical data, in one central and integrated system.

**DATES:** This notice will be effective without further notice January 21, 2020 unless comments are received that would result in a contrary determination. Written or electronic comments must be received by the contact person listed below on or before January 21, 2020 to be assured consideration.

**ADDRESSES:** You may send comments by any of the following methods:

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

- *Email:* [PGRSdocs@fas.usda.gov](mailto:PGRSdocs@fas.usda.gov). Include the **Federal Register** Document Number in the subject line of the message.

- *Mail:* USDA/FAS/OFSO/PGRS, 1400 Independence Avenue SW, Washington, DC 20250, Stop 1080.

All submissions received must include the agency name and document number for this notice.

**FOR FURTHER INFORMATION CONTACT:**

Karen Darden, Director, 202–720–1346, [PGRSdocs@fas.usda.gov](mailto:PGRSdocs@fas.usda.gov).

**SUPPLEMENTARY INFORMATION:** The Integrated Management Administrative Resources Tool (iMART) provides FAS and the U.S. Department of Agriculture (USDA) Office of the Chief Financial Officer (OCFO) a system that integrates and reconciles multiple financial data sources to support the administrative control of funds, including the reconciliation of financial transactions, and the financial reporting needs to report on global operations.

At the end of FY 2012, FAS/Office of Foreign Service Operations (OFSO) identified the need for an integrated management system that links agency business processes with workforce management, financial and budget planning, execution, and reconciliation. Without a system that links business processes with workforce and financial management, the agency was left with an operational gap and forced to operate in an inefficient environment. The management of resources and personnel data required duplicative entries into multiple systems, thereby increasing the risk of error and led to untimely recording of operational data. As a result, FAS had been unable to optimally align performance management goals and objectives to USDA and FAS strategic plans.

The initial iMART project focused entirely on the OFSO requirement to automate and streamline its business processes. At the end of FY 2013, FAS expanded the project to include agency-wide overseas operations. During the past five years, significant portions of agency workforce management and overseas financial execution of funds have been completed.

In FY 2018, FAS and the Animal and Plant Health Inspection Service (APHIS)/International Services (IS) entered into a Memorandum of Understanding to collaborate on the iMART project as it provides a variety of benefits for both agencies. FAS and APHIS/IS support USDA's global initiatives and are a part of the Foreign Service community, making these agencies unique in their organizational structure, staffing, and relationship to

the State Department through the Foreign Service Act of 1890.

APHIS/IS' primary goal in adopting iMART as a management tool is to address a variety of challenges in their human capital management. The system will provide a complete and consolidated profile of their personnel that will allow them to make informed strategic decisions that influence their resource management.

There are many functionalities within iMART that will give APHIS/IS an advantage in the management of their operations. APHIS/IS will see immediate results in the tracking of Foreign Service Officer assignments and entitlements, which will give them the ability to make sound resource projections based on confirmed data. iMART allows APHIS/IS to be more analytical and forward thinking in financial planning and offers the ability to develop concise reports expediently to guide future decision making. This collaboration also creates efficiencies at both agencies by providing a shared platform for data required in working with the State Department and managing a vast overseas operation.

Dated: August 28, 2019.

**Ken Isley,**

*Administrator, Foreign Agricultural Service.*

**SYSTEM NAME AND NUMBER:**

Integrated Management Administrative Resources Tool System (iMART). USDA/FAS–9.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

The system owner is USDA/FAS, 1400 Independence Avenue SW, Washington, DC 20250. The electronic record systems are maintained on servers that are physically located at the National Information Technology Center (NITC), 8930 Ward Parkway, Kansas City, Missouri 64114.

**SYSTEM MANAGER(S):**

Director, Karen Darden, 1400 Independence Avenue SW, Stop 1080, Washington, DC 20250.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 301 and 7 U.S.C. 5692.

**PURPOSE(S) OF THE SYSTEM:**

The iMART system will be developed as a platform that enables the

automation and integration of workforce, expense, and performance management capabilities. In addition, iMART will comprise of interfaces that synchronize internal and external data sources allowing for reliable metrics, analytics, and reporting that aligns with the agency's enterprise architecture.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

FAS employees and family members. Other USDA employees working in support of overseas operations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system consists of records relating to the following:

- *Personnel data:* Includes name, block/vendor number, address, sex, citizenship, date and place of birth, marital status, and the names and birth dates of eligible family members;
- *Career data:* Includes education level, college(s) attended, major subjects, skill codes, foreign language training and examination scores, time in class, and time in service;
- *Job history data:* Includes both current and previous position titles, pay plans, grades, assignment dates, locations, and pending assignment information; and
- *Organizational data:* Includes organizational hierarchies, accounting information, awards, disciplinary actions, space requirements, etc.
- *Budget & Financial Data:* Includes Payroll and operational expenditures.

**RECORD SOURCE CATEGORIES:**

Information in this system of record is obtained from multiple systems including but not limited to National Finance Center (NFC), Financial Management Modernization Initiative (FMMI), Position Organization Listing (POL), Department of State/Executive Agency Personnel System (EAPS) and Department of State/Consolidated Overseas Accountability Support Toolbox (COAST).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records maintained in the system may be disclosed outside USDA as a routine use under 5 U.S.C. 552a(b)(3), as follows, to the extent that such disclosures are compatible with the purposes for which the information is collected: USDA may disclose information contained in a record in this system of records under the routine uses listed without the consent of the individual if the

disclosure is compatible with a purpose for which the record was collected.

A. To appropriate agencies, entities, and persons when (a) USDA suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) USDA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

B. To a court or adjudicative body in a proceeding when: (a) USDA or any component thereof; or (b) any employee of USDA in his or her official capacity; or (c) any employee of USDA in his or her individual capacity where USDA has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, USDA determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by USDA to be for a purpose that is compatible with the purposes for which USDA collected the records.

C. Federal Law Enforcement personnel (DoJ, DHS or DoD) who may assist when a breach involves the violation or suspected violation of law or when a breach is the subject of a law enforcement investigation.

D. To the Department of Justice when: (a) USDA or any component thereof; or (b) any employee of USDA in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, USDA determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

E. To the National Archives and Records Administration (NARA) or to other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

F. Information may be disclosed to a court or adjudicative body in a proceeding when: (a) USDA or any component thereof; or (b) any employee

of USDA in his or her official capacity; or (c) any employee of USDA in his or her individual capacity where USDA has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, USDA determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

G. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or Tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity. Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting violation of law, or of enforcing or implementing a statute, rule, regulation, or order issued pursuant thereto, of any record within the system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature.

H. To contractors and their agents, grantees, experts, consultants, or volunteers who have been engaged by the agency in working on a contract, service, grant, cooperative agreement, or other assignment for the agency, who need to have access to the records in order to perform the activity. Individuals provided information under this routine use shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

I. To a Federal, State, tribal, local, international, or foreign government agency or entity for the purpose of consulting with that agency or entity: (1) To assist in making a determination regarding redress for an individual in connection with the operations of a USDA component or program; (2) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a

USDA component or program; or (3) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual. USDA payroll and operational expenditures are in aggregate.

J. To a Congressional office in response to an inquiry made at the written request of the individual to whom the record pertains;

K. To another Federal agency or Federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, (including its information systems, programs, and operations), the Federal Government, or national security;

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

FAS is responsible for maintaining its program. These records are electronically stored at NITC and are under the custodial care of FAS.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

iMART does not interface or connect directly with NITC for personnel data. Select personnel information from NITC in an Excel report is loaded into iMART on a periodic basis. iMART internal personal records can be searched and retrieved by authorized and authenticated users with access by role, responsibility, and privilege. These records are indexed by the Microsoft database using Global Unique Identifier (GUID) and automatically generated integers. The software allows users to search indexed records by first and last name personal identifiers. Users can only conduct searches electronically from iMART web pages and web reports. Some of the search results are displayed on the screen and many are presented in reports. Electronic records are retrieved from NITC.

Currently, the only automated form stored in iMART is the AD-287-2 (Recommendation and Approval Form) which collects name of employee, pay plans and award types. This form will be for internal use for USDA employees only. FAS do not require collecting an individual's SSN on this form. FAS plans to continue to automate its business processes along with forms associated with FAS human resources and budgetary requirements to comply with mandatory OMB and department mandates.

iMART access and authentication are built to meet USDA policies and

practices including identification cards, network access, and electronic authentication methods. All iMART user access is built on a role, responsibility, and privilege matrix based on user need to know. The administration console, policies, and procedures are documented in a User Guide. The user access console is managed by the System Owner.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained and disposed of in accordance with the NARA's General Record Schedule (GRS) 2.3 (1.3 is for Budget Records, 2.2 is for Employee Management Records, and 2.3 is for Employee Relations Records) but may be retained for a longer period as required by litigation, investigation, and/or audit. Electronic and/or paper records are retained with USDA employees at USDA offices.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Electronic records are stored securely at NITC. FAS employee access to and use of these records are limited to those persons whose official duties require such access. All users are given security awareness training which covers procedures for handling sensitive information, including personally identifiable information (PII). Annual refresher training is mandatory. All USDA employees and contractors with authorized access have undergone a thorough background security investigation.

**RECORD ACCESS PROCEDURES:**

The long-term plan is to allow users to access their own data; however, at this time that security/role base permission is not available.

**CONTESTING RECORD PROCEDURES:**

The long-term plan is to allow users to access their own data; however, at this time that security/role base permission is not available. Contacting the program area point of contact (POC) is the method used to correct data discrepancies.

**NOTIFICATION PROCEDURES:**

Same as Record Access Procedures.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

None (this is a new SORN).

[FR Doc. 2019-25020 Filed 11-18-19; 8:45 am]

**BILLING CODE 3410-10-P**

**DEPARTMENT OF COMMERCE**

**Census Bureau**

**Proposed Information Collection; Comment Request; National Survey of Children's Health**

**AGENCY:** U.S. Census Bureau, Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of the National Survey of Children's Health, as required by the Paperwork Reduction Act of 1995.

**DATES:** To ensure consideration, written comments must be submitted on or before January 21, 2020.

**ADDRESSES:** Direct all written comments to Carolyn Pickering, Survey Director, U.S. Census Bureau, 4600 Silver Hill Road, HQ-7H153, Washington, DC 20233 (or via the internet at [PRAComments@doc.gov](mailto:PRAComments@doc.gov)). You may also submit comments, identified by Docket Number USBC-2019-0016 to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. All comments received are part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Carolyn Pickering, U.S. Census Bureau, ADDP, HQ-7H153, 4600 Silver Hill Road, Washington, DC 20233-0001 (301-763-3873 or via email at [Carolyn.M.Pickering@census.gov](mailto:Carolyn.M.Pickering@census.gov)).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Sponsored primarily by the U.S. Department of Health and Human Services' Health Resources Services Administration's Maternal and Child Health Bureau (HRSA MCHB), the National Survey of Children's Health

(NSCH) is designed to produce data on the physical and emotional health of children under 18 years of age who live in the United States. The United States Department of Agriculture and the United States Department of Health and Human Services' Center for Disease Control and Prevention, National Center on Birth Defects and Developmental Disabilities sponsor supplemental content on the NSCH. Additionally, the upcoming cycle of the NSCH would like to feature four individual state oversamples that include the selection of a pre-determined number of sample cases above the current production base sample in those states. The state oversamples would be sponsored by the State of Colorado, the State of Nebraska, the Oregon Center for Children and Youth with Special Health Care Needs, and the State of Wisconsin.

The NSCH collects information on factors related to the well-being of children, including access to health care, in-home medical care, family interactions, parental health, school and after-school experiences, and neighborhood characteristics. The goal of the 2020 NSCH is to provide HRSA MCHB, the supplemental sponsoring agencies, states, and other data users with the necessary data to support the production of national estimates yearly and state-based estimates with pooled samples on the health and well-being of children, their families, and their communities as well as estimates of the prevalence and impact of children with special health care needs.

#### Proposed Changes

Below is a list of updates we are requesting for the 2020 NSCH. These updates will be described in further detail within the full Office of Management and Budget (OMB) Information Collection Request (ICR) package.

- **Increased sample size**—With additional sponsor funding and realized cost savings from streamlining the survey operations process, we are requesting an increase in sample size. The base NSCH sample plus the proposed state oversamples may reach up to 240,000 addresses for the 2020 NSCH. The additional burden on any one address is not increasing as the total estimated time to complete the survey remains less than 5 minutes for households without children and, on average, 33 minutes for households with children. However, because the total number of sampled addresses is increasing by approximately 45,000, the total overall burden to the public is also increasing by approximately 9,271 hours. The increased sample will allow

individual states to produce statistically sound child health estimates in a fewer number of years than if the sample were to remain the same annually, thereby resulting in more timely state-level health estimates of children.

- **Unconditional incentive distribution percentage**—We plan to continue monitoring the effectiveness of the unconditional monetary incentive, but request an increase to the percent of addresses receiving a \$5 incentive in the initial screener mailing. When utilized, an unconditional incentive has proven effective each cycle of the NSCH. Response rates for the unconditional monetary incentive groups showed a statistically significant difference over the control group that did not receive an unconditional monetary incentive. A larger increase in response was noted for the households mailed a \$5 compared with the \$2 incentive, however both treatment groups have proven effective at reducing nonresponse bias by encouraging response. For both the 2018 NSCH and 2019 NSCH, the initial screener incentive splits were 45% received \$2; 45% received \$5; and 10% did not receive an incentive. The proposal for 2020 NSCH is that 30% receive \$2; 60% receive \$5; and 10% would not receive an incentive with the initial mailing. The incentive assignment to each sampled address would still be random as was done in prior cycles and approved by OMB. Results from the 2018 NSCH indicate that the increased incentive amount proved effective at obtaining a higher response in general and particularly so from underrepresented population groups.<sup>1</sup> Therefore, the goal of an increased \$5 incentive treatment group is aimed at reducing nonresponse bias further.

- **Redesigned survey contact materials test**—Instead of testing a redesigned envelope alone in the initial mailing (as was done in 2019), the 2020 NSCH plans to assign a 30% experimental treatment group to receive a redesigned suite of screener (and topical if applicable) survey invitation and follow-up mail packages throughout the entire data collection period. Two rounds of cognitive testing were approved previously by OMB<sup>2</sup> and will be used to inform development of the redesigned contact materials and

envelopes. The goal of the redesign is to provide the sampled addresses with a cohesive set of items within each survey invitation package. The proposed materials include key facts pertaining to survey data usage, relatable images for the target population, and colors that match the associated paper questionnaires. We plan to evaluate the experimental treatment group after data closeout to determine the effectiveness of the redesigned package strategy and inform future decision-making.

- **Revised questionnaire content**—The NSCH questionnaires with newly proposed and revised content from the sponsors at HRSA MCHB are currently undergoing two rounds of cognitive testing. This testing request was submitted under the generic clearance package and approved by OMB<sup>3</sup>. Based on the results, a final set of proposed modified content will be included in the full OMB ICR for the 2020 NSCH.

- **State oversample**<sup>4</sup>—In order to inform state-level decision making around various priorities, some stakeholders have shown interest in sponsoring an oversample of addresses within their state as part of the annual NSCH administration. Currently, four states (Colorado, Nebraska, Oregon, and Wisconsin) are moving forward with this option for the first time as part of the 2020 NSCH. Oversamples will provide states with more robust data for analysis and planning at the state level. The oversamples can be classified as either a general state-wide oversample or sub-state oversample. The state-wide oversample increases the total number of sampled addresses within a given state and will be distributed to the geographic areas similarly to the production base sample. State-level estimates of rare populations or outcomes could be evaluated from this larger sample, but sub-state (e.g., county-level) estimates could not. The sub-state oversample is aimed at producing smaller than state-level (e.g., county or county-level grouping) estimates in combination with the NSCH base sample to reach a specific sample size in each targeted group. The requirements to meet each sub-state oversample are primarily determined by county for the 2020 NSCH.

<sup>1</sup> U.S. Census Bureau. (2019). *2018 NSCH methodology report*. Retrieved from <https://www2.census.gov/programs-surveys/nsch/technical-documentation/methodology/2018-NSCH-Methodology-Report.pdf>.

<sup>2</sup> Generic Clearance Information Collection Request: [https://www.reginfo.gov/public/do/PRAViewIC?ref\\_nbr=201606-0607-003&iCID=236843](https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201606-0607-003&iCID=236843).

<sup>3</sup> Generic Clearance Information Collection Request: [https://www.reginfo.gov/public/do/PRAViewIC?ref\\_nbr=201606-0607-003&iCID=237067](https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201606-0607-003&iCID=237067).

<sup>4</sup> State Oversampling in the National Survey of Children's Health: Feasibility, Cost, and Alternative Approaches [https://census.gov/content/dam/Census/programs-surveys/nsch/NSCH\\_State\\_Oversample\\_Summary\\_Document.pdf](https://census.gov/content/dam/Census/programs-surveys/nsch/NSCH_State_Oversample_Summary_Document.pdf).

### Current Design

Besides the proposed changes listed above, the 2020 NSCH will proceed with the current design outlined in the previous OMB ICR package. We will continue to make modifications to data collection strategies based on modeled information about paper or internet response preference. Results from prior survey cycles will continue to be used to inform the decisions made regarding future cycles of the NSCH.

Based on the results from prior survey cycles and available funds, an unconditional cash incentive will be included with the initial mailing. Survey research indicates that incentives are a necessary and cost-effective expense for achieving a response rate that minimizes nonresponse bias.<sup>5</sup> Our testing to date is consistent with this research. Evaluation of previous NSCH cycles showed a statistically significant difference in response rates when respondents received an incentive compared to those who were part of the control group that did not receive an incentive. The effect of the incentive was proportionately larger for household types that were less likely to respond in previous years, reducing nonresponse bias. There was a larger increase in response for households mailed a \$5 incentive compared to those mailed a \$2 incentive with their initial survey invite; both treatments proved effective at encouraging response and reducing nonresponse bias in 2019. As noted in the proposed changes section, we would like to increase the total number of \$5 cash incentives sent with the initial mailing to 60% and reduce the total number of \$2 cash incentives sent with the initial mailing to 30% and maintain the control group (receiving no incentive) at 10%. For respondents who answer a paper screener interview and are mailed their first paper topical questionnaire, a \$5 incentive will be used to reduce bias and gain cooperation for this critical second stage of paper questionnaire data collection.

In addition to the testing of incentives, the 2020 NSCH will continue to serve as a platform to evaluate different nonresponse follow-up mailing strategies based on a household's likelihood to respond using a paper questionnaire. To determine

this, we assign a paper-preference probability to every address using American Community Survey (ACS) response mode choices, previous NSCH response mode choices, and small area geographic characteristics. The 30% of addresses with the highest paper-preference probability are assigned to the "High Paper" group and receive a paper questionnaire in each mailing, starting with the initial invitation. The other 70% of addresses are assigned to the "High Web" group and receive their first paper questionnaires in the second nonresponse follow-up screener invitation.

Since there continues to be a significant potential for cost savings in web data collection over paper data collection, we are working to refine and retest an internet response indicator for future NSCH production cycles based on the results from prior data collection efforts.

A proven effective contact strategy that will continue to be used in the 2020 NSCH is the pressure-sealed reminder postcard. The reminder postcard will be mailed approximately one week after the initial screener (and topical if applicable) survey invite mailing and the first nonresponse follow-up. We originally implemented this strategy because the time gap between mailings during the 2016 NSCH proved too long, and a significant dip in response flow was observed between mailings. Over the past few cycles, these pressure-sealed reminder postcards have helped boost response immediately following their delivery and reduce the time between other nonresponse follow-up mailings. The ability to send reminders enclosed with a pressure-seal system allows us to include login information for the Centurion web instrument as well as specific information about the survey. This mailing also includes a paragraph in Spanish that will direct the respondent to the Spanish web survey or the Telephone Questionnaire Assistance (TQA) line for assistance.

As in prior administration of the NSCH, the 2020 NSCH will have a TQA line available to respondents who experience technical problems with the web instrument, have questions about the survey, or need other forms of assistance. TQA staff will be able to answer respondent questions and concerns, while having the ability to collect survey responses over the phone—if the respondent calls in and would like to have interviewer assistance in completing the survey. Also, respondents can submit questions by email. Email Questionnaire Assistance agents will monitor the email account inbox and respond promptly.

In both internet and paper collection modes, the survey design for the 2020 NSCH focuses on first collecting information about the children in the household and basic special health care needs, and then selecting a child from the household for follow-up to collect additional detailed topical information. If there is more than one eligible child in a household, a single child will be selected based on a sampling algorithm that considers the age and number of children as well as the presence of children with special health care needs. We estimate that, from the original 240,000 selected production sample addresses, our target screener return rate of 39.3% will yield approximately 94,370 responses to the screener. We then estimate that 54.2% of households from the first phase of the screener will be eligible to receive a topical questionnaire (households with children), and 77.4% of these households with children will return the topical questionnaire, resulting in approximately 39,596 completed topical interviews. A household could be selected for one of three age-based topical surveys: 0-to-5-year-old children, 6-to-11-year-old children, or 12-to-17-year-old children.

Census Bureau staff have developed a plan to select a production sample of approximately 240,000 households (addresses) from a Master Address File-based sampling frame, with split panels to test mode of administration (*i.e.*, high-web and low-web), and improvements to contact materials and strategies. Based on results of the prior NSCH incentive experiments, we plan to use small, unconditional cash incentives with a control group receiving no incentive to monitor the effectiveness of the incentive expenditures. For respondents who answer the paper screener and are mailed a paper topical questionnaire, an additional \$5 incentive is expected for that mailing. From prior cycles of the NSCH, using American Association for Public Opinion Research definitions of response, we can expect for the 2020 NSCH an overall screener completion rate to be about 48.6% and an overall topical completion rate to be about 36.9%.<sup>6</sup> This is different from the total

<sup>5</sup> Screener Completion Rate is the proportion of screener-eligible households (*i.e.*, occupied residences) that completed a screener. It is equal to  $(S+X)/(S+X+R+e(UR+UO))$ , where S is the count of completed screeners with children, X is completed screeners without children, R is screener refusals, and e(UR+UO) is the estimated count of screener eligible households among nonresponding addresses.

<sup>6</sup> The Topical Completion Rate is the proportion of topical-eligible households (*i.e.*, occupied

<sup>5</sup> Brick JM, Williams D, Montaquila JM. 2011. "Address-Based Sampling for Subpopulation Surveys". *Public Opinion Quarterly*, 75(3): 409–28; Foster EB, Frasier AM, Morrison HM, O'Connor KS, Blumberg SJ. 2010. "All Things Incentive: Exploring the Best Combination of Incentive Conditions". Paper presented at the American Association for Public Opinion Research annual conference, Chicago, IL.

overall response rate, which we expect to be about 42.2%.<sup>7</sup>

## II. Method of Collection

### Web Push

The 2020 NSCH plan for the web push data collection design includes 70% of the estimated 240,000 production addresses receiving an initial invite with instructions on how to complete an English or Spanish-language screener questionnaire via the web. Households that decide to complete the web-based survey will be taken through the screener questionnaire to determine if they are eligible for one of three topical instruments. Households that list at least one child who is 0 to 17 years old in the screener are directed into a topical questionnaire immediately after the last screener question. If a household in the web push treatment group decides to complete the paper screener, the household may have a chance to receive an additional topical questionnaire incentive.

### Mixed-Mode

The 2020 NSCH plan for the mixed-mode data collection design includes approximately 30% of the 240,000 production addresses receiving both an initial invite with a paper screener questionnaire and instructions on how to complete an English or Spanish language screener questionnaire via the web. Households that decide to complete the web-based survey will follow the same screener and topical selection path as the web push. Households that choose to complete the paper screener questionnaire rather than completing the survey on the internet and that have eligible children will be mailed a paper topical questionnaire upon receipt of their completed paper screener at the Census Bureau's National Processing Center. If a household in the mixed-mode group chooses to complete the paper screener instead of completing the web-based screener via the internet, then the household may receive an additional topical questionnaire incentive.

residences with children present) that completed a topical questionnaire. It is equal to  $I/HCT$ , where  $I$  is the count of completed topicals and  $HCT$  is the estimated count of households with children in the sample or  $S+R+(S+R)/(S+X+R) * e(UR+UO)$ .

<sup>7</sup> Total Response Rate is the proportion of screener-eligible households that completed a screener or topical questionnaire. It is equal to  $(X+I+P)/(X+I+P+RS+eUS)$ , where  $I$  is the count of completed topicals,  $P$  is the count of sufficient partial completed topicals,  $RS$  is screener refusals, and  $eUS$  is the estimated count of screener eligible households among nonresponding addresses.

### Non-Response Follow-Up for the "High Web" Group and "High Paper" Group

The "High Web" group will receive two web survey invitation letters requesting its participation in the survey prior to receiving its first paper screener questionnaire in the second follow-up mailing. The "High Paper" group will receive both a web survey invitation letter along with a mailed paper screener questionnaire with the initial invitation and each follow-up mailing. Once a household in the "High Web" group receives a paper screener questionnaire, it will then have the option to either complete the web-based survey or complete the mailed paper screener, similar to the "High Paper" group. If the household chooses to complete the mailed paper questionnaire, then it would be considered part of the mailout/mailback paper-and-pencil interviewing treatment group. The paper-and-pencil treatment group receives a paper topical questionnaire, if there is at least one 0 to 17 year old eligible child reported on the screener. Nonresponse follow-up for the topical questionnaire will include up to one pressure-sealed postcard and up to three mailings including the paper topical questionnaire.

## III. Data

*OMB Control Number:* 0607-0990.

*Form Number(s):* NSCH-S1 (English Screener),  
NSCH-T1 (English Topical for 0- to 5-year-old children),

NSCH-T2 (English Topical for 6- to 11-year-old children),

NSCH-T3 (English Topical for 12- to 17-year-old children),

NSCH-S-S1 (Spanish Screener),

NSCH-S-T1 (Spanish Topical for 0- to 5-year-old children),

NSCH-S-T2 (Spanish Topical for 6- to 11-year-old children), and

NSCH-S-T3 (Spanish Topical for 12- to 17-year-old children).

*Type of Review:* Regular submission.

*Affected Public:* Parents, researchers, policymakers, and family advocates.

*Estimated Number of Respondents:* 94,370 for the screener and 39,596 for the topical.

*Estimated Time per Response:* 5 minutes per screener response and 33 minutes per topical response, which in total is approximately 38 minutes for households with eligible children.

*Estimated Total Annual Burden Hours:* 29,642 hours.

*Estimated Total Annual Cost to Public:* \$0 (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or

hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13 U.S.C.

Section 8(b); 42 U.S.C. 701; 1769d(a)(4)(B); and 42 U.S.C. 241.

## IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Sheleen Dumas,**

*Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2019-24962 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-71-2019]

### Foreign-Trade Zone (FTZ) 134— Chattanooga, Tennessee; Notification of Proposed Production Activity; Volkswagen Group of America Chattanooga Operations, LLC; (Passenger Motor Vehicles); Chattanooga, Tennessee

Volkswagen Group of America Chattanooga Operations, LLC (Volkswagen), submitted a notification of proposed production activity to the FTZ Board for its facility in Chattanooga, Tennessee. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on November 6, 2019.

Volkswagen already has authority to produce passenger motor vehicles within FTZ 134. The current request would add a foreign status component to the scope of authority.

Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status component described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Volkswagen from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status component noted below, Volkswagen would be able to choose the duty rate during customs entry procedures that applies to passenger motor vehicles (duty rate—2.5%). Volkswagen would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The component sourced from abroad is gas springs (duty rate—3.9%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: [ftz@trade.gov](mailto:ftz@trade.gov). The closing period for their receipt is December 30, 2019.

A copy of the notification will be available for public inspection in the "Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Christopher Wedderburn at [Chris.Wedderburn@trade.gov](mailto:Chris.Wedderburn@trade.gov) or (202) 482-1963.

Dated: November 13, 2019.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2019-25040 Filed 11-18-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-885]

#### **Polyester Textured Yarn From India: Final Determination of Sales at Less Than Fair Value**

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

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of polyester textured yarn (yarn) from India are being, or are likely to be, sold in the United States at less than fair value (LTFV).

**DATES:** Applicable November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Katherine Johnson or Michael Bowen,

AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4929 or (202) 482-0768, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On July 1, 2019, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of yarn from India and invited parties to comment.<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.<sup>2</sup>

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 at <http://enforcement.trade.gov/fn>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

##### **Period of Investigation**

The period of investigation is October 1, 2017 through September 30, 2018.

##### **Scope of the Investigation**

The product covered by this investigation is polyester textured yarn from India. For a complete description of the scope of this investigation, see Appendix I.

##### **Scope Comments**

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of yarn from India, and concurrent antidumping duty (AD) and CVD investigations of yarn from the People's Republic of China, certain

<sup>1</sup> See *Polyester Textured Yarn from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 31301 (July 1, 2019) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from India," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.<sup>3</sup> Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.<sup>4</sup> No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

In the *Preliminary Determination*, we also noted that on May 2, 2019, the petitioners<sup>5</sup> requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.<sup>6</sup> We stated our intent to address this request in the final determinations of this and the above-referenced concurrent investigations. Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.<sup>7</sup> As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

##### **Analysis of Comments Received**

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

##### **Verification**

As provided for in section 782(i) of the Tariff Act of 1930, as amended (the Act), in July and August 2019, we conducted verification of the sales and cost information submitted by Reliance Industries Limited (Reliance) for use in our final determination. We used standard verification procedures, including an examination of relevant

<sup>3</sup> See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

<sup>4</sup> See *Preliminary Determination*, 84 FR at 31302.

<sup>5</sup> Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America are collectively the petitioners.

<sup>6</sup> See *Preliminary Determination*, 84 FR at 31302.

<sup>7</sup> See the Petitioners' Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations, dated May 2, 2019.

accounting and production records, and original source documents provided by Reliance.<sup>8</sup>

**Changes Since the Preliminary Determination**

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Reliance. For a discussion of these changes, see the “Margin Calculations” section of the Issues and Decision Memorandum.

**Use of Adverse Facts Available**

The respondent JBF Industries Limited (JBF) failed to cooperate in this investigation. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a) and (b) of the Act, Commerce assigned JBF a rate based on adverse facts available (AFA). There is

no new information on the record that would cause us to revisit our determination to apply AFA to JBF. Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted with respect to JBF. Commerce has assigned to JBF’s exports of the subject merchandise the rate of 47.51 percent, which is Reliance’s highest transaction-specific margin.<sup>9</sup> Because this rate is not secondary information, but rather is based on information obtained in the course of the investigation, Commerce need not corroborate this rate pursuant to section 776(c) of the Act.

**All-Others Rate**

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other

producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Commerce assigned a rate based entirely on facts available to JBF. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Reliance. Consequently, the rate calculated for Reliance is also assigned as the rate for all other producers and exporters.

**Final Determination**

The final estimated weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s))
JBF Industries Limited .....	47.51	43.38
Reliance Industries Limited .....	17.62	13.49
All Others .....	17.62	13.14

**Disclosure**

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Continuation of Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of yarn from India, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after July 1, 2019, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in

this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension-of-liquidation instructions will remain in effect until further notice.

In the event that a CVD order is issued, and suspension of liquidation is resumed in the companion CVD investigation on yarn from India, Commerce will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate.<sup>10</sup> These adjustments are reflected in the final column of the rate chart, above. Until such suspension of liquidation is resumed in the companion CVD investigation, and so long as suspension of liquidation continues under this AD investigation, the cash deposit rates for this AD investigation will be the rates identified in the estimated weighted-average dumping margin column in the rate chart, above.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of yarn no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

<sup>8</sup> For a discussion of our verification findings, see the following memoranda: “Verification of the Cost Response of Reliance Industries Limited, (RIL) in the Antidumping Duty Investigation of Polyester Textured Yarn from India,” dated September 9,

2019; and “Verification of the Sales Response of Reliance Industries Limited in the Antidumping Investigation of Polyester Textured Yarn from India,” dated September 16, 2019.

<sup>9</sup> See Issues and Decision Memorandum.

<sup>10</sup> See Memorandum, “Calculation of Export Subsidy Adjustments for the Final Determination,” dated November 13, 2019.

### Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the 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 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.

### Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Discussion of the Issues  
*Reliance*

1. Whether Adverse Facts Available (AFA) is Warranted for Reliance
2. Affiliated Party Purchases
3. Technical Services Adjustment
4. Level of Trade (LOT) Adjustment
5. Sales Made Outside the Ordinary Course of Trade  
*JBF*
6. Whether AFA is Warranted for *JBF*
7. Selection of the Appropriate AFA Rate for *JBF*
8. Adjustment to Cash Deposit Rates for Export Subsidies
- V. Recommendation

[FR Doc. 2019-25085 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-098]

#### Polyester Textured Yarn From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of polyester textured yarn (yarn) from the People's Republic of China (China).

**DATES:** Applicable November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Joseph Dowling or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1646 or (202) 482-9068, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On May 3, 2019, Commerce published in the *Federal Register* the *Preliminary Determination*.<sup>1</sup> The selected mandatory respondents in this investigation are Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. (Fujian Billion), Suzhou Shenghong Fiber Co., Ltd. (Shenghong Fiber), and Suzhou Shenghong Garmant Development Co. (Garmant). In the *Preliminary Determination*, in accordance with

<sup>1</sup> See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 19040 (May 3, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019. On August 22, 2019, Commerce issued its Post-Preliminary Analysis.<sup>2</sup>

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>3</sup> 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 is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation (POI) is January 1, 2017 through December 31, 2017.

#### Scope of the Investigation

The products covered by this investigation are yarn from China. For a complete description of the scope of this investigation, see the "Scope of the Investigation" in Appendix I.

#### Scope Comments

During the course of this investigation and the concurrent AD investigation of yarn from China, and concurrent AD and CVD investigations of yarn from India, certain interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.<sup>4</sup> Commerce addressed

<sup>2</sup> See Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation of Polyester Textured Yarn from India," dated August 22, 2019 (Post-Preliminary Analysis).

<sup>3</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Polyester Textured Yarn from the People's Republic of China," dated concurrently with, and hereby adopted by this notice (Issues and Decision Memorandum).

<sup>4</sup> See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-*

Continued

these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.<sup>5</sup> No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

On May 2, 2019, the petitioners<sup>6</sup> requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.<sup>7</sup> Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.<sup>8</sup> As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

#### Final Affirmative Determination of Critical Circumstances

In accordance with section 703(e)(1)(B) of the Act, Commerce preliminarily determined that critical circumstances existed for all imports of yarn from China.<sup>9</sup> Based on our examination of the data on the record, we continue to determine that critical circumstances exist for all producers/exporters of yarn from China in the final determination. For comments regarding critical circumstances, see Issues and Decisions Memorandum.

#### Verification

As provided in section 782(i) of the Act, in July 2019, we conducted

*Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

<sup>5</sup> See *Preliminary Determination*, 84 FR at 19041.

<sup>6</sup> Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America, collectively, the petitioners.

<sup>7</sup> See Petitioners' Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations," dated May 2, 2019 (Petitioners' Comments).

<sup>8</sup> See Petitioners' Comments.

<sup>9</sup> See *Preliminary Determination PDM* at 6.

verification of the questionnaire responses submitted by Fujian Billion and the Government of China (GOC).<sup>10</sup> We used standard verification procedures, including an examination of relevant accounting and financial records, and original source documents.

#### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

#### Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>11</sup> For a full description of the methodology underlying our final determination, see the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts available pursuant to section 776(a) of the Act. Additionally, as discussed in the Issues and Decision Memorandum, because one or more respondents did not act to the best of their ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act. For further information, see the section "Use of

<sup>10</sup> See Commerce Memoranda, "Verification of the Questionnaire Responses of Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd and Billion Development (Hong Kong) Limited," dated August 5, 2019; and "Verification of the Questionnaire Responses of the Government of the People's Republic of China," dated August 5, 2019.

<sup>11</sup> See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Facts Otherwise Available and Adverse Inferences" in the Issues and Decision Memorandum.

#### Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, minor corrections presented at verification, and our verification findings, we made certain changes to Fujian Billion's subsidy rate calculations. Commerce has also revised the adverse facts available (AFA) rate and the all-others rate. For a discussion of these changes, see the Issues and Decision Memorandum.

#### Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Fujian Billion, a producer/exporter of subject merchandise selected for individual examination in this investigation. Commerce assigned rates based entirely on facts otherwise available with adverse inferences pursuant to section 776 of the Act to Shenghong Fiber and Garmant.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned rates based entirely on facts available for Shenghong Fiber and its cross-owned affiliates, and Garmant. Therefore, the only rate that is not zero, *de minimis*, or based entirely on facts otherwise available is the rate calculated for Fujian Billion. Consequently, the rate calculated for Fujian Billion is also assigned as the rate for all other producers and exporters.

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd <sup>12</sup> .....	32.18
Suzhou Shenghong Fiber Co., Ltd <sup>13</sup> .....	473.09
Suzhou Shenghong Garmant Development Co .....	472.51
All Others .....	32.18

## Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the "Scope of the Investigation" section entered, or withdrawn from warehouse, for consumption on February 2, 2019, which is 90 days before the date of publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 31, 2019, but to continue the suspension of liquidation of all entries from February 2, 2019 through August 30, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material

injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

## International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

## Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

## Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I—Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength,

moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of this investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Analysis of Comments
  - General Issues*
  - Comment 1: Whether it is Unlawful to Investigate Uninitiated Programs
  - Comment 2: Whether it is Appropriate to Collect Cash Deposits on Entries Subject to Preliminary Affirmative Critical Circumstances
  - Comment 3: Whether Commerce Must Consider 301 Duties in a Critical Circumstances Determination
  - Program-Specific Issues*
  - Comment 4: Export Buyer's Credit (EBC) Program
    - 4a. Whether to Continue to Apply AFA to EBC Program
    - 4b. The Appropriate AFA Rate for the EBC Program
  - Comment 5: Provision of Monoethylene Glycol (MEG) and Purified Terephthalic Acid (PTA) for Less Than Adequate Remuneration (LTAR)
    - 5.a. Whether MEG and PTA Producers are Authorities
    - 5.b. Whether MEG and PTA are Specific to the Polyester Textured Yarn Industry
    - 5.c. Whether Commerce used the Correct Benchmark to Determine Remuneration for MEG and PTA

<sup>12</sup> As discussed in the PDM, Commerce has found the following companies to be cross-owned with Fujian Billion: (1) Billion Development (Hong Kong) Limited and (2) Billion Industrial Investment Limited.

<sup>13</sup> As discussed in the PDM, Commerce has found the following companies to be cross-owned with Suzhou Shenghong Fiber Co., Ltd.: (1) Jiangsu Zhonglu Technology Development Co., Ltd., (2) Jiangsu Guowang High-Technique Fiber Co., Ltd., (3) Jiangsu Shenghong Science and Technology Co., Ltd., (4) Jiangsu Honggang Petrochemical Co., Ltd., (5) Shenghong Group Co., Ltd., (6) Shenghong Holding Group, Co., Ltd., (7) Shenghong (Suzhou) Group Co., Ltd., (8) Jiangsu Shenghong Investment Development Co., Ltd., (9) Jiangsu Shenghong New Material Co., Ltd., and (10) Jiangsu Shenghong Textile Imp & Exp Co. and its successor Jiangsu Huahui Import and Export Co., Ltd.

Comment 6: Provision of Electricity for LTAR  
 6.a. Whether the Provision of Electricity is Countervailable  
 6.b. Whether the Record Supports Applying AFA to Find Electricity for LTAR  
 Comment 7: Whether the GOC Provided Countervailable Policy Loans During the POI  
*Company-Specific Issues*  
 Comment 8: Whether Application of AFA for Shenghong Fiber is Warranted  
 Comment 9: Whether Commerce's Calculation of the AFA Rate is Unreasonable  
 Comment 10: Calculation of Fujian Billion's Benefit of Electricity for LTAR  
 Comment 11: Calculation of Fujian Billion's Benefit for Tax Deduction for Research and Development (R&D) Expenses  
 Comment 12: Calculation of the Benefit for Fujian Billion's Import Tariff and Value Added Tax (VAT) Exemptions on Imported Equipment

#### VII. Recommendation

[FR Doc. 2019-25041 Filed 11-18-19; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-886]

#### Polyester Textured Yarn From India: Final Affirmative Countervailing Duty Determination

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

**SUMMARY:** The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of polyester textured yarn (yarn) from India.

**DATES:** Applicable November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Janae Martin or Jesus Saenz, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0238 or (202) 482-8184, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 3, 2019, Commerce published in the **Federal Register** the *Preliminary Determination*.<sup>1</sup> On June 12, 2019,

<sup>1</sup> See *Polyester Textured Yarn from India: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 84 FR 19036 (May 3, 2019) (*Preliminary Determination*).

Commerce also published the *Amended Preliminary Determination* in the **Federal Register**.<sup>2</sup> On August 22, 2019, Commerce issued its Post-Preliminary Analysis.<sup>3</sup> The selected mandatory respondents in this investigation are JBF Industries Limited (JBF) and Reliance Industries Limited (Reliance). In the *Preliminary Determination*, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce aligned the final countervailing duty (CVD) determination with the final antidumping duty (AD) determination. The revised deadline for the final determination of this investigation is now November 13, 2019.

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum issued concurrently with this notice.<sup>4</sup> 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 is available to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation (POI) is April 1, 2017 through March 31, 2018.

#### Scope of the Investigation

The product covered by this investigation is polyester textured yarn from India. For a full description of the scope of this investigation, see the "Scope of the Investigation" in Appendix I.

<sup>2</sup> See *Polyester Textured Yarn From India: Amended Preliminary Determination of Countervailing Duty Determination*, 84 FR 27240 (June 12, 2019) (*Amended Preliminary Determination*).

<sup>3</sup> See Memorandum, "Post-Preliminary Analysis of Countervailing Duty Investigation of Polyester Textured Yarn from India," dated August 22, 2019 (Post-Preliminary Analysis).

<sup>4</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination of the Countervailing Duty Investigation of Polyester Textured Yarn from India," dated concurrently with this determination and hereby adopted by this notice (Issues and Decision Memorandum).

#### Scope Comments

During the course of this investigation and the concurrent AD investigation of yarn from India, and concurrent AD and CVD investigations of yarn from China, certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*.<sup>5</sup> Commerce addressed these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.<sup>6</sup> No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

On May 2, 2019, the petitioners<sup>7</sup> requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.<sup>8</sup> Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.<sup>9</sup> As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds that the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

#### Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in July 2019, we conducted verification of the questionnaire responses submitted by JBF, Reliance, and the Government of India (GOI).<sup>10</sup> We used standard verification procedures, including an examination of relevant

<sup>5</sup> See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

<sup>6</sup> See *Preliminary Determination* at 19037.

<sup>7</sup> Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America are collectively the petitioners.

<sup>8</sup> See Petitioner's Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations," dated May 2, 2019 (Petitioners' Scope Request).

<sup>9</sup> See Petitioners' Scope Request.

<sup>10</sup> See Memoranda, "Verification of the Questionnaire Responses of JBF Industries Limited: Countervailing Duty Investigation of Polyester Textured Yarn from India," dated August 22, 2019; "Verification of the Questionnaire Responses of Reliance Industries Limited: Countervailing Duty Investigation of Polyester Textured Yarn from India," dated August 22, 2019; and "Verification of the Questionnaire Responses of the Government of India: Countervailing Duty Investigation of Polyester Textured Yarn from India," dated August 22, 2019.

accounting and financial records, and original source documents.

### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

### Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.<sup>11</sup> For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts available pursuant to section 776(a) of the Act. Additionally, as discussed in the Issues and Decision Memorandum, because one or more respondents did not act to the best of their ability in responding to our requests for information, we drew adverse inferences, where appropriate, in selecting from among the facts otherwise available, pursuant to section 776(b) of the Act.<sup>12</sup> For further information, *see* the section “Use of Facts Otherwise Available and Adverse Inferences” in the accompanying Issues and Decision Memorandum.

### Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, minor corrections presented at verification, and our verification findings, we made certain changes to JBF’s and Reliance’s subsidy rate calculations. Commerce has also revised the all-others rate. For a discussion of these changes, *see* the Issues and Decision Memorandum.

<sup>11</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

<sup>12</sup> *See* Issues and Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences” section.

### Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated rates for JBF and Reliance, the producers/exporters of subject merchandise selected for individual examination in this investigation.

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for both JBF and Reliance that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company’s publicly-ranged values for the merchandise under consideration.<sup>13</sup>

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
JBF Industries Limited .....	21.83
Reliance Industries Limited .....	4.29
All Others .....	4.65

### Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

### Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary*

<sup>13</sup> *See* Memorandum, “Calculation of the All-Others Rate for the Final Determination,” dated concurrently with this notice.

*Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 31, 2019, but to continue the suspension of liquidation of all entries from May 3, 2019 through August 30, 2019.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

### International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

### Notification Regarding Administrative Protective Orders

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: November 13, 2019.

**Jeffery I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

### Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of this investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Subsidies Valuation
- IV. Use of Facts Otherwise Available and Adverse Inferences
- V. Analysis of Programs
- VI. Analysis of Comments
  - Comment 1: Whether to Revise the All Other's Rate
  - Comment 2: Whether the New Subsidy Allegations Were Appropriately Initiated
  - Comment 3: Whether to Countervail the Advanced Authorization (AAP), Duty Drawback (DDB), and Export Promotion of Capital Goods Scheme (EPCGS) Programs
  - Comment 4: Whether to Countervail the Merchandise Export Incentive Scheme (MEIS) Program
  - Comment 5: Whether Certain Subsidies Are Tied to Subject Merchandise or Non-Subject Merchandise
  - Comment 6: Whether Upstream Subsidy Provisions Are Applicable to Subsidies Provided Directly to Mandatory Respondents
  - Comment 7: Whether the Government of India (GOI) Failed to Cooperate to the Best of Its Ability

- Comment 8: Whether the SEZ Import Duty Exemption Is Countervailable
- Comment 9: Whether to Recalculate the Benefits from the EPCGS Program and the SEZ Import Duty Exemption Program
- Comment 10: Whether to Apply Adverse Facts Available (AFA) to Reliance's Unreported Benefits from the SGOG Electricity Program
- Comment 11: Whether to Apply Different Benchmarks in the Calculation of Land Benefits Received by Reliance Under the Gujarat Industrial Development Corporation (GIDC)
- Comment 12: State Government of Gujarat (SGOG) Provision of Water for Less Than Adequate Renumeration (LTAR)
- Comment 13: Whether the Reliance Verification Report Contains Errors
- Comment 14: Whether JBF Received a Benefit Under the State and Union Territory Sales Tax Incentive Program (State and Union Territory Sales Tax Program)
- Comment 15: Whether to Countervail the GOI Policy Lending and GOI Export Financing Programs and Whether to Revise the Calculation of Benefits Received by JBF Under These Programs
- Comment 16: Whether to Apply AFA to JBF' Reporting of Subject Merchandise and Whether to Revise the Calculation of Benefits Received Under the DDB Program
- Comment 17: Whether to Accept JBF's Ministerial Error Comments
- Comment 18: Whether to Accept JBF's Minor Corrections Regarding the AAP Program

## VII. Recommendation

[FR Doc. 2019-25084 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-097]

### Polyester Textured Yarn From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances

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

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of polyester textured yarn (yarn) from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV).

**DATES:** Applicable November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of

Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6905.

### SUPPLEMENTARY INFORMATION:

#### Background

On July 1, 2019, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of yarn from China and invited parties to comment.<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.<sup>2</sup>

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 to all parties in the Central Records Unit, Room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation is April 1, 2018 through September 30, 2018.

#### Scope of the Investigation

The product covered by this investigation is polyester textured yarn from China. For a complete description of the scope of this investigation, see Appendix I.

#### Scope Comments

During the course of this investigation and the concurrent countervailing duty (CVD) investigation of yarn from China, and concurrent antidumping duty (AD) and CVD investigations of yarn from India, certain interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.<sup>3</sup> Commerce addressed

<sup>1</sup> See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 84 FR 31297 (July 1, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Polyester Textured Yarn from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

<sup>3</sup> See *Polyester Textured Yarn from India and the People's Republic of China: Initiation of Less-Than-*

these comments in the *Preliminary Determination*, wherein Commerce preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude bulk continuous filament yarn.<sup>4</sup> No interested parties commented on the preliminary exclusion of bulk continuous filament yarn. Thus, we have made no changes to the scope language from the *Preliminary Determination* with regard to bulk continuous filament yarn.

In the *Preliminary Determination*, we also noted that, on May 2, 2019, the petitioners<sup>5</sup> requested that Commerce include an additional Harmonized Tariff Schedule of the United States (HTSUS) subheading in the scope language.<sup>6</sup> We stated our intent to address this request in the final determinations of this and the above-referenced concurrent investigations. Specifically, the petitioners requested that Commerce add HTSUS 5402.52.00 covering twisted yarn to the scope of the investigations.<sup>7</sup> As no interested parties rebutted the petitioners' request to add this HTSUS subheading, and Commerce finds the petitioners' request is reasonable, we have revised the scope of the investigations to include HTSUS 5402.52.00. See Appendix I for the final scope of the investigation.

### Final Affirmative Determination of Critical Circumstances

On April 18, 2019, Commerce issued its preliminary determination that critical circumstances exist for imports from all producers and exporters of yarn from China.<sup>8</sup> In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries from all exporters and producers of yarn from China that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of the *Preliminary*

*Fair-Value Investigations*, 83 FR 58223, 58233 (November 19, 2018) (*Initiation Notice*).

<sup>4</sup> See *Preliminary Determination*, 84 FR at 31298.

<sup>5</sup> Unifi Manufacturing, Inc., and Nan Ya Plastics Corporation, America are, collectively, the petitioners.

<sup>6</sup> See *Preliminary Determination*, 84 FR at 31298.

<sup>7</sup> See Petitioners' Comments, "Request to Include HTSUS Subheading 5402.52 in the Scope of These Investigations," dated May 2, 2019.

<sup>8</sup> See *Polyester Textured Yarn from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping and Countervailing Duty Investigations*, 84 FR 16840 (April 23, 2019).

*Determination*, April 2, 2019.<sup>9</sup> For this final determination, we continue to find that critical circumstances exist for all imports of yarn from China, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

### China-Wide Entity

For the final determination, we continue to find that the China-wide entity, which includes certain Chinese exporters and/or producers that did not respond to Commerce's requests for information, failed to provide necessary information, failed to provide information in a timely manner, and significantly impeded the proceeding. Commerce continues to rely upon facts otherwise available, with adverse inferences (AFA), for the China-wide entity pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act). The China-wide entity includes each of the following companies selected for individual examination: Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd; Suzhou Shenghong Fiber Co., Ltd.; and the single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd. As AFA, we continue to assign the highest margin alleged in the Petition of 77.15 percent.<sup>10</sup>

### Separate Rates

For the final determination, we continue to find that one exporter, Jiangsu Hengli Chemical Fiber Co., Ltd. (Hengli), which was not selected for individual examination in this investigation, demonstrated eligibility

<sup>9</sup> See *Preliminary Determination*, 84 FR at 31299.

<sup>10</sup> See Petitioners' Letter, "Polyester Textured Yarn from the People's Republic of China and India—Petition for the Imposition of Antidumping and Countervailing Duties," dated October 18, 2018 (Petition); see also Petitioners' Letter, "Polyester Textured Yarn from the People's Republic of China—Petitioners' Supplement for Volume II Regarding China Antidumping Duties," dated October 29, 2018, at 7 and Exhibit AD-PRC-Supp-5; and Initiation Checklist, dated November 7, 2018, at 12.

for a separate rate. In the *Preliminary Determination*, we stated that, because none of the mandatory respondents received a separate rate and we determined the China-wide rate based on AFA, we looked to section 735(c)(5)(B) of the Act for guidance and, consistent with that provision, used "any reasonable method" to determine the rate for exporters that are not being individually examined and found to be entitled to a separate rate. As "any reasonable method," we found it appropriate to assign the simple average of the Petition rates (*i.e.*, 76.07 percent)<sup>11</sup> to Hengli, the separate rate applicant not individually examined, consistent with our practice.<sup>12</sup> For the final determination, we continue to find the method applied in the *Preliminary Determination* to be the most reasonable, and thus, continue to assign the simple average of the Petition rates to Hengli.

### Combination Rates

As explained in the *Initiation Notice* and implemented in the *Preliminary Determination*, we have continued to calculate producer/exporter combination rates for the respondents that are eligible for a separate rate.<sup>13</sup> Policy Bulletin 05.1 describes this practice.<sup>14</sup>

### Final Determination

The final estimated dumping margins are as follows:

<sup>11</sup> See *Preliminary Determination*, 84 FR at 31298. The individual Petition rates, as initiated, are 74.98 percent and 77.15 percent. The simple average of these two Petition margins is 76.07 percent.

<sup>12</sup> See, e.g., *Certain Steel Wheels 12 to 16.5 Inches in Diameter from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 16643 (April 22, 2019) ("As 'any reasonable method,' we find it appropriate to assign the simple average of the Petition rates . . . to Chungang Machinery, the separate rate applicant not individually examined."), unchanged in *Certain Steel Wheels 12 to 16.5 Inches in Diameter From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances*, 84 FR 32707 (July 9, 2019).

<sup>13</sup> See *Initiation Notice*, 83 FR at 58227; see also *Preliminary Determination*, 84 FR at 31299.

<sup>14</sup> See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Producer	Exporter	Estimated dumping margin (percent)	Cash deposit rate (adjusted for export subsidy offset) (percent)
Jiangsu Hengli Chemical Fiber Co., Ltd .....	Jiangsu Hengli Chemical Fiber Co., Ltd .....	76.07	65.39
China-Wide Entity <sup>15</sup>		77.15	66.47

## Disclosure

As we stated in the *Preliminary Determination*, because Commerce has continued to apply AFA to the China-wide entity, of which mandatory respondents are a part, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, and the rate assigned to the sole separate rate company was a simple average of the Petition rates, there are no calculations to disclose.<sup>16</sup>

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of yarn from China, as described in Appendix I, from the separate rate company, Hengli, and the China-wide entity, and, in accordance with section 735(c)(4) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of yarn from China which were entered, or withdrawn from warehouse, for consumption on or after April 2, 2019, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export

subsidies determined in a companion CVD proceeding when CVD provisional measures are in effect. Accordingly, where Commerce makes an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce offsets the calculated estimated weighted-average dumping margin by the appropriate rate(s). We have made an affirmative final determination for export subsidies for certain respondents and all others in the companion CVD investigation.<sup>17</sup> However, suspension of liquidation for provisional measures in the companion CVD case has been discontinued; therefore, we are not instructing CBP to collect cash deposits based upon the adjustment for those export subsidies at this time.

Pursuant to section 735(c)(1)(B)(ii) of the Act, Commerce will instruct CBP to require a cash deposit equal to the weighted-average amount by which normal value exceeds U.S. price as follows: (1) The cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter. These suspension

of liquidation instructions will remain in effect until further notice.

## International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of yarn from China, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of yarn from China entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

## Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the 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 return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

## Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

<sup>15</sup> The China-wide entity includes: (1) The single entity comprising Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd. and its affiliate Fujian Baikai Textile Chemical Fiber Co., Ltd.; (2) Suzhou Shenghong Fiber Co., Ltd. (3) Fujian Zhengqi Hi-tech Fiber Technology Co., Ltd.; (4) Chori (China) Co., Ltd.; (5) Jinjiang Jinfu Chemical Fiber and Polymer Co., Ltd.; (6) Jiangsu Guowang High-Technique Fiber Co., Ltd.; and (7) Pujiang Fairy Home Textile Co., Ltd. In addition, 33 companies named in the Petition did not respond to our request for quantity and value information and two companies that submitted quantity and value data did not submit separate rate applications. Those companies are also part of the China-wide entity and are identified in the Preliminary Decision Memorandum.

<sup>16</sup> See *Preliminary Determination*, 84 FR at 31298–99.

<sup>17</sup> The following subsidy programs in the final determination of the concurrent CVD investigation are export subsidies calculated for Fujian Billion: 0.14 percent (Export Assistance Grants) and 10.54 percent (Export Buyer's Credit), resulting in a total export subsidy rate of 10.68 percent. See Polyester Textured Yarn from the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances (unpublished), and accompanying Issues and Decision Memorandum. The final determination in this companion CVD proceeding will be concurrently released on the same day as this final determination.

Dated: November 13, 2019.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—Scope of the Investigation

The merchandise covered by this investigation, polyester textured yarn, is synthetic multifilament yarn that is manufactured from polyester (polyethylene terephthalate). Polyester textured yarn is produced through a texturing process, which imparts special properties to the filaments of the yarn, including stretch, bulk, strength, moisture absorption, insulation, and the appearance of a natural fiber. This scope includes all forms of polyester textured yarn, regardless of surface texture or appearance, yarn density and thickness (as measured in denier), number of filaments, number of plies, finish (luster), cross section, color, dye method, texturing method, or packing method (such as spindles, tubes, or beams).

Excluded from the scope of the investigation is bulk continuous filament yarn that: (a) Is polyester synthetic multifilament yarn; (b) has denier size ranges of 900 and above; (c) has turns per meter of 40 and above; and (d) has a maximum shrinkage of 2.5 percent.

The merchandise subject to this investigation is properly classified under subheadings 5402.33.3000 and 5402.33.6000 of the Harmonized Tariff Schedule of the United States (HTSUS). Merchandise subject to this investigation may also enter under HTSUS subheading 5402.52.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

#### I. Summary

#### II. Background

#### III. Discussion of the Issues

Comment 1: Separate Rate Status of Fujian Billion Polymerization Fiber Technology Industrial Co., Ltd.

Comment 2: Authority to Collect Cash Deposits Based Upon an Affirmative Preliminary Critical Circumstances Determination

#### IV. Recommendation

[FR Doc. 2019-25088 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XV133]

### Fisheries of the Gulf of Mexico and South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of SEDAR 64 Assessment Webinar IV for Southeastern U.S. yellowtail snapper.

**SUMMARY:** The SEDAR 64 stock assessment process for Southeastern U.S. yellowtail snapper will consist of a Data Workshop, a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION.**

**DATES:** The SEDAR 64 Assessment Webinar IV will be held December 11, 2019, from 10 a.m. to 12 p.m., Eastern Time.

**ADDRESSES:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

**SEDAR address:** 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Neer, SEDAR Coordinator; phone: (843) 571-4366; email: [Julie.neer@safinc.net](mailto:Julie.neer@safinc.net).

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) a Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and

Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: November 14, 2019.

**Tracey L. Thompson,**

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

[FR Doc. 2019-25054 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Integrated Drought Information System (NIDIS) Executive Council Meeting

**AGENCY:** Climate Program Office (CPO), Office of Oceanic and Atmospheric Research (OAR), National Oceanic and

Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of open meeting.

**SUMMARY:** The National Integrated Drought Information System (NIDIS) Program Office will hold an organizational meeting of the NIDIS Executive Council on December 5, 2019.

**DATES:** The meeting will be held Thursday, December 5, 2019 from 9:00 a.m. EST to 4:00 p.m. EST. These times and the agenda topics are subject to change.

**ADDRESSES:** The meeting will be held at the Hall of the States, Room 383/385, 444 North Capitol St. NW, Washington, DC 20001.

**FOR FURTHER INFORMATION CONTACT:** Veva Deheza, NIDIS Executive Director, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305. Email: [Veva.Deheza@noaa.gov](mailto:Veva.Deheza@noaa.gov); or visit the NIDIS website at [www.drought.gov](http://www.drought.gov).

**SUPPLEMENTARY INFORMATION:** The National Integrated Drought Information System (NIDIS) was established by Public Law 109–430 on December 20, 2006, and reauthorized by Public Law 113–86 on March 6, 2014 and Public Law 115–423 on January 7, 2019, with a mandate to provide an effective drought early warning system for the United States; coordinate, and integrate as practicable, Federal research in support of a drought early warning system; and build upon existing forecasting and assessment programs and partnerships. See 15 U.S.C. 313d. The Public Law also calls for consultation with “relevant Federal, regional, State, tribal, and local government agencies, research institutions, and the private sector” in the development of NIDIS. 15 U.S.C. 313d(c). The NIDIS Executive Council provides the NIDIS Program Office with an opportunity to engage in individual consultation with senior resource officials from NIDIS’s Federal partners, as well as leaders from state and local government, academia, nongovernmental organizations, and the private sector.

**Status:** This meeting will be open to public participation. Individuals interested in attending should register at <https://cpaess.ucar.edu/meetings/2019/fall-2019-nidis-executive-council-meeting>. Please refer to this web page for the most up-to-date meeting times and agenda. Seating at the meeting will be available on a first-come, first-served basis.

**Special Accommodations:** This meeting is physically accessible to people with disabilities. Requests for

special accommodations may be directed no later than 12:00 p.m. on November 26, 2018, to Elizabeth Ossowski, Program Coordinator, David Skaggs Research Center, Room GD102, 325 Broadway, Boulder CO 80305; Email: [Elizabeth.Ossowski@noaa.gov](mailto:Elizabeth.Ossowski@noaa.gov).

**Matters To Be Considered:** The meeting will include the following topics: (1) NIDIS implementation updates and 2019/2020 priorities, (2) Executive Council member updates and 2019/2020 priorities, (3) Outcomes from the 2019 National Drought Forum, including Priority Actions where NIDIS and partners have a critical role to play, (4) Development of the reinsurance industry’s resilience solutions, (5) the U.S. Drought Portal 2020 Re-launch, (6) Opportunities related to the U.S. Drought Monitor and National Soil Moisture Network strategy, and (7) the National Drought Resilience Partnership.

Dated: November 8, 2019.

**David Holst,**

*Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.*

[FR Doc. 2019–25050 Filed 11–18–19; 8:45 am]

**BILLING CODE 3510-KB-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XV134**

#### Caribbean Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The Caribbean Fishery Management Council will hold its 168th meeting in December to discuss the items contained in the agenda in the **SUPPLEMENTARY INFORMATION.**

**DATES:** The meetings will be held on December 10–11, 2019, from 9 a.m. to 5 p.m.

**ADDRESSES:** The meetings will be held at Hilton Ponce Golf and Casino Resort, 1150 Caribe Avenue, Ponce, Puerto Rico.

**FOR FURTHER INFORMATION CONTACT:** Miguel A. Rolón, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

**SUPPLEMENTARY INFORMATION:**

#### December 10, 2019, 9 a.m.–12 Noon

- Call to Order
- Adoption of Agenda
- Consideration of 166th Council Meeting Verbatim Transcriptions and 167th Webinar Meeting
- Executive Director’s Report
- SSC Report (October 29–31, 2019 meeting)
- Fishery Ecosystem Plan Update—Graciela García-Moliner

#### December 10, 2019, 12 Noon–1:30 p.m.

- Lunch break

#### December 10, 2019, 1:30 p.m.–5 p.m.

- Review of Pertinent State and Federal Management Regulations in USVI—Spiny Lobster Control Date—Spiny Lobster Project—Tony Iarocci
  - New Fishers Association St. Thomas/St. John—Ruth Gómez
- Public Comment Period—(5-minute presentations)

#### December 10, 2019, 5:15 p.m.–6 p.m.

- Administrative Issues
- Closed Session

#### December 11, 2019, 9 a.m.–12 Noon

- Highly Migratory Species Update—Randy Blankinship
- Red Hind Studies—Carlos Zayas
- Queen Triggerfish Biological Studies—Jesús Rivera Hernández
- Oceanographic Connectivity Studies USVI/PR—Jorge Capella
- Outreach and Education Report—Alida Ortiz

#### December 11, 2019, 12 Noon–1:30 p.m.

- Lunch Break

#### December 11, 2019, 1:30 p.m.–5 p.m.

- Portrait of Puerto Rico’s Commercial Fisheries Two Years After the Impact of Hurricane María—Daniel Matos Caraballo
  - SEAMAP–C PR Update with the Use of Underwater Video Images for Fish Counts and Habitat Description—Verónica Seda Matos
  - Histological Validation of Visual sex Determination for Reef Fish Species—Noemí Peña Alvarado
  - Ciguatera Studies Report
  - Enforcement Issues:—Puerto Rico-DNER—USVI-DPNR—U.S. Coast Guard—NMFS/NOAA
  - MREP Meeting—Graciela García-Moliner/Vanessa Ramírez
  - Other Business
- Public Comment Period—(5-minute presentations)

The order of business may be adjusted as necessary to accommodate the

completion of agenda items. The meeting will begin on December 10, 2019 at 9 a.m. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice.

### Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918-1903, telephone: (787) 766-5926, at least 5 days prior to the meeting date.

Dated: November 14, 2019.

### Tracey L. Thompson,

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

[FR Doc. 2019-25051 Filed 11-18-19; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Deposit of Biological Materials

**ACTION:** Notice of renewal of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0022 (Deposit of Biological Materials).

**DATES:** Written comments must be submitted on or before January 21, 2020.

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

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include “0651-0022 comment” in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

- *Mail:* Marcie Lovett, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by

telephone at 571-272-7728; or by email to [Raul.Tamayo@uspto.gov](mailto:Raul.Tamayo@uspto.gov) with “0651-0022 comment” in the subject line.

Additional information about this collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This collection covers information from patent applicants who seek to deposit biological materials as part of a patent application. The information collected from such patent applicants consists of information and documentation demonstrating the applicant’s compliance with regulatory requirements, as well as information regarding the biological sample after it is deposited. This collection also covers applications from institutions that wish to be recognized by the USPTO as a suitable depository to receive deposits for patent purposes. The information collection requirements for these actions are separate, as further discussed below.

##### A. Deposits of Biological Materials

The deposit of biological materials as part of a patent application is authorized by 35 U.S.C. 2(b)(2). The term “biological material” is defined in 37 CFR 1.801 as including material that is capable of self-replication, either directly or indirectly. When an invention involves a biological material, sometimes words and figures are not sufficient to satisfy the statutory requirement for patentability under 35 U.S.C. 112 (every patent must contain a description of the invention sufficient to enable a person (knowledgeable in the relevant science), to make and use the invention as specified by 35 U.S.C. 112). In such cases, the required biological material must either be: (1) Known and readily available (neither condition alone is sufficient) or (2) deposited in a suitable depository that has been recognized as an International Depository Authority (IDA) established under the Budapest Treaty, or a depository recognized by the USPTO to meet the requirements of 35 U.S.C. 112. Under the authority of 35 U.S.C. 2(b)(2), the deposit rules (37 CFR 1.801-1.809) set forth examining procedures and conditions of deposit which must be satisfied in the event a deposit is required. The rules do not address the substantive issue of whether a deposit is required under any particular set of facts.

In cases where a deposit is necessary, the USPTO collects information to determine whether the depositor is in compliance with the deposit rules. This includes statements proving notification

to the interested public on where to obtain samples of the deposits and confirming that all restriction on access to the deposit will be irrevocably removed upon issuance of the patent. A viability statement also must be submitted to the USPTO showing that the biological material was tested by the depository or another, the conditions of the test, and that it is a viable or acceptable deposit. A viability statement is not required when a deposit is made and accepted under the Budapest Treaty.

This collection also covers additional information that may be gathered by the USPTO after a biological material is deposited into the recognized depository. For example, depositors may be required to submit verification statements for biological materials deposited after the effective filing date of a patent application or written notification that an acceptable deposit will be made. Occasionally a deposit may be lost, contaminated, or otherwise is not able to self-replicate, and a replacement or supplemental deposit needs to be made. In that event, this collection covers the requirement that the depositor submit a written notification to the USPTO concerning the particulars of the situation and request a certificate of correction by the USPTO authorizing the replacement or supplemental deposit.

There are no forms associated with the information collected by the USPTO in connection with the deposit of biological materials.

##### B. Depositories

Institutions that wish to be recognized by the USPTO as a suitable depository to receive deposits for patent purposes, are required by 37 CFR 1.803 to make a request demonstrating that they are qualified to store and test the biological materials submitted to them under patent applications. This collection covers the information gathered in the request to allow the USPTO to evaluate whether such an institution has demonstrated that its internal practices (both technical and administrative) and the technical ability of the staff and the facility are sufficient to protect the integrity of the biological materials being stored. For example, this collection covers documentation from depositories that verifies that their practices and procedures, the technical competence of their staff, and their facilities fulfill the stringent requirements spelled out under the rules.

This collection also covers additional information gathered by the USPTO that may be needed after a depository has

been recognized by the USPTO. For example, this collection covers requests to handle additional types of biological materials other than the material originally recognized, and viability statements that depositories may submit (on behalf of depositors) for deposits tested at the depository and/or documentation proving the public has been notified about where to obtain samples.

There is no application form associated with requests to become a recognized depository.

**II. Method of Collection**

By mail, hand delivery, or electronically to the USPTO.

**III. Data**

OMB Number: 0651-0022.

*Form Number(s):* None.  
*Type of Review:* Extension of a currently approved collection.  
*Affected Public:* Businesses or other for-profits; and not-for-profit institutions.  
*Estimated Number of Respondents:* 951 responses per year. The USPTO estimates that approximately 3% (28) of these responses will be from small entities.  
*Estimated Time per Response:* The USPTO estimates that it will take the public 1 hour to gather the necessary information, prepare the appropriate form or documents, and submit the information to the USPTO for a deposit of biological materials. The USPTO estimates that it will take the average depository seeking approval to store biological materials approximately 5

hours to collect and submit the necessary approval information.  
*Estimated Total Annual Respondent Burden Hours:* 955 hours.  
*Estimated Total Annual Respondent Cost Burden:* \$33,021. The USPTO estimates a professional hourly rate of \$34.40 for a senior administrative assistant (BLS rate; 43-1011 First Line Supervisors of Office and Administrative Support Workers) to collect and submit the deposit information. The USPTO expects that the average depository seeking approval to store biological material will be prepared by attorneys at an estimated rate of \$68.22 (BLS rate; 23-1011 Lawyers) per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately \$33,021 per year.

IC No.	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b)/60 = (c)	Rate (\$/hr) (d)	Total costs (c) × (d) = (hourly cost burden)
1	Deposited Materials	1	950	950	\$34.40	\$32,680
2	Depository Approval	5	1	5	68.22	341
<b>Total</b>			<b>951</b>	<b>955</b>		<b>33,021</b>

*Estimated Total Annual Non-hour Respondent Cost Burden:* \$2,823,236. There are no maintenance costs, recordkeeping costs, or filing fees associated with this information collection. However, this collection has annual (non-hour) costs in the form of capital start-up and postage costs. Depositories charge fees to depositors; all depositories charge about the same rates for their services. For example, the American Type Culture Collection (ATCC), one of the world’s leading biological supply houses and recognized patent depositories, offers comprehensive patent services for \$2,500 per deposit. Most deposits received from outside the United States require an import permit from the U.S. Department of Agriculture (USDA) as well as a Public Health Service (PHS) permit, available from the Centers for Disease Control and Prevention (CDC),

for importation of agents infectious to humans. There is no extra charge for this permit application processing. The USPTO estimates that the total non-hour respondent cost burden in the form of capital start-up costs amounts to \$2,375,000. In addition, this collection has postage costs. Biological deposits are generally shipped to the depository “Domestic Overnight” by Federal Express (FedEx) and, since depositors are urged to supply frozen or freeze-dried material, it must be packed in dry ice according to a representative from the Patent Department at ATCC. Dry ice itself is considered a dangerous good and requires special packaging. Additional FedEx special handling charges for inaccessible dangerous goods shipments of \$40 per shipment apply for temperature-sensitive biological materials and also for the dry

ice. An average cost for shipping by FedEx “Domestic Overnight” is estimated to be \$75. If the shipment requires pick-up by FedEx, there is an additional charge of \$4. Special packaging is also required for these shipments. According to DG Supplies Inc., a supplier of infectious and diagnostic goods packaging, the average cost of frozen infectious shippers is estimated to be \$352.82 per package for specimen shipments requiring refrigeration or dry ice. Therefore, postage costs average \$471.82 per shipment. The postage cost for a depository seeking recognition is estimated to be \$7.65, sent to the USPTO by USPS Priority Mail legal flat rate envelope. The USPTO estimates that the (non-hour) respondent cost burden in the form of mailing costs amounts to \$448,236.

Item No.	Item/type of cost	Estimated annual responses	Amount	Totals
<b>Deposit Costs</b>				
1	Deposited Materials	950	\$2,500.00	\$2,375,000.00
	<b>Total Fees</b>			<b>2,375,000.00</b>
<b>Packaging/Postage Costs</b>				
1	Deposited Materials—Mailing Costs	950	\$119.00	\$113,050.00
1	Deposited Materials—Packaging Supplies	950	352.82	335,179.00
2	Request for Depository Approval	1	7.65	7.65

Item No.	Item/type of cost	Estimated annual responses	Amount	Totals
	Total Postage/Packaging .....	.....	.....	448,236.65
	Total Annual (Non-Hour) Cost Burden .....	.....	.....	2,823,236.65

Therefore, the USPTO estimates that the total (non-hour) respondent cost burden for this collection in the form of capital start-up costs and postage costs is \$2,823,236.

#### IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

USPTO invites public comments on:

(a) 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;

(b) Accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, e.g., 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.

**Marcie Lovett,**

*Records and Information Governance Branch,  
Office of the Chief Administrative Officer,  
USPTO.*

[FR Doc. 2019-24951 Filed 11-18-19; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Patent Term Extension

**ACTION:** Notice of renewal of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0020 (Patent Term Extension).

**DATES:** Written comments must be submitted on or before January 21, 2020.

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

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0020 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Branch, Office of the Chief Administration Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by email to [Raul.Tamayo@uspto.gov](mailto:Raul.Tamayo@uspto.gov) with "0651-0020 comment" in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

The patent term restoration portion of the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417), which is codified at 35 U.S.C. 156, permits the United States Patent and Trademark Office (USPTO) to extend the term of protection under a patent to compensate for delay during regulatory review and approval by the Food and Drug Administration (FDA) or Department of Agriculture. Only patents for drug products, medical devices, food additives, or color additives are potentially eligible for extension. The maximum length that a patent may be extended under 35 U.S.C. 156 is five years. The USPTO administers 35 U.S.C. 156 through 37 CFR 1.710-1.791.

This collection covers information gathered in patent term extension applications submitted under 35 U.S.C. 156(d). Under this provision, an application for patent term extension must identify the approved product; the patent to be extended; and the claims included in the patent that cover the approved product, a method of using the approved product, or a method of manufacturing the approved product. 35

U.S.C. 156(d) also requires the application for patent term extension to provide a brief description of the activities undertaken by the applicant during the regulatory review period with respect to the approved product and the significant dates of these activities.

This collection also covers information gathered in requests for interim extensions pursuant to 35 U.S.C. 156(e). Under this provision an interim extension may be granted if the term of an eligible patent for which an application for patent term extension has been submitted would expire before a certificate of extension is issued. Under 35 U.S.C. 156(d)(5), an interim extension may be granted if the applicable regulatory review period that began for a product is reasonably expected to extend beyond the expiration of the patent term in effect. In addition, this collection covers requests for review of final eligibility decisions, and to withdraw an application requesting a patent term extension after it is submitted.

Separate from the extension provisions of 35 U.S.C. 156, the USPTO may in some cases extend the term of an original patent under the provisions at 35 U.S.C. 154 due to certain delays in the prosecution of the patent application, including delays caused by interference proceedings, secrecy orders, or appellate review by the Patent Trial and Appeal Board or a Federal court in which the patent is issued pursuant to a decision reversing an adverse determination of patentability. The USPTO administers 35 U.S.C. 154 through 37 CFR 1.701-1.705. The patent term provisions of 35 U.S.C. 154(b), as amended by Title IV, Subtitle D of the Intellectual Property and Communications Omnibus Reform Act of 1999, allow the applicant an opportunity to request reconsideration of the USPTO's patent term adjustment determination. This collection covers information gathered in such a request. In addition, this collection covers instances when the USPTO may reduce the amount of patent term adjustment granted if delays were caused by an applicant's failure to make a reasonable effort to respond within three months of the mailing date of a communication from the USPTO. Applicants may

petition for reinstatement of a reduction in patent term adjustment with a showing that, in spite of all due care, the applicant was unable to respond to a communication from the USPTO within the three-month period.

The information in this collection is used by the USPTO to consider whether an applicant is eligible for a patent term extension or reconsideration of a patent term adjustment and, if so, to determine the length of the patent term extension or adjustment.

**II. Method of Collection**

By mail, facsimile, hand delivery, or electronically to the USPTO.

**III. Data**

OMB Number: 0651-0020.

IC Instruments and Forms: There are no forms associated with this collection.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 620 responses per year. The USPTO estimates that approximately 25% (155) of these responses will be from small entities.

Estimated Time per Response: The USPTO estimates that it will take the public from 1 to 25 hours, depending on the complexity of the situation, to gather the necessary information, prepare the

appropriate documents, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 4,102 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$1,796,676.00. The USPTO expects that attorneys will complete these applications. The professional hourly rate for intellectual property attorneys is \$438. The attorney rates are found in the 2017 Report of the Economic Survey of the America Intellectual Property Law Association (AIPLA). Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$1,796,676.00 per year.

No.	Item	Estimated time for response (hours)	Estimated annual responses	Estimated annual burden hours	Rate (\$/hr)	Total hourly cost burden (\$/hr)
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)
1	Application to Extend Patent Term Under 35 U.S.C. 156.	25	100	2,500	\$438.00	\$1,095,000.00
2	Request for Interim Extension Under 35 U.S.C. 156(e)(2).	1	10	10	438.00	4,380.00
3	Petition to Review Final Eligibility Decision Under 37 CFR 1.750.	25	4	100	438.00	43,800.00
4	Initial Application for Interim Extension Under 37 CFR 1.790.	20	2	40	438.00	17,520.00
5	Subsequent Application for Interim Extension Under 37 CFR 1.790.	1	1	1	438.00	438.00
6	Response to Requirement to Elect	1	35	35	438.00	15,330.00
7	Response to Request to Identify Holder of Regulatory Approval.	2	1	2	438.00	876.00
8	Declaration to Withdraw an Application to Extend Patent Term.	2	1	2	438.00	876.00
9	Petition for Reconsideration of Patent Term Adjustment Determination.	3	450	1,350	438.00	591,300.00
10	Petition for Reinstatement of Reduced Patent Term Adjustment.	4	15	60	438.00	26,280.00
11	Petition to Accord a Filing Date to an Application Under 37 CFR 1.740 for Extension of a Patent Term.	2	1	2	438.00	876.00
Total			620	4,102		1,796,676.00

Estimated Total Annual (Non-hour) Respondent Cost Burden: \$209,488. There are no capital startup, maintenance, or operating fees

associated with this collection. There are, however, annual (non-hour) costs in the form of postage costs and fees.

**Filing Fees**

There are filing fees associated with this collection. The items with filing fees are listed in the table below.

No.	Item	Estimated annual responses	Filing fee (\$)	Total non-hour cost burden (\$)
		(a)	(b)	(a) × (b) = (c)
1	Filing an application for patent term adjustment	450	\$200	\$90,000.00
2	Request for reinstatement of term reduced	15	400	6,000.00
3	Extension of term of patent	100	1,120	112,000.00
4	Initial application for interim extension (see 37 CFR 1.790)	2	420	840.00
5	Subsequent application for interim extension (see 37 CFR 1.790)	1	220	220.00
Total			2,360.00	209,060.00

### Postage Costs

Customers may incur postage costs when submitting some of the items covered by this collection to the USPTO by mail. The applications to extend patent term under 35 U.S.C. 156 and the initial applications for interim extension under 37 CFR 1.790 cannot be filed electronically. The USPTO expects that 50 percent of these responses will be submitted by mail, resulting in 51 mailed submissions. (The remainder of the submission, in this category will be hand carried to USPTO.) The USPTO expects that approximately 99 percent of the remaining responses in this collection will be submitted electronically. Of the remaining 1 percent, the vast majority will be submitted by mail, resulting in 5 additional mailed submissions. Overall for this collection, 56 mailed submissions are expected per year. The average USPS Priority Mail postage cost for a legal flat rate envelope is estimated to be \$7.65. Therefore, the USPTO estimates that the postage costs for the mailed submissions in this collection will total \$428. Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of postage costs and fees is \$209,488 per year.

#### IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

USPTO invites public comments on:

- (a) 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;
- (b) Accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (d) Ways to minimize the burden of the collection of information on respondents, *e.g.*, 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.

**Marcie Lovett,**

*Records and Information Governance Branch,  
Office of the Chief Administrative Officer,  
USPTO.*

[FR Doc. 2019-24953 Filed 11-18-19; 8:45 am]

**BILLING CODE 1410-30-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Patent Law Treaty

**ACTION:** Notice of renewal of information collection; request for comment.

**SUMMARY:** The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension of an existing information collection: 0651-0073 (Patent Law Treaty).

**DATES:** Written comments must be submitted on or before January 21, 2020.

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

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0073 comment" in the subject line of the message.
- *Federal Rulemaking Portal:* <http://www.regulations.gov>.
- *Mail:* Marcie Lovett, Records and Information Governance Branch, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-7728; or by email at [Raul.Tamayo.uspto.gov](mailto:Raul.Tamayo.uspto.gov) with "0651-0073 comment" in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The Patent Law Treaties Implementation Act of 2012 (PLTIA) amended the patent laws to implement the provisions of the Patent Law Treaty (PLT) in title II. PLT Article 13 provides for the restoration of the right of priority where there is a failure to timely claim priority to the prior application, and also where there is a failure to file the

subsequent application within twelve months of the filing date of the priority application. Section 201(c) of the PLTIA amended 35 U.S.C. 119 to provide that the twelve month periods set forth in 35 U.S.C. 119(a) and (e) may be extended by an additional two months if the delay in filing an application claiming priority to a foreign application or the benefit of a provisional application within that twelve-month period was unintentional. In December 2013, the USPTO revised its rules of practice for consistency with the PLT and title II of the PLTIA.

The information in this collection is necessary so that patent applicants and/or patentees may seek restoration of the right of priority to a prior-filed foreign application or of the right to the benefit of a prior-filed provisional application. The USPTO will use the petition to restore the right of priority to a prior-filed foreign application or the right to the benefit of a prior-filed provisional application to determine whether the applicant has satisfied the conditions of the applicable statute (35 U.S.C. 119) and regulation (37 CFR 1.55(c) or 1.78(b)).

The information in this collection can be submitted electronically through EFS-Web, the USPTO's Web-based electronic filing system, as well as on paper. The USPTO is therefore accounting for both electronic and paper submissions in this collection.

##### II. Method of Collection

Electronically if applicants submit the information using EFS-Web. By mail or hand delivery in paper form.

##### III. Data

*OMB Number:* 0651-0073.

*Form Number(s):* None.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households; businesses or other for-profits; and not-for-profit institutions.

*Estimated Number of Respondents:* 650 responses per year. The USPTO estimates that 120 responses will be received from small entities.

*Estimated Time per Response:* Approximately 99% of the total responses for this collection will be submitted electronically. The USPTO estimates it will take approximately 60 minutes (1 hour) to complete the information in this collection, including the time it takes for reading the instructions for the forms, gathering the necessary information, completing the forms, and submitting them to the USPTO. The time per response, estimated annual responses, and estimated annual hour burden

associated with each instrument in this collection are shown in the table below.

*Estimated Total Annual Respondent Burden Hours:* 650 hours.

*Estimated Total Annual Respondent (Hourly) Cost Burden:* \$284,700.00. The

USPTO expects that attorneys in private firms will complete these applications.

The professional hourly rate for intellectual property attorneys is \$438.

The attorney rates are found in the 2017 Report of the Economic Survey of the

America Intellectual Property Law Association (AIPPLA). Using this hourly rate, the USPTO estimates that the total respondent cost burden for this collection is \$284,700.00 per year.

IC No.	Item	Hours (a)	Responses (yr) (b)	Burden (hrs/yr) (c) = (a x b)	Rate (\$/hr) (d)	Total cost burden (e) = (c x d)
1 .....	Petition to Restore the Right of Priority under 37 CFR 1.55(c).	1	325	325	\$438.00	\$142,350.00
2 .....	Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b).	1	325	325	438.00	142,350.00
<b>Total</b> .....	.....	.....	650	650	.....	284,700.00

*Estimated Total Annual (Non-hour) Respondent Cost Burden:* \$1,130,076.50, based on filing fees and postage costs.

**Filing Fees**

There are filing fees associated with this collection. The items with filing fees are listed in the table below.

IC No.	Item	Estimated annual responses (a)	Filing fee (\$) (b)	Total non-hour cost burden (\$) (a) x (b) = (c)
1 .....	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) ..	250	\$2,000.00	\$500,000.00
2 .....	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (small entity).	55	1,000.00	55,000.00
3 .....	Grantable Petition to Restore the Right of Priority under 37 CFR 1.55(c) (micro entity).	20	500.00	10,000.00
4 .....	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b).	250	2,000.00	500,000.00
5 .....	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (small entity).	55	1,000.00	55,000.00
6 .....	Grantable Petition to Restore the Benefit of a Prior-Filed Provisional Application under 37 CFR 1.78(b) (micro entity).	20	500.00	10,000.00
<b>Total</b> .....	.....	650	.....	1,130,000.00

The USPTO estimates that the total non-hour cost burden associated with the filing fees for this collection will be \$1,130,000.00

**Postage Costs**

Customers may incur postage costs when submitting items covered by this collection to the USPTO by mail. The USPTO expects that approximately 99 percent of the responses in this collection will be submitted electronically. Of the remaining 1 percent, the vast majority (98%) will be submitted by mail, for a total of 10 mailed submissions.

The average USPS Priority Mail postage cost for a legal flat rate envelop is estimated to be \$7.65. The USPTO estimates that the postage costs for the mailed submissions in this collection will total \$76.50.

Therefore, the USPTO estimates that the total annual (non-hour) cost burden for this collection, in the form of fees and postage is \$1,130,076.50 per year.

**IV. Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

USPTO invites public comments on:

- (a) 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;
- (b) Accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (d) Ways to minimize the burden of the collection of information on respondents, e.g. 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.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, e.g. 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.

**Marcie Lovett,**

*Records and Information Governance Branch, Office of the Chief Administrative Officer, USPTO.*

[FR Doc. 2019-24952 Filed 11-18-19; 8:45 am]

**BILLING CODE 1410-30-P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0013, Exemptions From Speculative Limits

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed renewal of an information collection by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the Commission’s regulation pertaining to the requirements of qualified persons filing for exemptive relief from aggregation of positions.

**DATES:** Comments must be submitted on or before January 21, 2020.

**ADDRESSES:** You may submit comments indicating for “OMB Control No. 3038–0013” by any of the following methods:

- The Agency’s website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

**FOR FURTHER INFORMATION CONTACT:** Steven Haidar, Division of Market Oversight, Commodity Futures Trading Commission, (202) 418–5611; email: [shaidar@cftc.gov](mailto:shaidar@cftc.gov), and refer to OMB Control No. 3038–0013.

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section

3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*Title:* Exemptions from Speculative Limits (OMB Control No. 3038–0013). This is a request for an extension of a currently approved information collection.

*Abstract:* Commission rule 150.4 provides that all persons holding a greater than 10 percent ownership or equity interest in another entity can avail themselves of an exemption in rule 150.4(b)(2) to disaggregate the positions of the owned entity. To claim the exemption, a person needs to meet certain criteria and file a notice with the Commission in accordance with the provisions of the rule. The rules establish reporting and recordkeeping requirements. Rule 150.4(b)(2) (would establish an exemption for a person to disaggregate the positions of a separately organized entity); 150.4(b)(5) (would expand the exemption for independent account controllers to include additional eligible participants); and 150.4(b)(8) (provides an exemption from aggregation where the sharing of information between persons would cause either person to violate federal law).

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
  - Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
  - Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.<sup>1</sup>

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

*Burden Statement:* The Commission’s burden estimate for this collection remains unchanged. The respondent burden for this collection is estimated to be as follows:

*Estimated Number of Respondents:* 240.

*Estimated Total Annual Responses:* 340.

*Estimated Average Burden Hours per Response:* 20.15.

*Estimated Total Annual Burden Hours:* 6,850.

*Frequency of Collection:* Once.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: November 13, 2019.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2019–24948 Filed 11–18–19; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10:00 a.m., Monday, November 25, 2019.

**PLACE:** CFTC Headquarters, Lobby-Level Hearing Room, Three Lafayette Centre, 1155 21st Street NW, Washington, DC.

<sup>1</sup> 17 CFR 145.9.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commodity Futures Trading Commission (“Commission” or “CFTC”) will hold this meeting to consider the following matters:

1. Final Rules—Amendments to Part 4: Registration and Compliance Requirements for Commodity Pool Operators and Commodity Trading Advisors:

- Amendments to Rules 4.7, 4.13, and 4.14 (Codification of Relief for Family Offices and Relief Related to the JOBS Act);

- Amendments to Rules 4.5 and 4.27 (Updating Exclusions and Adding Reporting Relief); and

2. Proposed Rule—Amendments to Swap Clearing Requirement Exemptions under Part 50.

The agenda for this meeting will be available to the public and posted on the Commission’s website at <https://www.cftc.gov>. In the event that the time, date, or place of this meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission’s website.

**CONTACT PERSON FOR MORE INFORMATION:** Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

**Authority:** 5 U.S.C. 552b.

Dated: November 15, 2019.

**Christopher Kirkpatrick,**  
Secretary of the Commission.

[FR Doc. 2019–25158 Filed 11–15–19; 4:15 pm]

**BILLING CODE 6351–01–P**

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## DEPARTMENT OF EDUCATION

[Docket No. ED–2019–ICCD–0143]

### Agency Information Collection Activities; Comment Request; Lender’s Request for Payment of Interest and Special Allowance—LaRS

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before January 21, 2020.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0143. Comments submitted in response to this notice should be

submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [www.regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208, D, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Lender’s Request for Payment of Interest and Special Allowance—LaRS.

*OMB Control Number:* 1845–0013.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 2,175.

*Total Estimated Number of Annual Burden Hours:* 4,241.

*Abstract:* The Department of Education (the Department) is submitting the Lender’s Interest and Special Allowance Request & Report, ED Form 799 for approval. The information collected on the ED Form 799 is needed to pay interest and special allowance to holders of Federal Family Education Loans, for internal financial reporting, budgetary projections, and for audit and lender reviews by the Department, Servicers, External Auditors and General Accounting Office (GAO).

The legal authority for collecting this information is Title IV, Part B of the Higher Education Act of 1965, as amended by the Higher Education Reconciliation Act of 2005 (“the HERA”), (Pub. L. 109–171). The Department is requesting the continual approval for regulatory sections 682.304 and 682.414.

Dated: November 14, 2019.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.*

[FR Doc. 2019–25049 Filed 11–18–19; 8:45 am]

**BILLING CODE 4000–01–P**

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## DEPARTMENT OF EDUCATION

[Docket No.: ED–2019–ICCD–0144]

### Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Subpart K—Cash Management

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before January 21, 2020.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2019–ICCD–0144. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the

Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208, D, Washington, DC 20202-4537.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, 202-377-4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Student Assistance General Provisions—Subpart K—Cash Management.

*OMB Control Number:* 1845-0038.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector; State, Local, and Tribal Governments; Individuals or Households.

*Total Estimated Number of Annual Responses:* 22,225,738.

*Total Estimated Number of Annual Burden Hours:* 1,011,358.

*Abstract:* This request is for an extension to the current information collection 1845-0038 that is expiring. This collection pertains to the recordkeeping requirements contained in the regulations related to the administration of the Subpart K—Cash Management section of the Student Assistance General Provisions. The regulatory language has not changed. These program regulations are designed to provide benefits to Title IV, HEA applicants, and protect the taxpayers' interest. The information collection requirements in these regulations are necessary to provide students with required information about their eligibility to receive funding under the federal student financial aid programs and to prevent fraud and abuse of program funds by allowing students to reduce or reject aid being offered as well as being made aware of when such funding can be expected to be available.

Dated: November 14, 2019.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division Office of Chief Data Officer.*

[FR Doc. 2019-25055 Filed 11-18-19; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Notice of Request for Information (RFI) on Supercritical Carbon Dioxide Power Cycles Integrated With Thermal Energy Storage

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Request for Information (RFI).

**SUMMARY:** The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE-FOA-0002182 regarding Supercritical Carbon Dioxide Power Cycles Integrated with Thermal Energy Storage. The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on methods to integrate and demonstrate supercritical carbon dioxide power cycles with thermal energy storage that operates in the temperature range between 565 and 670 °C. The focus is on the integration

of subsystems at temperatures that can enable near-term commercial deployment.

**DATES:** Responses to the RFI must be received by 5:00 p.m. EST on December 18, 2019.

**ADDRESSES:** Interested parties are to submit comments electronically to: [SETO.RFI.CSP@ee.doe.gov](mailto:SETO.RFI.CSP@ee.doe.gov). Include Supercritical Carbon Dioxide Power Cycles Integrated with Thermal Energy Storage or sCO<sub>2</sub> TES Integration, in the subject of the title. Only electronic responses will be accepted. The complete RFI document DE-FOA-0002182 is located at <https://eere-exchange.energy.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Questions may be addressed to Rajgopal Vijaykumar at telephone (202) 287-1817 or by email [SETO.RFI.CSP@ee.doe.gov](mailto:SETO.RFI.CSP@ee.doe.gov). Further instructions can be found in the RFI document posted on EERE Exchange.

**SUPPLEMENTARY INFORMATION:** This RFI seeks feedback on technologies to integrate and demonstrate advanced supercritical carbon dioxide (sCO<sub>2</sub>) Brayton power cycles that are indirectly heated via thermal energy storage at a turbine inlet temperature (TIT) range between 550 and 630 °C. This request is focused on accelerating the commercialization of sCO<sub>2</sub> power cycles that are appropriate for near-term integration with concentrating solar-thermal power (CSP), at temperatures that do not require significant de-risking of the cost and performance of novel materials. The RFI DE-FOA-0002182 is available at: <https://eere-exchange.energy.gov/>.

### Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from

other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Signed in Washington, DC, on October 21, 2019.

**Rebecca Jones-Albertus,**

*Acting Director, Solar Energy Technologies Office.*

[FR Doc. 2019-25022 Filed 11-18-19; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. RM98-1-000]

**Records Governing Off-the-Record Communications; Public Notice**

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as

having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659.

Docket No.	File date	Presenter or requester
Prohibited: CP16-13-000 .....	11/5/19	Pat Curran Leonard.
Exempt: None.		

Dated: November 12, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019-25030 Filed 11-18-19; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. IS20-66-000]

**Enterprise TE Products Pipeline Company LLC; Notice of Tariff Filing and Shortening Time To File Protest and Response**

Take notice that on November 13, 2019, pursuant to the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 342.2(b) (2019), Enterprise TE Products Pipeline Company LLC (Enterprise TE) filed Tariff 54.48.0 to provide emergency transportation service of propane from Mont Belvieu, Texas to

Monee, Illinois. Enterprise TE explains that the emergency provision responds to record propane demand in the Midwest. Enterprise TE seeks waiver pursuant to 18 CFR 341.14 of the notice requirements in section 6(3) of the Interstate Commerce Act to make the tariff effective November 13, 2019.

Notice is given that the deadline pursuant to 18 CFR 343.3 for filing protests to Enterprise TE filing is hereby shortened to and including November 18, 2019. The deadline for filing responses is shortened to and including November 21, 2019. Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate.

Such notices, motions, or protests must be filed on or before the comment date.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Protest Date:* 5:00 p.m. Eastern time on November 18, 2019.  
*Response Date:* 5:00 p.m. Eastern time on November 21, 2019.  
 Dated: November 13, 2019.  
**Kimberly D. Bose,**  
*Secretary.*  
 [FR Doc. 2019-25019 Filed 11-18-19; 8:45 am]  
**BILLING CODE 6717-01-P**

government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

**AGENCY HOLDING MEETING:** Federal Energy Regulatory Commission, Department of Energy.

**DATE AND TIME:** November 21, 2019, 10:00 a.m.

**PLACE:** Room 2C, 888 First Street NE, Washington, DC 20426.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** Agenda.

\* NOTE—Items listed on the agenda may be deleted without further notice.

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly D. Bose, Secretary, Telephone (202) 502-8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502-8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at <http://ferc.capitolconnection.org/> using the eLibrary link, or may be examined in the Commission's Public Reference Room.

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Sunshine Act Meeting Notice**

The following notice of meeting is published pursuant to section 3(a) of the

**1061TH MEETING—OPEN MEETING**  
 [November 21, 2019, 10:00 a.m.]

Item No.	Docket No.	Company
<b>ADMINISTRATIVE</b>		
A-1	AD20-1-000	Agency Administrative Matters.
A-2	AD20-2-000	Customer Matters, Reliability, Security and Market Operations.
A-3	AD07-13-013	FY2019 Report on Enforcement.
A-4	AD20-4-000	FERC Cyber Security Focus Areas.
<b>ELECTRIC</b>		
E-1	RM19-5-000	Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes.
E-2	ER19-465-000, ER19-465-001	Midcontinent Independent System Operator, Inc.
E-3	ER19-468-000, ER19-468-001	California Independent System Operator Corporation.
E-4	ER19-470-000, ER19-470-001, ER19-470-002.	ISO New England Inc.
E-5	ER19-1900-001	Golden Spread Electric Cooperative, Inc.
E-6	ER19-1920-000, ER19-1920-001	Tampa Electric Company.
E-7	ER19-1924-000	Cheyenne Light, Fuel and Power Company.
E-8	ER19-1925-000	Black Hills Colorado Electric, LLC.
E-9	ER19-1926-000	Black Hills Power, Inc.
E-10	ER19-1927-000, ER19-1927-001	Portland General Electric Company.
E-11	EL14-12-003	Association of Businesses Advocating Tariff Equity, Coalition of MISO Transmission Customers, Illinois Industrial Energy Consumers, Indiana Industrial Energy Consumers, Inc., Minnesota Large Industrial Group, and Wisconsin Industrial Energy Group v. Midcontinent Independent System Operator, Inc., ALLETE, Inc., Ameren Illinois Company, Ameren Missouri, Ameren Transmission Company of Illinois, American Transmission Company LLC, Cleco Power LLC, Duke Energy Business Services, LLC, Entergy Arkansas, Inc., Entergy Gulf States Louisiana, LLC, Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Indianapolis Power & Light Company, International Transmission Company, ITC Midwest LLC, Michigan Electric Transmission Company, LLC, MidAmerican Energy Company, Montana-Dakota Utilities Co., Northern Indiana Public Service Company, Northern States Power Company-Minnesota, Northern States Power Company-Wisconsin, Otter Tail Power Company, and Southern Indiana Gas & Electric Company.
	EL15-45-000	Arkansas Electric Cooperative Corporation, Mississippi Delta Energy Agency, Clarksdale Public Utilities Commission, Public Service Commission of Yazoo City, and Hoosier Energy Rural Electric Cooperative, Inc. v. ALLETE, Inc., Ameren Illinois Company, Ameren Missouri, Ameren Transmission Company of Illinois, American Transmission Company LLC, Cleco Power LLC, Duke Energy Business Services, LLC, Entergy Arkansas, Inc., Entergy Gulf States Louisiana, LLC, Entergy Louisiana, LLC, Entergy Mississippi, Inc., Entergy New Orleans, Inc., Entergy Texas, Inc., Indianapolis Power & Light Company, International Transmission Company, ITC Midwest LLC, Michigan Electric Transmission Company, LLC, MidAmerican Energy Company, Montana-Dakota Utilities Co., Northern Indiana Public Service Company, Northern States Power Company-Minnesota, Northern States Power Company-Wisconsin, Otter Tail Power Company, and Southern Indiana Gas & Electric Company.
E-12	ER19-2846-000	Trans Bay Cable LLC.
E-13	ER19-1910-000	Southwest Power Pool, Inc.

## 1061TH MEETING—OPEN MEETING—Continued

[November 21, 2019, 10:00 a.m.]

Item No.	Docket No.	Company
E-14 .....	ER19-2681-000 .....	Southwest Power Pool, Inc.
E-15 .....	ER18-1122-0000 .....	Ameren Illinois Company.
E-16 .....	ER19-1922-000, ER19-603-002 .....	PJM Interconnection, L.L.C.
	EL19-18-001 (not consolidated) .....	American Electric Power Service Corporation v. PJM Interconnection, L.L.C.
E-17 .....	EL01-88-019 .....	Louisiana Public Service Commission v. Entergy Services, Inc.
E-18 .....	EL19-50-000 .....	Louisiana Public Service Commission v. Entergy Corporation, Entergy Services, LLC, Entergy Louisiana, LLC, Entergy Arkansas, LLC, Entergy Mississippi, LLC, Entergy New Orleans, LLC, and Entergy Texas, Inc.
E-19 .....	EL17-94-000 .....	New York Power Authority v. PJM Interconnection, L.L.C. and PJM Transmission Owners in their Collective Capacity.
E-20 .....	EL19-94-000 .....	TerraForm Power, Inc.
E-21 .....	OMITTED.	
E-22 .....	EL19-88-000 .....	New York Power Authority.
E-23 .....	EL15-3-002 .....	City and County of San Francisco v. Pacific Gas and Electric Company.
	ER15-702-002, ER15-703-002, ER15-704-005, ER15-705-002, ER15-735-002 (consolidated).	Pacific Gas and Electric Company.
E-24 .....	ER19-34-003 .....	Midcontinent Independent System Operator, Inc.
E-25 .....	EL16-108-001 .....	Tilton Energy LLC v. Midcontinent Independent System Operator, Inc.
	EL17-29-001 .....	American Municipal Power, Inc. v. Midcontinent Independent System Operator, Inc.
	EL17-31-001 .....	Northern Illinois Municipal Power Agency v. PJM Interconnection, L.L.C.
	EL17-37-001 .....	American Municipal Power, Inc. v. PJM Interconnection, L.L.C.
	L17-54-001 .....	Dynegy Marketing and Trade, LLC and Illinois Power Marketing Company v. Midcontinent Independent System Operator, Inc.
E-26 .....	EL15-67-004 .....	Linden VFT, LLC v. PJM Interconnection, L.L.C.
	ER15-2562-003 .....	PJM Interconnection, L.L.C.
	ER17-950-004 .....	PJM Interconnection, L.L.C.
	EL17-68-001 .....	Linden VFT, LLC v. PJM Interconnection, L.L.C.
	EL17-84-002 .....	PJM Interconnection, L.L.C.
	EL17-90-002 .....	Linden VFT, LLC v. Public Service Electric and Gas Company and PJM Interconnection, L.L.C.
	EL17-94-001 .....	New York Power Authority v. PJM Interconnection, L.L.C. and PJM Transmission Owners in their Collective Capacity
	ER18-579-003 .....	PJM Interconnection, L.L.C.
	ER18-680-001 .....	PJM Interconnection, L.L.C.
	EL18-54-001 .....	New Jersey Board of Public Utilities v. PJM Interconnection, L.L.C., New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc., Linden VFT, LLC, Hudson Transmission Partners, LLC and New York Power Authority.

**GAS**

G-1 .....	PR17-60-003 .....	Atmos Pipeline—Texas
	PR17-60-004 .....	
G-2 .....	RP18-851-000 .....	Cheniere Energy, Inc.
G-3 .....	OR19-31-000 .....	Saddlehorn Pipeline Company, LLC
G-4 .....	OMITTED.	
G-5 .....	OR19-26-000 .....	American Aviation Supply LLC, Delta Air Lines, Inc., JetBlue Airways Corporation, and United Airlines, Inc. v. Buckeye Pipe Line Company, L.P.
G-6 .....	OR16-26-000 .....	Aircraft Service International Group, Inc., American Airlines, Inc., Delta Air Lines, Inc., Hooker's Point Fuel Facilities LLC, Southwest Airlines Co., United Aviation Fuels Corporation, and United Parcel Service, Inc. v. Central Florida Pipeline LLC and Kinder Morgan Liquid Terminals LLC

**HYDRO**

H-1 .....	P-2242-110 .....	Eugene Water & Electric Board
H-2 .....	P-1889-089 .....	FirstLight Hydro Generating Company and FirstLight MA Hydro LLC
	P-2485-078 .....	FirstLight Hydro Generating Company and Northfield Mountain LLC.

**CERTIFICATES**

C-1 .....	CP16-116-000 .....	Texas LNG Brownsville LLC.
C-2 .....	CP16-454-000 .....	Rio Grande LNG, LLC.
	CP16-455-000 .....	Rio Bravo Pipeline Company, LLC.
C-3 .....	CP16-480-000 .....	Annova LNG Common Infrastructure, LLC, Annova LNG, Brownsville A, LLC, Annova LNG Brownsville B, LLC, and Annova LNG Brownsville C, LLC.
C-4 .....	CP18-332-000 .....	EL Paso Natural Gas Company, L.L.C.
C-5 .....	CP17-40-002 .....	Spire STL Pipeline LLC.
C-6 .....	CP18-512-000 .....	Corpus Christi Liquefaction Stage III, LLC and Corpus Christi Liquefaction, LLC.
	CP18-513-000 .....	Cheniere Corpus Christi Pipeline, LP.

Issued: November 14, 2019.

**Kimberly D. Bose,**  
Secretary.

A free webcast of this event is available through <http://ferc.capitolconnection.org/>. Anyone with internet access who desires to view this event can do so by navigating to [www.ferc.gov](http://www.ferc.gov)'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit <http://ferc.capitolconnection.org/> or contact Shirley Al-Jarani at 703-993-3104.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2019-25127 Filed 11-15-19; 11:15 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 1999-076]

#### Wisconsin Public Service Corporation; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to change project boundary.

b. *Project No.:* 1999-076.

c. *Date Filed:* October 29, 2019.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* Wausau Project.

f. *Location:* The project is located on the Wisconsin River, in the city of Wausau, Marathon County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Todd Jastremski, [todd.jastremski@we-energies.com](mailto:todd.jastremski@we-energies.com), 906-779-4099, WE Energies, 800 Industrial Park Drive, Iron Mountain, MI 49801.

i. *FERC Contact:* Hillary Berlin, 202-502-8915, [hillary.berlin@ferc.gov](mailto:hillary.berlin@ferc.gov).

j. Deadline for filing comments, motions to intervene, and protests: December 16, 2019.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-1999-076. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Wisconsin Public Service Corporation (licensee) filed an application to add two parcels totaling 0.5 acres (0.2 acres immediately upstream of the project dam on the western shoreline and 0.3 acres on the project's eastern shoreline) to the project boundary because they contain project works and a powerhouse access road. The licensee also proposes to remove 116 acres it states are not needed for any project purpose, detailed as follows: Barker-Stewart Island (10.9 acres); a 0.6-acre parcel on the west side of the impoundment just upstream of the dam; and approximately 104.5 acres of land and water downstream of the project tailrace channel, including Picnic Island and Stack's Island.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's website at <http://www.ferc.gov> using the

"eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: November 13, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-25015 Filed 11-18-19; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings #2**

Take notice that the Commission received the following electric rate filings:

- Docket Numbers:* ER10–2290–007.  
*Applicants:* Avista Corporation.  
*Description:* Supplement to July 1, 2019 Triennial Market Power Update for the Northwest Region of Avista Corporation.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5132.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER12–162–025; ER11–2044–030; ER13–1266–026; ER15–2211–023.  
*Applicants:* MidAmerican Energy Company, Bishop Hill Energy II LLC, CalEnergy, LLC, MidAmerican Energy Services, LLC.  
*Description:* Notice of Non-Material Change in Status of the Berkshire Hathaway Central Parties.  
*Filed Date:* 11/12/19.  
*Accession Number:* 20191112–5334.  
*Comments Due:* 5 p.m. ET 12/3/19.
- Docket Numbers:* ER19–342–002.  
*Applicants:* Lancaster County Solid Waste Management.  
*Description:* Report Filing: Refund Report to be effective N/A.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5104.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER19–342–003.  
*Applicants:* Lancaster County Solid Waste Management.  
*Description:* Compliance filing: Settlement Compliance Filing to be effective 1/1/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5108.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER19–2448–001.  
*Applicants:* Midcontinent Independent System Operator, Inc., MidAmerican Energy Company.  
*Description:* Tariff Amendment: 2019–11–13\_SA 3334 MidAmerican-RPGI Substitute WDS (La Porte) to be effective 11/1/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5105.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER19–2557–000.  
*Applicants:* Missisquoi, LLC.  
*Description:* Report Filing: Refund Report in Docket No. ER19–2557 to be effective N/A.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5036.  
*Comments Due:* 5 p.m. ET 12/4/19.

- Docket Numbers:* ER19–2557–001.  
*Applicants:* Missisquoi, LLC.  
*Description:* Compliance filing: Missisquoi MBR Tariff to be effective 10/8/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5070.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER20–366–000.  
*Applicants:* Genbright LLC.  
*Description:* Petition for Limited Waiver, et al. of Genbright LLC.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5012.  
*Comments Due:* 5 p.m. ET 11/27/19.
- Docket Numbers:* ER20–367–000.  
*Applicants:* PJM Interconnection, L.L.C.  
*Description:* § 205(d) Rate Filing: Amendment to ISA, SA No. 4225; Queue No. V1–011 (amend) to be effective 10/3/2014.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5069.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER20–368–000.  
*Applicants:* PJM Interconnection, L.L.C.  
*Description:* § 205(d) Rate Filing: Original WMPA No. 5498; Queue No. AE1–074 to be effective 11/13/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5109.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER20–369–000.  
*Applicants:* PacifiCorp.  
*Description:* § 205(d) Rate Filing: Tri-State Master Installation, O M Agmt for Metering (Rev 2) to be effective 1/13/2020.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5129.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER20–370–000.  
*Applicants:* City Power & Gas, LLC.  
*Description:* Baseline eTariff Filing: Market-Based Rate Tariff Application to be effective 11/13/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5142.  
*Comments Due:* 5 p.m. ET 12/4/19.
- Docket Numbers:* ER20–371–000.  
*Applicants:* Midcontinent Independent System Operator, Inc.  
*Description:* § 205(d) Rate Filing: 2019–11–13\_SA 2951 Northern States Power-MDU 1st Rev GIA (J316) to be effective 10/28/2019.  
*Filed Date:* 11/13/19.  
*Accession Number:* 20191113–5143.  
*Comments Due:* 5 p.m. ET 12/4/19.
- 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: November 13, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25027 Filed 11–18–19; 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 rate filings:

- Docket Numbers:* ER10–2214–006.  
*Applicants:* Zion Energy LLC.  
*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.  
*Filed Date:* 11/12/19.  
*Accession Number:* 20191112–5242.  
*Comments Due:* 5 p.m. ET 12/3/19.
- Docket Numbers:* ER10–2214–007.  
*Applicants:* Zion Energy LLC.  
*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.  
*Filed Date:* 11/12/19.  
*Accession Number:* 20191112–5185.  
*Comments Due:* 5 p.m. ET 12/3/19.
- Docket Numbers:* ER12–954–006.  
*Applicants:* Calpine Mid Merit, LLC.  
*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.  
*Filed Date:* 11/12/19.  
*Accession Number:* 20191112–5222.  
*Comments Due:* 5 p.m. ET 12/3/19.
- Docket Numbers:* ER12–954–007.  
*Applicants:* Calpine Mid Merit, LLC.  
*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.  
*Filed Date:* 11/12/19.  
*Accession Number:* 20191112–5163.  
*Comments Due:* 5 p.m. ET 12/3/19.
- Docket Numbers:* ER14–873–004.

*Applicants:* Calpine New Jersey Generation, LLC.

*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5231.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER14-873-006.

*Applicants:* Calpine New Jersey Generation, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5168.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER14-874-004.

*Applicants:* Calpine Bethlehem, LLC.

*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5220.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER14-874-005.

*Applicants:* Calpine Bethlehem, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5161.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER14-875-004.

*Applicants:* Calpine Mid-Atlantic Generation, LLC.

*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5228.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER14-875-005.

*Applicants:* Calpine Mid-Atlantic Generation, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5166.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER15-2495-004.

*Applicants:* Calpine New Jersey Generation, LLC.

*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5239.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER15-2495-005.

*Applicants:* Calpine New Jersey Generation, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule

Compliance Filings to be effective 1/24/2018.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5167.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER17-556-003;

ER10-1362-003; ER12-2639-008;

ER17-104-004; ER17-105-004.

*Applicants:* Grady Wind Energy Center, LLC, Broadview Energy JN, LLC, Broadview Energy KW, LLC, Octotillo Express LLC, Hatchet Ridge Wind, LLC.

*Description:* Triennial Market Power Update for the Southwest Region of the Pattern Southwest Entities.

*Filed Date:* 11/8/19.

*Accession Number:* 20191108-5194.

*Comments Due:* 5 p.m. ET 1/7/20.

*Docket Numbers:* ER17-2566-003.

*Applicants:* Calpine Mid-Atlantic Generation, LLC.

*Description:* Report Filing: Refund Report ? Informational Filings to be effective N/A.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5226.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER17-2566-004.

*Applicants:* Calpine Mid-Atlantic Generation, LLC.

*Description:* Compliance filing: Reactive Service Rate Schedule Compliance Filings to be effective 1/24/2018.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5165.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER19-647-003.

*Applicants:* Wolf Run Energy LLC.

*Description:* Compliance filing: Compliance Filing of Revised Rate Schedule to be effective 3/1/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5131.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER19-2804-001.

*Applicants:* Tri-State Generation and Transmission As.

*Description:* Tariff Amendment: Amendment of Service Agreement No. 820 to be effective 12/31/9998.

*Filed Date:* 11/8/19.

*Accession Number:* 20191108-5158.

*Comments Due:* 5 p.m. ET 11/29/19.

*Docket Numbers:* ER20-122-001.

*Applicants:* Crowned Ridge Interconnection, LLC.

*Description:* Tariff Amendment: Crowned Ridge Interconnection, LLC Amendment to MBR Application to be effective 12/4/2019.

*Filed Date:* 11/8/19.

*Accession Number:* 20191108-5156.

*Comments Due:* 5 p.m. ET 11/29/19.

*Docket Numbers:* ER20-347-000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* Tariff Cancellation: Notice of Termination of Gonzaga Ridge Wind Farm E&P Agreement to be effective 11/5/2019.

*Filed Date:* 11/8/19.

*Accession Number:* 20191108-5154.

*Comments Due:* 5 p.m. ET 11/29/19.

*Docket Numbers:* ER20-348-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: Notice of Cancellation of WMPA/SA No. 4390; Queue No. AB1-071 to be effective 11/12/2019.

*Filed Date:* 11/8/19.

*Accession Number:* 20191108-5155.

*Comments Due:* 5 p.m. ET 11/29/19.

*Docket Numbers:* ER20-349-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSC-NXER-E&P-Neptune-562-0.0.0 to be effective 11/12/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5012.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20-350-000.

*Applicants:* Public Service Company of Colorado.

*Description:* § 205(d) Rate Filing: PSC-NXER-E&P-ThunderWolf-563-0.0.0 to be effective 11/12/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5013.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20-351-000.

*Applicants:* AEP Texas Inc.

*Description:* § 205(d) Rate Filing: AEPTX-RE Bravepost GIA to be effective 10/30/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5014.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20-352-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA No. 5496; Queue No. AC1-075/AC1-080 to be effective 10/10/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5015.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20-353-000.

*Applicants:* Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

*Description:* § 205(d) Rate Filing: 2019-11-12\_SA 3028 Ameren IL-Prairie Power Project #17 Ishi to be effective 11/13/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112-5037.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20-354-000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2019–11–12\_SA 3346 ATC–Wisconsin Electric Power GIA (G510 J831) to be effective 10/28/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5141.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–355–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to ISA and ICSA, SA Nos. 5492 and 5310; Queue No. AB2–174 (amend) to be effective 1/29/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5145.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–356–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: Amended GIA & DSA DifWind Farms Limited V WDT1130QFC SA No. 991–992 to be effective 11/13/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5148.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–357–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA No. 5499; Queue No. AC1–105 to be effective 10/14/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5150.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–358–000.

*Applicants:* ISO New England Inc., Green Mountain Power Corporation.

*Description:* § 205(d) Rate Filing: Green Mountain Power Corporation; Revisions to Depreciation Rates to be effective 12/12/2019.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5151.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–359–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2019–11–12\_Attachment X Pro Forma Facilities Services Agreement to be effective 1/12/2020.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5210.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–360–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to ISA No. 4792, AB2–038/AB2–041; ICSA No. 4793, U3–073/Z2–013/AB2–038 to be effective 9/13/2017.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5216.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–361–000.

*Applicants:* Utility Expense Reduction, LLC.

*Description:* Notice of Cancellation of Market-Based Rate Tariff of Utility Expense Reduction, LLC.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5225.

*Comments Due:* 5 p.m. ET 12/3/19.

*Docket Numbers:* ER20–362–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* Tariff Cancellation: Notice of Cancellation of ICSA, SA No. 2963; Queue No. Q90 to be effective 1/31/2016.

*Filed Date:* 11/12/19.

*Accession Number:* 20191112–5248.

*Comments Due:* 5 p.m. ET 12/3/19.

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: November 12, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25031 Filed 11–18–19; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 14775–002]

#### Marine Renewable Energy Collaborative of New England; Notice of Successive Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On October 24, 2019, Marine Renewable Energy Collaborative of New England, Inc. filed an application for a successive preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), to study the feasibility of the proposed Bourne Tidal Test Site to be located on the Cape Cod Canal, near the

Towns of Bourne and Sandwich, in Barnstable County, Massachusetts. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) A 45-foot-high, 23-foot-wide support structure; (2) a 25-kilowatt turbine-generator unit (other in-stream turbine-generators would also be tested at the site); (3) a 500-foot-long, 13.2-kilovolt transmission line; and (4) appurtenant facilities. The estimated average annual generation of the project would be 54.7 megawatt-hours. The proposed project would occupy approximately 0.10 acres of federal land under the jurisdiction of the U.S. Army Corps of Engineers.

*Applicant Contact:* John Miller, Executive Director, Marine Renewable Energy Collaborative of New England, Inc., P.O. Box 479, Marion, MA 02738; phone: (508) 728–5825.

*FERC Contact:* John Baummer; phone: (202) 502–6837 or email at [john.baummer@ferc.gov](mailto:john.baummer@ferc.gov).

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–14775–002.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's website at <http://www.ferc.gov/docs-filing/elibRARY.asp>. Enter the docket number

(P-14775) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 13, 2019.  
**Kimberly D. Bose,**  
*Secretary.*  
 [FR Doc. 2019-25017 Filed 11-18-19; 8:45 am]  
**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Notice of Effectiveness of Exempt Wholesale Generator Status**

Prevailing Wind Park, LLC .....	EG19EG19-159-000
West of the Pecos Solar, LLC .....	EG19EG19-160-000
Whitney Hill Wind Power, LLC .....	EG19EG19-161-000
Misae Lessee LLC .....	EG19EG19-162-000
Childress Solar Park, LLC .....	EG19EG19-163-000
Chief Conemaugh Power II, LLC .....	EG19EG19-164-000
Chief Keystone Power II, LLC .....	EG19EG19-165-000
Rosewater Wind Farm LLC .....	EG19EG19-166-000
Kaheawa Wind Power, LLC .....	EG19EG19-167-000
SR Arlington II MT, LLC .....	EG19EG19-168-000
SR Arlington II, LLC .....	EG19EG19-169-000
South Peak Wind LLC .....	EG19EG19-170-000
PGR Lessee L, LLC .....	EG19EG19-171-000
TWE Bowman Solar Project, LLC .....	EG19EG19-172-000
MD Solar 2, LLC .....	EG19EG19-173-000
FL Solar 4, LLC .....	EG19EG19-174-000
AZ Solar 1, LLC .....	EG19EG19-175-000
GA Solar 3, LLC .....	EG19EG19-176-000
Lily Solar LLC .....	EG19EG19-177-000
Lily Solar Lessee, LLC .....	EG19EG19-178-000

Take notice that during the month of October, 2019, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission’s regulations. 18 CFR 366.7(a) (2019).

Dated: November 13, 2019.  
**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*  
 [FR Doc. 2019-25032 Filed 11-18-19; 8:45 am]  
**BILLING CODE 6717-01-P**

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 December 2, 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](mailto:FERCOnlineSupport@ferc.gov). or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: November 12, 2019.  
**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*  
 [FR Doc. 2019-25034 Filed 11-18-19; 8:45 am]  
**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. EL20-8-000]

**NTE Carolinas II, LLC and NTE Energy, LLC; Notice of Petition for Declaratory Order**

Take notice that on November 8, 2019, pursuant to Rule 207 of the Federal Energy Regulatory Commission’s (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2019), NTE Carolinas II, LLC and NTE Energy LLC (collectively Petitioners), filed a petition for a declaratory order requesting the Commission to declare: (1) That the Commission possesses exclusive jurisdiction over the cancellation of filed rates; (2) that after exhausting dispute resolution provisions in a Large Generator Interconnection Agreement (LGIA), a Transmission Provider seeking to terminate a conforming LGIA over the Interconnection Customer’s objection must file a notice of termination with the Commission under section 205 of

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. ER20-339-000]

**Twiggs County Solar, 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 Twiggs County Solar, 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

the Federal Power Act and have that notice accepted before the agreement can be terminated; and (3) that a Transmission Provider may publicly indicate on its Open Access Same-Time Information System and in its Electric Quarterly Report that an interconnection request has been canceled and LGIA terminated, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioners.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for 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](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern time on December 9, 2019.

Dated: November 13, 2019.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2019-25016 Filed 11-18-19; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 10887-030]

#### Carthage Specialty Paperboard, Inc.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 10887-030.

c. *Date Filed:* October 31, 2019.

d. *Applicant:* Carthage Specialty Paperboard, Inc.

e. *Name of Project:* Carthage Paper Maker Mill Hydroelectric Project.

f. *Location:* On the Black River, near the Village of Carthage, Jefferson and Lewis Counties, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Martin Weller, Corporate Project Engineer, Ox Industries, Inc., 600 West Elm Avenue, Hanover, PA 17331; (717) 698-3329; and/or E. Steve O'Donnell, General Counsel, Ox Industries, Inc., 600 West Elm Avenue, Hanover, PA 17331; (717) 632-9580.

i. *FERC Contact:* Monir Chowdhury at (202) 502-6736; or email at [monir.chowdhury@ferc.gov](mailto:monir.chowdhury@ferc.gov).

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and

serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 30, 2019.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P-10887-030.

m. This application is not ready for environmental analysis at this time.

n. The existing project consists of the following: (1) An 829-foot-long concrete gravity dam with a maximum height of 8 feet at a crest elevation of 726.4 feet above mean sea level (msl); (2) an impoundment with a surface area of about 158 acres and a storage capacity of 767 acre-feet at a normal pool elevation of 726.4 feet msl; (3) a forebay canal approximately 500 feet long, 58 feet wide, and 10 feet deep at the west bank of the river; (4) a masonry and concrete powerhouse 31 feet long, 25 feet wide, and approximately 45 feet high, containing one open flume turbine-generator unit with a rated capacity of 800 kilowatts; (5) an excavated 200-foot-long, 35-foot-wide tailrace; (6) a 750-foot-long generator lead that connects the powerhouse with a substation; and (7) appurtenant facilities.

The Carthage Paper Maker Mill Project is operated in a run-of-river mode with an estimated average annual generation of 3,991 megawatt-hours between 2014 and 2018.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule and final amendments*: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate. Issue Deficiency Letter (if necessary)

December 2019  
Request Additional Information  
December 2019  
Issue Acceptance Letter March 2020  
Issue Scoping Document 1 for comments April 2020  
Request Additional Information (if necessary) June 2020  
Issue Scoping Document 2 July 2020  
Issue notice of ready for environmental analysis July 2020  
Commission issues EA January 2021  
Comments on EA February 2021  
Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: November 12, 2019.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. 2019-25028 Filed 11-18-19; 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 rate filings:

*Docket Numbers*: ER10-3145-012; ER10-1728-012; ER10-1800-013; ER10-3116-012; ER10-3120-012; ER10-3128-012; ER10-3136-012; ER11-2036-012; ER11-2701-014; ER13-1544-009; ER15-1579-014; ER15-1582-015; ER15-1914-016; ER15-2679-012; ER15-2680-012; ER15-760-015; ER15-762-016; ER16-1255-013; ER16-1609-006; ER16-1738-010; ER16-1901-010; ER16-1955-010; ER16-1956-010; ER16-1973-010; ER16-2201-009; ER16-2224-009; ER16-2541-009; ER16-2578-010; ER16-468-010; ER16-474-011; ER16-890-011; ER16-930-006; ER17-1864-008; ER17-1871-008; ER17-1909-008; ER17-306-009; ER17-544-009; ER18-1667-003; ER18-2327-002; ER18-2492-004; ER19-1179-001; ER19-1473-001; ER19-1474-001; ER19-1597-001; ER19-846-003; ER19-847-003.

*Applicants*: AES Alamitos, LLC, AES Alamitos Energy, LLC, AES Energy Storage, LLC, AES ES Gilbert, LLC, AES ES Tait, LLC, AES Huntington Beach, L.L.C., AES Huntington Beach Energy, LLC, AES Integrated Energy, LLC, AES

Laurel Mountain, LLC, AES Ohio Generation, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, 65HK 8me LLC, 67RK 8me LLC, 87RL 8me LLC, Antelope Big Sky Ranch LLC, Antelope DSR 1, LLC, Antelope DSR 2, LLC, Antelope DSR 3, LLC, Antelope Expansion 2, LLC, Bayshore Solar A, LLC, Bayshore Solar B, LLC, Bayshore Solar C, LLC, Beacon Solar 1, LLC, Beacon Solar 3, LLC, Beacon Solar 4, LLC, Central Antelope Dry Ranch C LLC, FTS Master Tenant 1, LLC, FTS Master Tenant 2, LLC, ID Solar 1, LLC, Latigo Wind Park, LLC, North Lancaster Ranch LLC, Pioneer Wind Park I LLC, Riverhead Solar Farm, LLC, San Pablo Raceway, LLC, Sandstone Solar LLC, Sierra Solar Greenworks LLC, Solverde 1, LLC, Summer Solar LLC, Western Antelope Blue Sky Ranch A LLC, Western Antelope Blue Sky Ranch B LLC, Elevation Solar C LLC, Western Antelope Dry Ranch LLC.

*Description*: Supplement to June 25, 2019 Triennial Market Power Analysis of the AES MBR Affiliates for the Southwest Region.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5303.

*Comments Due*: 5 p.m. ET 12/3/19.

*Docket Numbers*: ER19-2473-000.

*Applicants*: Basin Electric Power Cooperative, Inc.

*Description*: Amendment to July 26, 2019 Request for One-Time Waiver of certain requirements under Attachment O to MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff of Basin Electric Power Cooperative.

*Filed Date*: 11/6/19.

*Accession Number*: 20191106-5044.

*Comments Due*: 5 p.m. ET 11/27/19.

*Docket Numbers*: ER20-116-000.

*Applicants*: Evergy Metro, Inc.

*Description*: Report Filing: Supplemental Filing to a Notice of Succession, Vol. No. 4 to be effective N/A.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5260.

*Comments Due*: 5 p.m. ET 12/3/19.

*Docket Numbers*: ER20-363-000.

*Applicants*: Arizona Public Service Company.

*Description*: § 205(d) Rate Filing: Service Agreement No. 373 to be effective 10/15/2019.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5254.

*Comments Due*: 5 p.m. ET 12/3/19.

*Docket Numbers*: ER20-364-000.

*Applicants*: Arizona Public Service Company.

*Description*: § 205(d) Rate Filing: Rate Schedule No. 301 to be effective 12/23/2019.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5258.

*Comments Due*: 5 p.m. ET 12/3/19.

*Docket Numbers*: ER20-365-000.

*Applicants*: PJM Interconnection, L.L.C.

*Description*: § 205(d) Rate Filing: Original WMPA SA No 5522; Queue No. AE1-075 to be effective 10/14/2019.

*Filed Date*: 11/13/19.

*Accession Number*: 20191113-5011.

*Comments Due*: 5 p.m. ET 12/4/19.

Take notice that the Commission received the following electric securities filings:

*Docket Numbers*: ES20-8-000.

*Applicants*: PJM Interconnection, L.L.C.

*Description*: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of PJM Interconnection, L.L.C.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5274.

*Comments Due*: 5 p.m. ET 12/3/19.

*Docket Numbers*: ES20-9-000.

*Applicants*: PJM Settlement, Inc.

*Description*: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of PJM Settlement, Inc.

*Filed Date*: 11/12/19.

*Accession Number*: 20191112-5292.

*Comments Due*: 5 p.m. ET 12/3/19.

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: November 13, 2019.

**Nathaniel J. Davis, Sr.,**  
*Deputy Secretary.*

[FR Doc. 2019-25033 Filed 11-18-19; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP20–194–001.

*Applicants:* Alliance Pipeline L.P.

*Description:* Tariff Amendment: Amended Contract Adjustments for 2019 (RP20–194–000) to be effective 11/1/2019.

*Filed Date:* 11/7/19.

*Accession Number:* 20191107–5105.

*Comments Due:* 5 p.m. ET 11/19/19.

*Docket Numbers:* RP20–213–000.

*Applicants:* Northern Border Pipeline Company.

*Description:* § 4(d) Rate Filing: Contract Clean Up Filing to be effective 12/7/2019.

*Filed Date:* 11/7/19.

*Accession Number:* 20191107–5024.

*Comments Due:* 5 p.m. ET 11/19/19.

*Docket Numbers:* RP20–214–000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* § 4(d) Rate Filing: Neg Rate 2019–11–7 Encana to be effective 11/7/2019.

*Filed Date:* 11/7/19.

*Accession Number:* 20191107–5060.

*Comments Due:* 5 p.m. ET 11/19/19.

*Docket Numbers:* RP20–215–000.

*Applicants:* Enable Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Errata Fuel Tracker Filing—Effective November 1 2019 to be effective 11/1/2019.

*Filed Date:* 11/7/19.

*Accession Number:* 20191107–5109.

*Comments Due:* 5 p.m. ET 11/19/19.

*Docket Numbers:* RP20–216–000.

*Applicants:* Trailblazer Pipeline Company LLC.

*Description:* § 4(d) Rate Filing: Neg Rates 2019–11–7 RP18–922 Settlement to be effective 10/1/2019.

*Filed Date:* 11/7/19.

*Accession Number:* 20191107–5113.

*Comments Due:* 5 p.m. ET 11/19/19.

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: November 13, 2019.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2019–25026 Filed 11–18–19; 8:45 am]

**BILLING CODE 6717–01–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**[FRL–10002–34–OW]**

**Notice of Request for Nominations of Candidates to the Environmental Financial Advisory Board**

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

**ACTION:** Notice of request for nominations of candidates to the Environmental Financial Advisory Board.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for appointment to the Environmental Financial Advisory Board (EFAB or the Board). The Board provides advice to the EPA on ways to lower the costs of, and increase investments in, environmental and public health protection. Appointments will be made by the Administrator and will be announced in June 2020.

**DATES:** Nominations should be submitted in time to arrive no later than January 6, 2020.

**ADDRESSES:** Nominations should be sent via email to [sanzone.stephanie@epa.gov](mailto:sanzone.stephanie@epa.gov) (preferred) or by mail to U.S. Environmental Protection Agency, Water Infrastructure and Resiliency Finance Center (4202M), 1200 Pennsylvania Ave. NW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public who wants further information concerning the nomination process may contact Stephanie Sanzone, membership coordinator, via telephone/voice mail (202) 564–2839, or email at [sanzone.stephanie@epa.gov](mailto:sanzone.stephanie@epa.gov). General information concerning the EFAB can be found on the EPA website at <https://www.epa.gov/waterfinancecenter/efab>.

**SUPPLEMENTARY INFORMATION:**

*Background:* The EFAB is an EPA advisory committee chartered under the

Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, to provide advice and recommendations to the EPA on innovative approaches to financing environmental programs, projects and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center within EPA's Office of Water. The Board was established in 1989 to provide advice and recommendations to the EPA on the following issues: Reducing the cost of financing environmental facilities and discouraging polluting behavior; creating incentives to increase private investment in the provision of environmental services and removing or reducing constraints on private involvement imposed by current regulations; developing new and innovative environmental financing approaches and supporting and encouraging the use of cost-effective existing approaches; identifying approaches specifically targeted to small/disadvantaged community financing; increasing the capacity of state and local governments to carry out their respective environmental programs under current Federal tax laws; analyzing how new technologies can be brought to market expeditiously; and increasing the total investment in environmental protection of public and private environmental resources to help ease the environmental financing challenge facing our nation.

The Board meets in-person two times each calendar year (two days per meeting) at different locations within the continental United States. In addition to the bi-annual meetings, teleconference meetings may be held during the year to ensure timely completion of the Board's work. Board members typically contribute approximately 5 to 8 hours per month to the activities of the Board. Members serve on the Board without compensation; however, Board members may receive travel and per diem allowances where appropriate and in accordance with Federal Travel Regulations.

Members are appointed to represent the perspective of specific organizations, associations or groups of persons (Representative members) or to provide their individual expertise (Special Government Employee, or SGE, members).

Candidates invited to serve as SGE members will be asked to submit the "Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees" (EPA Form 3110–48). This confidential form allows the EPA to

determine whether there is a statutory conflict between that person's public responsibilities as an SGE member and private interests and activities, or the appearance of a loss of impartiality as defined by Federal regulation. The form may be viewed at <https://www.epa.gov/waterfinancecenter/efab>, but this form should not be submitted as part of a nomination.

**Experience and Expertise Sought for the EFAB:** The Board seeks to maintain diverse representation across all workforce sectors (local/state/tribal government, business (industry and finance), and nonprofit organizations) and geographic regions of the United States. Nominees should demonstrate experience in environmental finance and/or reducing the cost of financing environmental protection in various environmental media (water, land and air). Experience and expertise sought include, but are not limited to, the following areas: Brownfields; commercial banking; energy efficiency; environmental and financial resiliency; infrastructure financing; insurance markets; local utility management and finance; public-public and public-private partnerships; regulators; resource conservation; sustainable community partnerships; and water and wastewater utility financial management.

EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. In addition to this notice, other sources may be utilized in the solicitation of nominees. The deadline for receiving nominations is Monday, January 6, 2020. Appointments will be made by the Administrator of the Environmental Protection Agency and will be announced in June 2020. Nominee qualifications will be assessed under the mandates of the FACA, which requires that committees be balanced in terms of the points of view represented and the functions to be performed; for the Board, this balance includes diversity across a broad range of constituencies, sectors and groups.

**How to Submit Nominations:** Any interested person or organization may nominate qualified persons to be considered for appointment to the EFAB. Individuals may self-nominate. Nominations should be submitted via email to [sanzone.stephanie@epa.gov](mailto:sanzone.stephanie@epa.gov) (preferred) or mailed to the address above. Nominations should include the following information: Contact information for the person making the nomination; contact information for the nominee (if different), including full

name and title, business mailing address, telephone and email address; the specific areas of experience or expertise of the nominee; the nominee's curriculum vitae or resume; and a biographical sketch of the nominee indicating current position and recent service on other national advisory committees or national professional organizations. A supporting letter of endorsement is encouraged, but not required.

**Evaluation Criteria:** The following criteria will be used to evaluate nominees: Residence in the continental United States; professional knowledge of, and experience with, environmental financing activities; senior level-experience that fills a gap in Board representation or brings a new and relevant dimension to its deliberations; demonstrated ability to work in a consensus-building process with a wide range of representatives from diverse constituencies; and willingness to serve a two or three-year term as an active and contributing member, with possible re-appointment to a second term. Under EPA policy, members of EPA advisory committees may not be in receipt of (or reap substantial direct benefit from) an EPA grant; this policy does not apply to state, tribal or local government agency recipients of EPA grants.

Dated: November 7, 2019.

**Andrew Sawyers,**  
Director, Office of Wastewater Management,  
Office of Water.

[FR Doc. 2019-25056 Filed 11-18-19; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-10002-33-OW]

### Notice of Public Teleconferences

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

**ACTION:** Notice of public teleconferences.

**SUMMARY:** The EPA's Environmental Financial Advisory Board (EFAB) will hold two public teleconferences of the EFAB Stormwater Infrastructure Finance Taskforce, a workgroup of the EFAB. The purpose of the teleconferences is to continue development of a workgroup report on the availability of public and private sources of funding for the construction, rehabilitation, and operation and maintenance of stormwater infrastructure. The EFAB workgroup is developing its report to the EPA pursuant to Section 4101 of the

America's Water Infrastructure Act of 2018.

**DATES:** The public teleconferences will be held on Wednesday, December 4, 2019, from 3:00 p.m. to 5:00 p.m. EST and Wednesday, December 18, 2019, from 12:00 p.m. to 2:00 p.m. EST.

**ADDRESSES:** The teleconferences will be held by telephone and webinar link. All members of the public who wish to attend the meeting must register in advance, no later than November 27, 2019 for the December 4, 2019 meeting, and no later than December 12, 2019 for the December 18, 2019 meeting, by emailing [waterfinancecenter@epa.gov](mailto:waterfinancecenter@epa.gov) of their interest in attending and to receive the call-in information.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public who wants further information concerning the teleconference meetings may contact Ellen Tarquinio via telephone at (202) 566-2267 or email to [tarquinio.ellen@epa.gov](mailto:tarquinio.ellen@epa.gov). The EFAB mailing address is: EPA Environmental Financial Advisory Board (4204M), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460. General information concerning the EFAB can be found on the EPA website at <https://www.epa.gov/waterfinancecenter/efab>.

### SUPPLEMENTARY INFORMATION:

**Background:** The EFAB is an EPA advisory committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2, to provide advice and recommendations to EPA on innovative approaches to funding environmental programs, projects, and activities. Administrative support for the EFAB is provided by the Water Infrastructure and Resiliency Finance Center (WIRFC) within EPA's Office of Water. Pursuant to FACA and EPA policy, notice is hereby given that the EFAB Stormwater Infrastructure Taskforce will hold two public teleconferences to develop advice and recommendations to the EPA on stormwater funding and financing options throughout the country. The EFAB report will include a description of current approaches to funding stormwater infrastructure in each state, challenges to affordability of the infrastructure based on the type of funding, and gaps for sustainable operations and maintenance for stormwater infrastructure projects.

**Availability of Meeting Materials:** A meeting agenda and other materials for the meeting will be available on the EFAB website at <https://www.epa.gov/waterfinancecenter/efab>.

**Procedures for Providing Public Input:** Public comment for consideration by

EPA's federal advisory committees has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees provide independent advice to the EPA. Members of the public can submit comments on matters being considered by the EFAB for consideration by members as they develop their advice and recommendations to the EPA.

**Oral Statements:** In general, individuals or groups requesting an oral presentation at a public teleconference will be limited to three minutes. Persons interested in providing oral statements at the December 4, 2019 teleconference should contact Ellen Tarquinio in writing (preferably via email) at the contact information noted above by November 27, 2019 to be placed on the list of registered speakers. Persons interested in providing oral statements at the December 18, 2019 teleconference should contact Ellen Tarquinio in writing (preferably via email) at the contact information noted above by December 12, 2019 to be placed on the list of registered speakers.

**Written Statements:** Written statements for the December 4, 2019 teleconference should be received by WIRFC by November 27, 2019 so that the information can be made available to the EFAB workgroup for its consideration prior to the meeting. Written statements for the December 18, 2019 teleconference should be received by WIRFC by December 12, 2019 so that the information can be made available to the EFAB workgroup for its consideration prior to the meeting. Written statements should be sent via email to [waterfinancecenter@epa.gov](mailto:waterfinancecenter@epa.gov) (preferred) or in hard copy with original signature to the EFAB mailing address above. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the EFAB website. Copyrighted material will not be posted without explicit permission of the copyright holder.

**Accessibility:** For information on access or services for individuals with disabilities, or to request accommodations for a disability, please contact Tara Johnson at (202) 564-6186 or [johnson.tara@epa.gov](mailto:johnson.tara@epa.gov) at least 10 business days prior to the meeting to allow as much time as possible to process your request.

Dated: November 7, 2019.

**Andrew Sawyers,**

*Director, Office of Wastewater Management,  
Office of Water.*

[FR Doc. 2019-25057 Filed 11-18-19; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2019-0415; FRL-10002-36-OW]

### Water Quality Trading Under the National Pollutant Discharge Elimination System Program; Extension of Comment Period

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

**ACTION:** Notification, request for comment; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) issued a document in the **Federal Register** of September 19, 2019, requesting comments on policy approaches for addressing "baseline" issues in the watersheds with EPA-approved Total Maximum Daily Loads (TMDLs) where policy makers would like to pursue water quality trading as a regulatory option for National Pollutant Discharge Elimination System (NPDES) permit compliance. These policy approaches may also be of interest to stakeholders pursuing market-based water quality improvement programs outside of the NPDES permit program. This document extends the comment period for an additional 30 days, from November 18, 2019 to December 18, 2019 in response to a stakeholder request.

**DATES:** The comment period for the document published on September 19, 2019 (84 FR 49293), is extended. Comments, identified by docket identification (ID) number EPA-HQ-OW-2019-0415, must be received on or before December 18, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OW-2019-0415, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the

official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Amelia Letnes, Office of Wastewater Management, Water Permits Division, Mail Code 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-5627; email address: [letnes.amelia@epa.gov](mailto:letnes.amelia@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 19, 2019, EPA published in the **Federal Register** (84 FR 49293) proposed changes and clarifications to its Water Quality Trading Policy of 2003. These policy changes and clarifications are intended to increase flexibility and efficiency in state water quality trading programs, specifically in the area of establishing baselines for nonpoint sources subject to a Total Maximum Daily Load (TMDL).

The document, as initially published in the **Federal Register**, provided for written comments to be submitted to EPA on or before November 18, 2019 (a 60-day public comment period). Since publication, EPA has received a request for additional time to submit comments. EPA is extending the public comment period for 30 days until December 18, 2019.

Dated: November 14, 2019.

**Andrew D. Sawyers,**

*Director, Office of Wastewater Management,  
Office of Water.*

[FR Doc. 2019-25060 Filed 11-14-19; 4:15 pm]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission)

Communications Security, Reliability, and Interoperability Council (CSRIC) VII will hold its third meeting.

**DATES:** December 10, 2019.

**ADDRESSES:** Federal Communications Commission, Room TW-C305 (Commission Meeting Room), 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:**

Suzon Cameron, Designated Federal Officer, (202) 418-1916 (voice) or [CSRIC@fcc.gov](mailto:CSRIC@fcc.gov) (email); or, Kurian Jacob, Deputy Designated Federal Officer, (202) 418-2040 (voice) or [CSRIC@fcc.gov](mailto:CSRIC@fcc.gov) (email).

**SUPPLEMENTARY INFORMATION:** The meeting will be held on December 10, 2019, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the Federal Communications Commission, Room TW-C305, 445 12th Street SW, Washington, DC 20554.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the FCC to improve the security, reliability, and interoperability of communications systems. On March 15, 2019, the FCC, pursuant to the Federal Advisory Committee Act, renewed the charter for CSRIC VII for a period of two years through March 14, 2021. The meeting on December 10, 2019, will be the third meeting of CSRIC VII under the current charter. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at <http://www.fcc.gov/live>. The public may submit written comments before the meeting to Suzon Cameron, CSRIC Designated Federal Officer, by email [suzon.cameron@fcc.gov](mailto:suzon.cameron@fcc.gov) or U.S. Postal Service Mail to Suzon Cameron, Senior Attorney, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Room 7-B458, Washington, DC 20554.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five

days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Federal Communications Commission.

**Marlene Dortch,**  
*Secretary.*

[FR Doc. 2019-25073 Filed 11-18-19; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1053]

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before December 19, 2019. If you anticipate that you will be submitting comments but find it difficult to do so with the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, OMB, via email [Nicholas\\_A\\_Fraser@OMB.eop.gov](mailto:Nicholas_A_Fraser@OMB.eop.gov); and to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov). Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418-2918. To view a

copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

*OMB Control Number:* 3060-1053.

*Title:* Misuse of internet Protocol Captioned Telephone Service (IP CTS); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13-24 and 03-123.

*Form Number:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 372,010 respondents; 1,218,242 responses.

*Estimated Time per Response:* 0.1 hours (6 minutes) to 40 hours.

*Frequency of Response:* Annual, every five years, monthly, and ongoing reporting requirements; Recordkeeping requirements; Third party disclosure requirements.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for the information collection requirements is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, enacted on July 26, 1990.

*Total Annual Burden:* 653,820 hours.

*Total Annual Cost:* \$86,000.

*Nature and Extent of Confidentiality:* Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC’s updated system of records notice (SORN), FCC/CGB–4, “internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD).” As required by the Privacy Act, 5 U.S.C. 552a, the Commission also published a SORN, FCC/CGB–4 “internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD),” in the **Federal Register** on February 9, 2015 (80 FR 6963) which became effective on March 23, 2015.

*Privacy Impact Assessment:* The FCC completed a Privacy Impact Assessment (PIA) on June 28, 2007. It may be reviewed at <https://www.fcc.gov/general/privacy-act-information#pia>. The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

*Needs and Uses:* On August 1, 2003, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, Declaratory Ruling, 68 FR 55898, September 28, 2003, clarifying that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS) and that eligible providers of such services are eligible to recover their costs from the Interstate TRS Fund (Fund) in accordance with section 225 of the Communications Act.

On July 19, 2005, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, Order, 70 FR 54294, September 14, 2005, clarifying that two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a

type of TRS eligible for compensation from the Fund.

On January 11, 2007, the Commission released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, Declaratory Ruling, 72 FR 6960, February 14, 2007, granting a request for clarification that internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Fund.

On August 26, 2013, the Commission issued Misuse of internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order, 78 FR 53684, August 30, 2013, to regulate practices relating to the marketing of IP CTS, impose certain requirements for the provision of this service, and mandate registration and certification of IP CTS users.

On June 8, 2018, the Commission issued Misuse of internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order and Declaratory Ruling, 83 FR 30082, June 27, 2018 (2018 IP CTS Modernization Order), to facilitate the Commission’s efforts to reduce waste, fraud, and abuse and improve its ability to efficiently manage the IP CTS program through regulating practices related to the marketing of IP CTS, generally prohibiting the provision of IP CTS to consumers who do not genuinely need the service, permitting the provision of IP CTS in emergency shelters, and approving the use of automatic speech recognition to generate captions without the assistance of a communications assistant.

On February 15, 2019, the Commission issued Misuse of internet Protocol Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order, and Order, 84 FR 8457, March 8, 2019 (2019 IP CTS Program Management Order), requiring the submission of IP CTS user registration information to the telecommunications relay service (TRS) User Registration Database (Database) so that the Database administrator can verify IP CTS users to reduce the risk of waste, fraud, and abuse in the IP CTS program.

This notice and request for comments pertains to the programmatic changes in information collection burdens due to the 2018 IP CTS Modernization Order and the 2019 IP CTS Program Management Order, the extension of the currently approved information collection requirements for one-line and two-line CTS and IP CTS rules, and the update to the estimates of existing burdens that were included in the February 2018 PRA submission to OMB.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2019–25074 Filed 11–18–19; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19–329; FRS 16260]

### Meeting of the Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Federal Communications Commission (FCC) announces and provides an agenda for the first meeting of the “Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States” (the Task Force).

**DATES:** December 9, 2019. The meeting will come to order at 9:30 a.m.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Room TW–C305, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jesse Jachman, Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418–2668, or email: [Jesse.Jachman@fcc.gov](mailto:Jesse.Jachman@fcc.gov); Erin Boone, Deputy Designated Federal Officer, Federal Communications Commission, Wireless Telecommunications Bureau, (202) 418–0736, or email: [Erin.Boone@fcc.gov](mailto:Erin.Boone@fcc.gov); or Celia Lewis, Deputy Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418–7456, or email [Celia.Lewis@fcc.gov](mailto:Celia.Lewis@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This meeting is open to members of the general public. The FCC will accommodate as many participants as possible; however, admittance will be limited to seating availability. The FCC will also provide audio and/or video

coverage of the meeting over the internet from the FCC's web page at [www.fcc.gov/live](http://www.fcc.gov/live). Oral statements at the meeting by parties or entities not represented on the Task Force will be permitted to the extent time permits, at the discretion of the Task Force Chair and the Designated Federal Officer. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs). Comments to the Task Force should be filed in GN Docket No. 19–329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice; last minute requests will be accepted but may not be possible to accommodate.

*Proposed Agenda:* The primary agenda of the Task Force's first meeting will be to introduce members of the Task Force, describe the working groups, review the Agricultural Improvement Act of 2018, Public Law 115–334, 132 Stat 4490, and existing FCC and U.S. Department of Agriculture programs and policies relevant to the Task Force's duties, and begin discussing strategies to advance broadband deployment on agricultural land and promote precision agriculture. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2019–25075 Filed 11–18–19; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL ELECTION COMMISSION

[Notice 2019–17]

### Filing Dates for the Wisconsin Special Primary and Special General Elections in the 7th Congressional District

**AGENCY:** Federal Election Commission.

**ACTION:** Notice of filing dates for special elections; withdrawal and correction.

**SUMMARY:** The Commission is withdrawing the notice published in the **Federal Register** on October 31, 2019, concerning filing dates for the Special Primary and Special General Elections to be held in Wisconsin's 7th Congressional District because it was based on outdated information regarding when those special elections will be held. The Commission is now publishing a corrected version of that notice, reflecting updated information regarding when the Special Primary and Special General Elections will be held.

**DATES:** The notice published October 31, 2019 (84 FR 58382), is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** The Commission's notice published in the **Federal Register** of October 31, 2019, in FR Doc. 2019–23764, on pages 58382–58383, is withdrawn because it was based on outdated information regarding when the Special Primary and Special General Elections in Wisconsin's 7th Congressional District will be held. The Commission is now publishing a corrected version of that notice, reflecting updated information regarding when the Special Primary and Special General Elections will be held.

Wisconsin has scheduled a Special Primary Election on February 18, 2020, and a Special General Election on May 12, 2020, to fill the U.S. House of Representatives seat in the 7th Congressional District vacated by Representative Sean Duffy.

Committees required to file reports in connection with the Special Primary Election on February 18, 2020, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on May 12, 2020, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

#### Principal Campaign Committees

All principal campaign committees of candidates who participate in the Wisconsin Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on February 6, 2020; a 12-day Pre-General Report on April 30, 2020; and a 30-day Post-General Report on June 11, 2020. (See charts below for the closing date for each report.)

All principal campaign committees of candidates participating *only* in the Special Primary Election shall file a 12-day Pre-Primary Report on February 6,

2020. (See charts below for the closing date for each report.)

#### Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2020 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Wisconsin Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Since disclosing financial activity from two different calendar years on one report would conflict with the calendar year aggregation requirements stated in the Commission's disclosure rules, unauthorized committees that trigger the filing of the Pre-Primary Report will be required to file this report on two separate forms: One form to cover 2019 activity, labeled as the Year-End Report; and the other form to cover only 2020 activity, labeled as the Pre-Primary Report. Both forms must be filed by February 6, 2020.

Committees filing monthly that make contributions or expenditures in connection with the Wisconsin Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Wisconsin Special Elections may be found on the FEC website at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/>.

#### Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

The lobbyist bundling disclosure threshold for calendar year 2019 is \$18,700. This threshold amount may change in 2020 based upon the annual cost of living adjustment (COLA). As soon as the adjusted threshold amount is available, the Commission will publish it in the **Federal Register** and post it on its website. 11 CFR 104.22(g) and 110.17(e)(2). For more information on these requirements, see **Federal**

Register Notice 2009–03, 74 FR 7285  
(February 17, 2009).

CALENDAR OF REPORTING DATES FOR WISCONSIN SPECIAL ELECTION

Report	Close of books <sup>1</sup>	Reg./cert. & overnight mailing deadline	Filing deadline
<b>Committees Involved in <i>Only</i> the Special Primary (02/18/2020) Must File:</b>			
Year-End .....	Waived		
Pre-Primary .....	01/29/2020	02/03/2020	02/06/2020
April Quarterly .....	03/31/2020	04/15/2020	04/15/2020
<b>Committees Involved in Both the Special Primary (02/18/2020) and Special General (05/12/2020) Must File:</b>			
Year-End .....	Waived		
Pre-Primary .....	01/29/2020	02/03/2020	02/06/2020
April Quarterly .....	03/31/2020	04/15/2020	04/15/2020
Pre-General .....	04/22/2020	04/27/2020	04/30/2020
Post-General .....	06/01/2020	06/11/2020	06/11/2020
July Quarterly .....	06/30/2020	07/15/2020	07/15/2020
<b>Committees Involved in <i>Only</i> the Special General (05/12/2020) Must File:</b>			
Pre-General .....	04/22/2020	04/27/2020	04/30/2020
Post-General .....	06/01/2020	06/11/2020	06/11/2020
July Quarterly .....	06/30/2020	07/15/2020	07/15/2020

Dated: November 13, 2019.  
On behalf of the Commission.

**Ellen L. Weintraub,**  
*Chair, Federal Election Commission.*  
[FR Doc. 2019–24999 Filed 11–18–19; 8:45 am]  
**BILLING CODE 6715–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

[Document Identifier CMS–R–142]

**Agency Information Collection Activities: Proposed Collection; Comment Request**

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

**ACTION:** Notice.

**SUMMARY:** The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing

collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**DATES:** Comments must be received by January 21, 2020.

**ADDRESSES:** When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following

address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number \_\_\_\_\_, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS’ website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov).

3. Call the Reports Clearance Office at (410) 786–1326.

**FOR FURTHER INFORMATION CONTACT:** William N. Parham at (410) 786–4669.

**SUPPLEMENTARY INFORMATION:**

**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement

<sup>1</sup> The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a

report, the first report must cover all activity that occurred before the committee registered as a

political committee up through the close of books for the first report due.

and associated materials (see **ADDRESSES**).

**CMS-R-142 Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA)**

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

*Information Collection*

1. *Type of Information Collection Request*: Extension of a currently approved collection; *Title of Information Collection*: Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA); *Use*: Pursuant to section 1866(a)(1)(I) of the Act, Congress has mandated that the Secretary enforce section 1867 of the Act. Under section 1867, effective August 1, 1986, hospitals may continue to participate in the Medicare program only if they are not out of compliance with its provisions. Continued Paper Work Reduction Act (PRA) approval of the regulation sections cited below will promote uniform and thorough application of the section 1866 and 1867 requirements. They will also provide information when requested by Congress and other interested parties regarding the implementation of the statute. During 2004 through 2018, approximately 8,146 complaints were received, approximately 7,770 of those complaints were investigated, and approximately 3,567 EMTALA deficiencies were found. During Federal fiscal years 2001 through 2005 the Inspector General’s Office imposed civil monetary penalties on hospitals in 105 cases, for a total of \$2,645,750 in penalties. An audit completed by the Office of Inspector General (OIG) (entitled, Office of Inspector General: Implementation and Enforcement of the Examination and Treatment for

Emergency Medical Conditions and Women in Labor by the Health Care Financing Administration, April 1995, A-06-93-00087) determined that CMS’s implementation of the Act was generally effective, but Regional Offices (RO) were not consistent with conducting timely investigations, sending acknowledgments to complaints, ensuring that investigations were thorough, or ensuring that violations were referred to the OIG in accordance with CMS policy for possible civil monetary penalty action. OIG further concluded that without proper compliance, there is an increased risk that individuals with emergency medical conditions will not receive the treatment needed to stabilize their condition, which may place them in greater risk of death. *Form Number*: CMS-R-142 (OMB control number: 0938-0667); *Frequency*: Occasionally; *Affected Public*: Private Sector; Business or other for-profits, Not-for-profit institutions; *Number of Respondents*: 5,291; *Total Annual Responses*: 5,291; *Total Annual Hours*: 5,291. (For policy questions regarding this collection contact Renate Dombrowski at (410) 786-4645.)

Dated: November 14, 2019.

**William N. Parham, III**,  
*Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.*

[FR Doc. 2019-25065 Filed 11-18-19; 8:45 am]

**BILLING CODE 4120-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Evaluation of the National Human Trafficking Hotline Program (New Collection)**

**AGENCY**: Office of Planning, Research, and Evaluation; Administration for Children and Families; HHS.

**ACTION**: Request for public comment.

**SUMMARY**: The Office of Planning, Research, and Evaluation (OPRE) is proposing a data collection activity as part of the Evaluation of the National Human Trafficking Hotline (NHTH) Program. This data collection activity will examine the experiences of individuals who seek assistance from the NHTH after their interactions with the NHTH. The study will collect information via voluntary phone and Web-based surveys at two time points: (1) Immediately after an individual has

contacted the NHTH by phone, text, or live online chat; and (2) two weeks later. **DATES**: *Comments due within 30 days of publication*. OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES**: Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: [OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV), Attn: Desk Officer for the Administration for Children and Families.

Copies of the proposed collection may be obtained by emailing [OPREinfocollection@acf.hhs.gov](mailto:OPREinfocollection@acf.hhs.gov). Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description*: The purpose of the proposed data collection activity is to document and examine the following: Why individuals contact the NHTH; hotline users’ perceptions of hotline staff’s knowledge and skills; the extent to which users felt their interaction was helpful, they were supported by the NHTH, they were satisfied with the NHTH, and their needs were met by the interaction; and outcomes from NHTH interactions (*e.g.*, users’ knowledge and use of available resources and referrals). The proposed data collection activity includes a two-phase approach to obtain information from individuals after their contact (via phone, text, or live online chat) with the NHTH. The proposed information collection activities are (1) an integrated voice response telephone survey or Web-based survey immediately after NHTH contact; and (2) a telephone or Web-based survey approximately two weeks after completion of the first survey. The survey immediately after contact with the NHTH will be offered to all individuals who contact the NHTH during the data collection period and includes questions focused on users’ experiences and satisfaction with their NHTH interaction. The follow-up survey will be administered two weeks later with a sample of respondents who completed the immediate survey and

consented to be contacted two weeks later. This second survey includes questions focused on the extent to

which NHTH users were satisfied with their NHTH contact and felt that the NHTH contact was helpful.

*Respondents:* Individuals who contact the NHTH by telephone, text, or live online chat.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Immediate Follow-Up Survey .....	2,000	1	.12	240
2-Week Follow-Up Survey .....	310	1	.15	47

*Estimated Total Annual Burden Hours:* 247.

**Authority:** Section 105(d)(2) of the Trafficking Victims Protection Act of 2000 (TVPA) (Pub. L. 106–386) § 105 [22 U.S.C. 7103].

**Mary B. Jones,**  
ACF/OPRE Certifying Officer.  
[FR Doc. 2019–25059 Filed 11–18–19; 8:45 am]  
BILLING CODE 4184–47–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Proposed Information Collection Activity; National Human Trafficking Training and Technical Assistance Center (NHTTAC) Evaluation Package (OMB #0970–0519)**

**AGENCY:** Office on Trafficking in Persons, Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Request for public comment.

**SUMMARY:** The Office on Trafficking in Persons (OTIP), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting to continue data collection with an increased number of respondents to the previously approved information collection, National Human Trafficking Training and Technical Assistance Center (NHTTAC) Evaluation Package (OMB #0970–0519, expiration 10/31/2021). This request was originally approved under expedited review and increased the estimated burden hours from 689 hours to 9,497 hours. In addition, the previously approved Stop, Observe, Ask, and Respond to human trafficking (SOAR) Online Participant

Feedback Form was restructured into a long and short form to reduce burden for information collected on SOAR Online training participants outside of the NHTTAC learning management system. There are no changes requested to the items on any forms.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov*. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**  
*Description:* These changes are requested due to the passage of the Stop, Observe, Ask, and Respond to Health and Wellness Act of 2018 (SOAR to Health and Wellness Act of 2018) (Pub. L. 115–398), which expands the SOAR to Health and Wellness Training Program. To meet the provisions of the SOAR to Health and Wellness Act of 2018, OTIP’s NHTTAC had to expand the administration of SOAR nationwide.

The NHTTAC delivers training and technical assistance (T/TA) to inform and deliver a public health response to trafficking. In applying a public health approach, NHTTAC holistically builds the capacity of communities to identify and respond to the complex needs of all individuals who have been trafficked,

and addresses the root causes that put individuals, families, and communities at risk of trafficking. This will ultimately help improve the availability and delivery of coordinated and trauma-informed services before, during, and after an individual’s trafficking exploitation, regardless of their age, gender, nationality, sexual orientation, or type of exploitation.

NHTTAC hosts a variety of services, programs, and facilitated sessions to improve service provision to individuals who have been trafficked, or who are at risk of trafficking, including the Human Trafficking Leadership Academy (HTLA); the Survivor Fellowship Program; the NHTTAC Call Center; both short-term and specialized T/TA requests (requests that take less than 3 hours or 3 or more hours to fulfill, respectively); OTIP-funded grantees; and information through NHTTAC’s website, resources, and materials about trafficking.

*Respondents:* Individuals and organizations such as NHTTAC consultants, T/TA participants, HTLA program participants, Survivor fellows, OTIP grantees, visitors to the NHTTAC website, NHTTAC-supported conference and meeting attendees, members of the National Advisory Council, and scholarship applicants.

**Annual Burden Estimates**

The following instruments have an increased number of respondents. The number of respondents for all other previously approved instruments remains the same. The increase in respondents increased the overall burden under OMB #0970–0519 from 689 hours to 9,497 hours. See *https://www.reginfo.gov/public/do/PRAViewICR?ref\_nbr=201910-0970-012* for all instruments and related burden under OMB #0970–0519.

Instrument	Original estimate— number of respondents	Updated estimate— number of respondents	Number of responses per respondent	Average burden hours per response	Updated annual burden hours
HTLA Fellowship Pre-Program Feedback .....	24	36	1	0.25	9

Instrument	Original estimate— number of respondents	Updated estimate— number of respondents	Number of responses per respondent	Average burden hours per response	Updated annual burden hours
HTLA Fellowship Post-Program Feedback .....	24	36	1	0.25	9
OTIP Grantee Feedback Form .....	50	100	1	0.167	17
Short-Term T/TA Feedback Form .....	30	50	1	0.167	8
Specialized T/TA Feedback Form .....	50	100	1	0.25	25
Focus Group Demographic Survey .....	25	50	1	0.033	2
Focus Group Guide .....	25	50	1	0.75	38
Follow-up Feedback Form .....	300	500	1	0.133	67
Interview Guide .....	25	65	1	0.75	49
Pilot Feedback Form .....	25	50	1	0.15	8
SOAR Blended Learning Participant Form .....	30	130	1	0.15	20
SOAR Online Participant Feedback Long Form .....	1,500	5,300	1	0.1	530
SOAR Online Participant Feedback Short Form .....		1,000,000	1	0.0083	8,300
SOAR Organizational Feedback Form .....	20	40	1	0.133	5

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 22 U.S.C. 7104 and 22 U.S.C. 7105(c)(4)).

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2019-24957 Filed 11-18-19; 8:45 am]

**BILLING CODE 4184-47-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: Respiratory Science.

*Date:* December 9, 2019.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Richard D. Schneiderman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, Bethesda, MD 20817, 301-402-3995, [richard.schneiderman@nih.gov](mailto:richard.schneiderman@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR-17-339: Science Education Partnership Awards (SEPA).

*Date:* December 9, 2019.

*Time:* 12:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301-435-2406, [ariasj@csr.nih.gov](mailto:ariasj@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fogarty HIV Research Training Programs in Low and Middle Income Country Institutions.

*Date:* December 10, 2019.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

*Contact Person:* Shalanda A. Bynum, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301-755-4355, [bynumsa@csr.nih.gov](mailto:bynumsa@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member

Conflict: Topics in Bacterial Pathogenesis and Host Interactions.

*Date:* December 10, 2019.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301-435-1146, [jig@csr.nih.gov](mailto:jig@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Drug Discovery, Clinical and Field Research.

*Date:* December 10, 2019.

*Time:* 11:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301-496-6980, [izumikm@csr.nih.gov](mailto:izumikm@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR Panel: Applications in Behavioral/Social Sciences Methodology and Biomedical/Health Informatics.

*Date:* December 10, 2019.

*Time:* 11:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455-1761, [kellya2@csr.nih.gov](mailto:kellya2@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Hematology and Vascular Pathobiology.

*Date:* December 11-12, 2019.

*Time:* 10:00 a.m. to 6:00 p.m.  
*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301-408-9497, [zouai@csr.nih.gov](mailto:zouai@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: November 12, 2019.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-24997 Filed 11-18-19; 8:45 am]

BILLING CODE 4140-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Proposed Collection; 60-Day Comment Request; Information Program on Clinical Trials: Maintaining a Registry and Results Databank (National Library of Medicine)**

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Library of Medicine (NLM), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received with 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: David Sharlip, Office of Administrative and Management Analysis Services, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 827-6361, or Email your request, including your address to: [sharlipd@mail.nih.gov](mailto:sharlipd@mail.nih.gov). Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* Information Program on Clinical Trials: Maintaining a Registry and Results Databank, 0925-

0586, Expiration Date: 02/29/2020, EXTENSION, National Library of Medicine (NLM), National Institutes of Health (NIH).

*Need and Use of Information*

*Collection:* The National Institutes of Health operates *ClinicalTrials.gov*, which was established as a clinical trial registry under section 113 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105-115) and was expanded to include a results data bank by Title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA) and by the Clinical Trials Registration and Results Information Submission regulations at 42 CFR part 11. *ClinicalTrials.gov* collects registration and results information for clinical trials and other types of clinical studies (e.g., observational studies and patient registries) with the objectives of enhancing patient enrollment and providing a mechanism for tracking subsequent progress of clinical studies to the benefit of public health. It is widely used by patients, physicians, and medical researchers; in particular those involved in clinical research. While many clinical studies are registered and submit results information voluntarily, 42 CFR part 11 requires the registration of certain applicable clinical trials of drug, biological, and device products and the submission of results information for completed applicable clinical trials of drug, biological, and device products whether or not they are approved, licensed, or cleared by the Food and Drug Administration.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,072,306.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Submission type	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
<b>Registration—attachment 2:</b>				
Initial .....	7,400	1	8	59,200
Updates .....	7,400	8	2	118,400
Triggered, voluntary .....	88	1	8	704
Initial, non-regulated, NIH Policy .....	657	1	8	5,256
Updates, non-regulated, NIH Policy .....	657	8	2	10,512
Initial, voluntary and non-regulated .....	11,244	1	8	89,952
Updates, voluntary and non-regulated .....	11,244	8	2	179,904
<b>Results Information Submission—attachment 5:</b>				
Initial .....	7,400	1	40	296,000
Updates .....	7,400	2	10	148,000
Triggered, voluntary—also attachment 2 .....	30	1	45	1,350
Initial, non-regulated, NIH Policy .....	657	1	40	26,280
Updates, non-regulated, NIH Policy .....	657	2	10	13,140

## ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Submission type	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Initial, voluntary and non-regulated .....	2,000	1	40	80,000
Updates, voluntary and non-regulated .....	2,000	2	10	40,000
Other:				
Certification to delay results—attachment 6 .....	5,150	1	30/60	2,575
Extension request—attachment 7 .....	250	1	2	500
Initial, expanded access—attachment 3 .....	213	1	2	426
Updates, expanded access—attachment 3 .....	213	2	15/60	107
Total .....		210,037		1,072,306

Dated: November 4, 2019.

**David H. Sharlip,**

*Project Clearance Liaison, National Library of Medicine, National Institutes of Health.*

[FR Doc. 2019-24996 Filed 11-18-19; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Cancer Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate requests for preclinical development resources for potential new therapeutics for the treatment of cancer. The outcome of the evaluation will provide information to internal NCI committees that will decide whether NCI should support requests and make available contract resources for development of the potential therapeutic to improve the treatment of various forms of cancer. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel; DEC2019 Cycle 33 NExT SEP Committee Meeting.

*Date:* December 11, 2019.

*Time:* 9:00 a.m. to 3:00 p.m.

*Agenda:* To evaluate the NCI Experimental Therapeutics Program Portfolio.

*Place:* National Institutes of Health, 9000 Rockville Pike, Building 35A, Room 35, Bethesda, MD 20892.

*Contact Persons:* Barbara Mroczkowski, Ph.D., Executive Secretary, Discovery Experimental Therapeutics Program, National Cancer Institute, NIH, 31 Center Drive, Room 3A44, Bethesda, MD 20817, (301) 496-4291, [mroczkoskib@mail.nih.gov](mailto:mroczkoskib@mail.nih.gov).

Toby Hecht, Ph.D., Executive Secretary, Development Experimental Therapeutics Program, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 3W110, Rockville, MD 20850, (240) 276-5683, [toby.hecht2@nih.gov](mailto:toby.hecht2@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 13, 2019.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2019-24998 Filed 11-18-19; 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; Member Conflict: Neurodegeneration and Neuropathology.

*Date:* December 12, 2019.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Peter B. Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435-1239, [guthriep@csr.nih.gov](mailto:guthriep@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuropharmacology.

*Date:* December 12, 2019.

*Time:* 2:30 p.m. to 5:00 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:* Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301-694-7084, [crosland@nih.gov](mailto:crosland@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neuroimmunology, Neuroinflammation and Brain Tumor.

*Date:* December 17, 2019.

*Time:* 11:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301.435.1265, [gordiyenkon@csr.nih.gov](mailto:gordiyenkon@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR-18-669: Specific Pathogen Free Macaque Colonies.

Date: December 17, 2019.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301-451-8754, [tuo@nei.nih.gov](mailto:tuo@nei.nih.gov).

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Adult Psychopathology and Mechanisms of Emotion and Stress.

Date: December 18, 2019.

Time: 1:30 p.m. to 5:00 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: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402-4411, [tianbi@csr.nih.gov](mailto:tianbi@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: November 13, 2019.

**Ronald J. Livingston, Jr.,**

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-24990 Filed 11-18-19; 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 Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council. The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Child Health and Human Development Council.

Date: January 23, 2020.

Open: 8:00 a.m. to 1:00 p.m.

Agenda: The agenda will include opening remarks, administrative matters, Director's Report, Division of Extramural Research Report and, other business of the Council.

Place: NICHD Offices, 6710B Rockledge Drive, Bethesda, MD 20892.

Closed: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NICHD Offices, 6710B Rockledge Drive, Bethesda, MD 20892.

Contact Person: Robert Borie, Committee Management Specialist, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, 2221A, Bethesda, MD 20892, 301.827.6244, [robert.borie@nih.gov](mailto:robert.borie@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.

In the interest of security, NIH has instituted stringent procedures for entrance into the NIH building.

Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. To facilitate public attendance at the open session of Council in the main meeting room, Conference Room 1425, please contact Ms. Lisa Kaeser, Office of Legislation and Public Policy, NICHD, at 301-496-0536 to make your reservation, additional seating will be available in the meeting overflow rooms, Conference Rooms 1417 and 1411. Individuals will also be able to view the meeting via NIH Videocast. Select the following link for Videocast access instructions: <http://www.nichd.nih.gov/about/advisory/nachhd/Pages/virtual-meeting.aspx>.

Information is also available on the Institute's/Center's home page: <https://www.nichd.nih.gov/about/advisory/council>, where an agenda and any additional information for the meeting will be posted when available.

(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: November 13, 2019.

**Ronald J. Livingston, Jr.,**

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-24991 Filed 11-18-19; 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; Member Conflict: AIDS and AIDS-Related Research.

Date: December 2, 2019.

Time: 10:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301-435-1775, [rubertm@csr.nih.gov](mailto:rubertm@csr.nih.gov).

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR Small Business: Computational, Modeling, and Biodata Management.

Date: December 10, 2019.

Time: 9:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301-379-9351, [allen.richon@nih.hhs.gov](mailto:allen.richon@nih.hhs.gov).

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: December 12, 2019.

Time: 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301-827-7480, [dimitrios.vatakis@nih.gov](mailto:dimitrios.vatakis@nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR18-822: Approaches for Understanding Disease Mechanisms and Improving Outcomes in TB Meningitis (TBM).

*Date:* December 12, 2019.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Guangyong Ji, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301-435-1146, [jig@csr.nih.gov](mailto:jig@csr.nih.gov).

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Neurodegenerative Disorders.

*Date:* December 12, 2019.

*Time:* 10:00 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:* Seetha Bhagavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 237-9838, [bhagavas@csr.nih.gov](mailto:bhagavas@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: November 13, 2019.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2019-24992 Filed 11-18-19; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

#### Notice of Meeting for the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC)

**AGENCY:** Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** The Secretary of Health and Human Services (Secretary) announces a meeting of the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC).

The ISMICC is open to the public and members of the public can attend the meeting via telephone or webcast only, and not in person. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: <https://www.samhsa.gov/about-us/advisory-councils/meetings>. The meeting will include information on federal efforts related to serious mental illness (SMI) and serious emotional disturbance (SED); including updates on the following focus areas: Data, Access and Engagement, Treatment and Recovery, Justice, and Finance; and discussion on Pediatric Behavioral Health Federal Work.

**DATES:** December 10, 2019/ 9:30 a.m.—TBD (ET)/Open.

**ADDRESSES:** The meeting will be held at SAMHSA Headquarters, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting can be accessed via webcast at: <https://protect2.fireeye.com/url?k=aeabc9d1-f2afd0ad-aeafb8ee-0cc47adc5fa2-6257302e89aeda08&u=https://www.mymeetings.com/nc/join.php?i=PWXW9685761&p=2871942&t=c> or by joining the teleconference at the toll-free, dial-in number at 888-390-3417; passcode 2871942.

**FOR FURTHER INFORMATION CONTACT:** Pamela Foote, ISMICC Designated Federal Officer, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, 14E53C, Rockville, MD 20857; telephone: 240-276-1279; email: [pamela.foote@samhsa.hhs.gov](mailto:pamela.foote@samhsa.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Authority

The ISMICC was established on March 15, 2017, in accordance with section 6031 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to report to the Secretary, Congress, and any other relevant federal department or agency on advances in serious mental illness (SMI) and serious emotional disturbance (SED), research related to the prevention of, diagnosis of, intervention in, and treatment and recovery of SMIs, SEDs, and advances in access to services and support for adults with SMI or children with SED. In addition, the ISMICC will evaluate the effect federal programs related to serious mental illness have on public health, including public health outcomes such

as (A) rates of suicide, suicide attempts, incidence and prevalence of SMIs, SEDs, and substance use disorders, overdose, overdose deaths, emergency hospitalizations, emergency room boarding, preventable emergency room visits, interaction with the criminal justice system, homelessness, and unemployment; (B) increased rates of employment and enrollment in educational and vocational programs; (C) quality of mental and substance use disorders treatment services; or (D) any other criteria as may be determined by the Secretary. Finally, the ISMICC will make specific recommendations for actions that agencies can take to better coordinate the administration of mental health services for adults with SMI or children with SED. Not later than one (1) year after the date of enactment of the 21st Century Cures Act, and five (5) years after such date of enactment, the ISMICC shall submit a report to Congress and any other relevant federal department or agency.

##### II. Membership

This ISMICC consists of federal members listed below or their designees, and non-federal public members.

*Federal Membership:* Members include, The Secretary of Health and Human Services; The Assistant Secretary for Mental Health and Substance Use; The Attorney General; The Secretary of the Department of Veterans Affairs; The Secretary of the Department of Defense; The Secretary of the Department of Housing and Urban Development; The Secretary of the Department of Education; The Secretary of the Department of Labor; The Administrator of the Centers for Medicare and Medicaid Services; and The Commissioner of the Social Security Administration.

*Non-Federal Membership:* Members include, 14 non-federal public members appointed by the Secretary, representing psychologists, psychiatrists, social workers, peer support specialists, and other providers, patients, family of patients, law enforcement, the judiciary, and leading research, advocacy, or service organizations.

The ISMICC is required to meet at least twice per year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Pamela Foote. Individuals can also register on-line at: <https://snacregister.samhsa.gov/MeetingList.aspx>.

The public comment section is scheduled for 11:30 a.m. Eastern Time (ET), and individuals interested in

submitting a comment, must notify Pamela Foote on or before November 26, 2019 via email to: [Pamela.Foote@samhsa.hhs.gov](mailto:Pamela.Foote@samhsa.hhs.gov).

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: <https://www.samhsa.gov/about-us/advisory-councils/meetings>.

Dated: November 13, 2019.

**Carlos Castillo,**

*Committee Management Officer.*

[FR Doc. 2019-24984 Filed 11-18-19; 8:45 am]

BILLING CODE 4162-20-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[1651-0012]

#### Agency Information Collection Activities: Lien Notice

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security.

**ACTION:** 60-Day notice and request for comments; extension of an existing collection of information.

**SUMMARY:** The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

**DATES:** Comments are encouraged and must be submitted (no later than January 21, 2020) to be assured of consideration.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-0012 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: [CBP\\_PRA@cbp.dhs.gov](mailto:CBP_PRA@cbp.dhs.gov).

(2) *Mail.* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and

Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229-1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, telephone number 202-325-0056 or via email [CBP\\_PRA@cbp.dhs.gov](mailto:CBP_PRA@cbp.dhs.gov). Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

#### Overview of This Information Collection

*Title:* Lien Notice.

*OMB Number:* 1651-0012.

*Form Number:* CBP Form 3485.

*Abstract:* Section 564, Tariff Act of 19, as amended (19 U.S.C. 1564) provides that the claimant of a lien for freight, charges, or contribution in general average can notify CBP in writing of the

existence of a lien, and CBP shall not permit delivery of the merchandise from a public store or a bonded warehouse until the lien is satisfied or discharged. The claimant shall file the notification of a lien on CBP Form 3485, Lien Notice. This form is usually prepared and submitted to CBP by carriers, cartmen and similar persons or firms. The data collected on this form is used by CBP to ensure that liens have been satisfied or discharged before delivery of the freight from public stores or bonded warehouses, and to ensure that proceeds from public auction sales are distributed to the lienholder. CBP Form 3485 is provided for by 19 CFR 141.112, and is accessible at <https://www.cbp.gov/newsroom/publications/forms?title=3485&=Apply>.

*Current Actions:* This submission is being made to extend the expiration date with no change to the burden hours. There are no changes to the information collected or to Form 3485.

*Type of Review:* Extension (without change).

*Affected Public:* Businesses.

*Estimated Number of Respondents:* 112,000.

*Estimated Number of Annual Responses per Respondent:* 1.

*Estimated Number of Total Annual Responses:* 112,000.

*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 28,000.

Dated: November 13, 2019.

**Seth D. Renkema,**

*Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.*

[FR Doc. 2019-24958 Filed 11-18-19; 8:45 am]

BILLING CODE 9111-14-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R3-ES-2019-N156;  
FXES11130300000-190-FF03E00000]

#### Endangered and Threatened Species; Receipt of Recovery Permit Application

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit application; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, received an application for a permit to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the

public and local, State, Tribal, and Federal agencies to comment on this application. Before issuing the requested permit, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive your written comments on or before December 19, 2019.

**ADDRESSES: Document availability and comment submission:** Submit requests for copies of the application and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name and application number (TE38085B):

- *Email: [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov).*

Please refer to the respective application number TE38085B in the subject line of your email message.

- *U.S. Mail:* Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458.

**FOR FURTHER INFORMATION CONTACT:** Carlita Payne, 612-713-5343 (phone); [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov) (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR)

provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

**Permit Application Available for Review and Comment**

We invite local, State, and Federal agencies, Tribes, and the public to comment on the following application.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE38085B ....	Mountain State Bio-surveys, LLC, Glenwood, WV.	Add Ozark big-eared bat ( <i>Corynorhinus townsendii ingens</i> ) and Virginia big-eared bat ( <i>C.t. virginianus</i> ) to existing permitted species: Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>M. sodalis</i> ), northern long-eared bat ( <i>M. septentrionalis</i> ).	Add new locations—CT, DE, KS, ME, MD, MA, MT, NE, NH, NJ, NY, ND, OK, PA, RI, SD, VT, VA, WV, WY—to existing authorized locations: AL, AR, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, OH, SC, TN, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, release.	Amend.

**Public Availability of Comments**

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

**Next Steps**

If we decide to issue a permit to the applicant listed in this notice, we will publish a notice in the **Federal Register**.

**Authority**

We publish this notice under section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 *et seq.*).

**Lori Nordstrom,**

*Assistant Regional Director, Ecological Services, Region 3.*

[FR Doc. 2019-24939 Filed 11-18-19; 8:45 am]

**BILLING CODE 4333-15-P**

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

[NPS-WASO-NRSS-SSB-NPS0028077; PPWONRANDE2, PMP00E105.YP0000 (200); OMB Control Number 1024-0224]

**Agency Information Collection Activities; Programmatic Clearance for NPS-Sponsored Public Surveys**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Information Collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS), are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before December 19, 2019.

**ADDRESSES:** Send written comments on this information collection request (ICR) to the Office of Management and Budget's (OMB) Desk Officer for the Department of the Interior by email at [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or by facsimile at 202-395-5806. Please provide a copy of your comments to Phadrea Ponds, Acting Information Collection Clearance Officer, National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at [phadrea\\_ponds@nps.gov](mailto:phadrea_ponds@nps.gov). Please reference OMB Control Number 1024-0224 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Bret Meldrum, Chief, Social Science Program National Park Service, 1201 Oakridge Drive, Fort Collins, CO 80525; or by email at [bret\\_meldrum@nps.gov](mailto:bret_meldrum@nps.gov). Please reference OMB Control Number 1024-0224 in the subject line of your comments. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal

agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On May 28, 2019, we published a **Federal Register** notice soliciting comments on this collection of information for 60 days, ending on July 29, 2019 (84 FR 24536). We did not receive any comments regarding this information collection.

We are again soliciting comments on the proposed ICR described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the NPS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the NPS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the NPS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your

comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The NPS is authorized by the National Park Service Protection, Interpretation, and Research in System (54 U.S.C. 100701) statutes to collect information used to enhance the management and planning of parks and their resources. Since 1998, the NPS Social Science program has relied heavily on this generic approval to navigate the PRA process in an expedited manner. This process significantly streamlines the information collection requests to OMB in a manner that allows the NPS to submit at least 25 requests per year, which is 4 times as many requests that can be processed annually using the regular submission route. The Programmatic Clearance applies to all NPS social science collections (e.g., questionnaires, focus groups, interviews, etc.) designed to furnish usable information to NPS managers and planners concerning visitor experiences, perceptions of services, programs, and planning efforts in areas managed by the NPS. To qualify for the NPS generic programmatic review process each information request must show clear ties to NPS management and

planning needs in areas managed by the NPS or involve research that will directly benefit the NPS. The scope of the programmatic review process is limited to issues that are non-controversial or unlikely to attract significant public interest.

All collections must be reviewed by the NPS and approved by OMB before a collection is administered. At least 80% of the questions in an individual collection must be taken from the OMB approved Pool of Known Questions (PKQ). We acknowledge that the PKQ is not a comprehensive collection of all possible survey questions; therefore, we allow leeway for requestors to add park or research specific questions not in the PKQ. However, all questions must fit within the scope of the approved Topic Areas. The Social Science Program will continue to conduct necessary quality control and will submit each information collection request to OMB for expedited review before the collection is administered.

*Title of Collection:* Programmatic Clearance for NPS-Sponsored Public Surveys.

*OMB Control Number:* 1024-0224.

*Form Number:* Form 10-201.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Individuals/Households.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

Activity/requirement	Annual number of responses	Estimated completion time per response (minutes)	Total annual burden hours
On-site Surveys .....	30,000	15	7,500
Mail-back surveys .....	2,000	20	667
All non-response surveys .....	5,000	3	250
Telephone Surveys .....	250	30	125
Focus Groups/In person interviews .....	2,000	60	2,000
On-line surveys .....	5,000	15	1,250
<b>Total .....</b>	<b>44,250</b>	<b>.....</b>	<b>11,792</b>

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Phadrea Ponds,**

*Acting NPS Information Collection Clearance Officer, National Park Service.*

[FR Doc. 2019-25029 Filed 11-18-19; 8:45 am]

**BILLING CODE 4312-52-P**

**INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-1132]**

**Certain Motorized Vehicles and Components Thereof; Notice of Request for Statements on the Public Interest**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the presiding administrative law judge (“ALJ”) has issued an Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bond in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation of section 337. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

**FOR FURTHER INFORMATION CONTACT:**

Clint A. Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or 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 <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (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:** Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competition conditions in the United States economy, the production of like or directly competitive articles in the United States consumers, it finds that such articles should not be excluded from entry. 19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting comments on public interest issues raised by the recommended relief. The ALJ recommended, should the Commission find a violation, that the Commission issue a limited exclusion order directed against certain motorized vehicles and components thereof imported, sold for importation, and/or sold after importation by respondents Mahindra & Mahindra Ltd. of Mumbai, India or Mahindra Automotive North

America, Inc. of Auburn Hills, Michigan (collectively, “Mahindra”), and cease and desist orders directed against Mahindra.

The Commission is interested in further development of the record on the public interest in its investigations. Accordingly, parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge’s Recommended Determination on Remedy and Bond issued in this investigation on November 8, 2019. Comments should address whether issuance of remedial orders 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 recommended orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the recommended orders;
- (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 recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed by the close of business on December 6, 2019.

Persons filing written submissions must file the original document electronically on or before the deadline stated above and submit eight true paper copies to the Office of the Secretary pursuant to Commission Rule 210.4(f), CFR part 210.4(f). Submissions should refer to the investigation number (“Inv. No. 337–TA–1132”) in a prominent place on the cover page and/or the first page. ((See Handbook on Filing Procedures, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions

regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR part 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and part 210 of the Commission’s Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: November 13, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–24932 Filed 11–18–19; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### Annual Determination of Average Cost of Incarceration Fee (COIF)

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Notice.

**SUMMARY:** This Notice publishes the Fiscal Year (FY) 2018 Cost of Incarceration Fee (COIF) for Federal inmates. (Note: There were 365 days in FY 2018.)

**DATES:** November 19, 2019.

**ADDRESSES:** Office of General Counsel, Federal Bureau of Prisons, 320 First St. NW, Washington, DC 20534.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, (202) 353–8248.

**SUPPLEMENTARY INFORMATION:** Title 28 of the Code of Federal Regulations, part 505, allows for assessment of a fee to cover the average cost of incarceration for Federal inmates. We calculate the cost of incarceration fee (COIF) by dividing the number representing the Bureau of Prisons (Bureau) facilities’ monetary obligation (excluding activation costs) by the number of inmate-days incurred for the fiscal year, and then by multiplying the quotient by the number of days in the fiscal year. Based on FY 2018 data, FY 2018 COIF was \$37,449.00 (\$102.60 per day) for

Federal inmates in Bureau facilities and \$34,492.50 (\$94.50 per day) for Federal inmates in Community Corrections Centers.

**Ken Hyle,**

*Assistant Director/General Counsel, Federal Bureau of Prisons.*

[FR Doc. 2019-24942 Filed 11-18-19; 8:45 am]

**BILLING CODE 4410-05-P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

#### Meeting of National Council on the Humanities

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

**DATES:** The meeting will be held on Thursday, December 5, 2019, from 10:00 a.m. until 12:00 p.m., and Friday, December 6, 2019, from 9:00 a.m. until adjourned.

**ADDRESSES:** The meeting will be held at Constitution Center, 400 7th Street SW, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, 4th Floor, Washington, DC 20506; (202) 606-8322; [evoyatzis@neh.gov](mailto:evoyatzis@neh.gov).

**SUPPLEMENTARY INFORMATION:** The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951-960, as amended). The Committee meetings of the National Council on the Humanities will be held on December 5, 2019, as follows: The policy discussion session (open to the public) will convene at 10:00 a.m. until approximately 10:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public)

from 10:30 a.m. until 12:00 p.m. The following Committees will meet in the NEH offices:

- Digital Humanities;
- Education Programs;
- Federal/State Partnership;
- Preservation and Access/Challenge Grants;
- Public Programs; and
- Research Programs.

The plenary session of the National Council on the Humanities will convene on December 6, 2019, at 9:00 a.m. in the Conference Center at Constitution Center. The agenda for the morning session (open to the public) will be as follows:

- A. Minutes of Previous Meeting
- B. Reports
  1. Chairman's Remarks
  2. Senior Deputy Chairman's Remarks
  3. Farewell Remarks from Former Council Members
  4. Presentation by guest speaker Wilfred M. McClay, Blankenship Chair in the History of Liberty, and Director, Center for the History of Liberty, at the University of Oklahoma
  5. Reports on Policy and General Matters
    - a. Digital Humanities
    - b. Education Programs
    - c. Federal/State Partnership
    - d. Preservation and Access
    - e. Challenge Grants
    - f. Public Programs
    - g. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6), and 552b(c)(9)(B) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Caitlin Cater at (202) 606-8322 or [\[neh.gov\]\(mailto:neh.gov\). Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.](mailto:gencounsel@</a></p>
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Dated: November 14, 2019.

**Elizabeth Voyatzis,**

*Committee Management Officer, National Endowment for the Humanities.*

[FR Doc. 2019-25013 Filed 11-18-19; 8:45 am]

**BILLING CODE 7536-01-P**

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for International Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

**NAME AND COMMITTEE CODE:** Advisory Committee for International Science and Engineering Meeting (AC-ISE) (#25104).

**DATE AND TIME:** Friday, December 13, 2019; 9:00 a.m. to 5:30 p.m. (EST).

**PLACE:** National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

This is a *virtual* meeting. The AC-ISE members will be attending remotely. Public visitors are welcome to attend either remotely or in person at the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314. The final meeting agenda is forthcoming and will be posted at the AC-ISE website: <https://www.nsf.gov/od/aise/advisory.jsp> or the AC-ISE meeting announcement/WebEx login information.

**TYPE OF MEETING:** Open.

**CONTACT PERSON:** Victoria Fung, National Science Foundation, 2415 Eisenhower Avenue, Room W17220, Alexandria, Virginia, 22314; Telephone: 703/292-7560.

**PURPOSE OF MEETING:** To provide advice, recommendations and counsel on major goals and policies pertaining to international programs and activities.

#### Agenda

*Friday, December 13, 2019 9:00 a.m. – 5:30 p.m.*

- Updates on OISE activities/AccelNet Status
- Briefing on MULTIPLIER Trip to United Kingdom/MULTIPLIER Moving Forward
- Discussion on Science and Security
- Updates on SBE Directorate Reorganization
- Collaboration with Africa
- Discussion on OISE Branding
- Discussion/Future Recommendations from AC-ISE

- Meet with NSF leadership

Dated: November 14, 2019.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2019-25064 Filed 11-18-19; 8:45 am]

**BILLING CODE 7555-01-P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received.

**SUMMARY:** The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to this permit application by December 19, 2019. This application may be inspected by interested parties at the Permit Office, address below.

**ADDRESSES:** Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

**FOR FURTHER INFORMATION CONTACT:** Nature McGinn, ACA Permit Officer, at the above address, 703-292-8030, or [ACApermits@nsf.gov](mailto:ACApermits@nsf.gov).

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

#### Application Details

*Permit Application: 2020-011*

1. *Applicant:* Heather J. Lynch, Stony Brook University, 610 Life Sciences Building, Stony Brook, NY 11794.

*Activity for Which Permit is Requested:* Waste management. The applicant proposes to operate small, battery-operated remotely piloted aircraft systems (RPAS) consisting, in part, of a quadcopter equipped with cameras to survey chinstrap penguin colonies in the South Shetland Islands in support of scientific research. The RPAS would be operated by trained and experienced pilots. Several additional measures would be taken to prevent against loss of the aircraft including maintaining visible line of sight, return to take-off location in case of loss of communication, conducting operations when the windspeed is 10 m/s or less, and use of observers during operations in unusual terrain. Flight times would be approximately 25 minutes each. The applicant is seeking a waste permit to cover any accidental releases that may result from operating the RPAS. The applicant would also bring small, closed containers of gas propane ashore to be used for emergency purposes only (e.g., need to remain onshore for extended periods).

*Location:* ASPA 152 Western Bransfield Strait; South Shetland Islands: Low Island, Smith Island, Snow Island, Elephant Island; Antarctic Peninsula region.

*Dates of Permitted Activities:* January 1–March 1, 2020.

*Permit Application: 2020-019*

2. *Applicant:* Bob Simpson, Vice President, Expedition Cruising, Abercrombie & Kent USA LLC, 1411 Opus Place, Executive Towers West II, Suite #300, Downers Grove, Illinois 60515-1182.

*Activity for Which Permit is Requested:* Waste management. The applicant proposes to operate small, battery-operated remotely piloted aircraft systems (RPAS) consisting, in part, of a quadcopter equipped with cameras to collect commercial and educational footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would only be operated by pilots with extensive experience, who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the quadcopter including painting the them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life; having prop guards on propeller tips, a flotation device if operated over water, and an “auto go home” feature in case of loss of control

link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and quadcopter does not exceed an operational range of 500 meters. The applicant is seeking a Waste Permit to cover any accidental releases that may result from operating the RPAS.

*Location:* Antarctic Peninsula region.

*Dates of Permitted Activities:* December 9, 2019–March 30, 2020.

*Permit Application: 2020-020*

3. *Applicant:* Lisa Bolton, Scenic USA, One Financial Center, Suite 400, Boston, MA 02111.

*Activity for Which Permit is Requested:* Waste management. The applicant proposes to operate small, battery-operated remotely piloted aircraft systems (RPAS) consisting, in part, of a quadcopter equipped with cameras to collect commercial and educational footage of the Antarctic. The quadcopter would not be flown over concentrations of birds or mammals, or over Antarctic Specially Protected Areas or Historic Sites and Monuments. The RPAS would only be operated by pilots with extensive experience, who are pre-approved by the Expedition Leader. Several measures would be taken to prevent against loss of the quadcopter including painting the them a highly visible color; only flying when the wind is less than 25 knots; flying for only 15 minutes at a time to preserve battery life; having prop guards on propeller tips, a flotation device if operated over water, and an “auto go home” feature in case of loss of control link or low battery; having an observer on the lookout for wildlife, people, and other hazards; and ensuring that the separation between the operator and quadcopter does not exceed an operational range of 500 meters. The applicant would also operate two helicopters for sightseeing in the Antarctic Peninsula region. No landings would occur, except in the case of emergency. Helicopters will be garaged, fueled, and serviced on board the Scenic Eclipse. Helicopter operations will only occur weather conditions, including sufficiently low winds, that allow easy take-off and landing. Helicopters will be operated by trained, certified, and experienced pilots. Helicopters will carry emergency gear including cooking fuel and radios. The applicant is seeking a Waste Permit to cover any accidental releases that may result from operating the RPAS and helicopters.

*Location:* Antarctic Peninsula region.

*Dates of Permitted Activities:*  
November 26, 2019–March 31, 2020.

**Erika N. Davis,**

*Program Specialist, Office of Polar Programs.*

[FR Doc. 2019–25025 Filed 11–18–19; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

**NAME AND COMMITTEE CODE:** Advisory Committee for Computer and Information Science and Engineering (CISE) (1115).

**DATE AND TIME:**

December 12, 2019; 12:30 p.m. to 6:00 p.m.

December 13, 2019; 8:30 a.m. to 12:30 p.m.

**PLACE:** National Science Foundation, 2415 Eisenhower Avenue, Room E3430, Alexandria, VA 22314.

**TYPE OF MEETING:** Open.

**CONTACT PERSON:** Kajuana Mayberry, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8900.

**PURPOSE OF MEETING:** To advise NSF on the impact of its policies, programs and activities in support of CISE research, education, and research infrastructure. To provide advice to the Assistant Director for CISE on issues related to long-range planning, and to form ad hoc subcommittees and working groups to carry out needed studies and tasks.

#### Agenda

- NSF and CISE updates
- Discussion on NSF and CISE activities in Artificial Intelligence and Quantum Information Science
- Discussion on recent Committee of Visitors meeting for multiple CISE divisions

Dated: November 14, 2019.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2019–25061 Filed 11–18–19; 8:45 a.m.]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

**NAME AND COMMITTEE CODE:** Business and Operations Advisory Committee (9556).

**DATE AND TIME:**

December 9, 2019; 1:00 p.m. to 5:30 p.m. (EST).

December 10, 2019; 8:00 a.m. to 12:00 p.m. (EST).

**PLACE:** National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; Room E 3410.

**TYPE OF MEETING:** Open.

**CONTACT PERSON:** Joan Miller, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; (703) 292–8200.

**PURPOSE OF MEETING:** To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF’s business operations.

#### Agenda

*Monday, December 9, 2019; 1:00 p.m.–5:30 p.m.*

Welcome/Introductions; BFA/OIRM/OLPA/Budget Updates; Results from the 2019 Federal Employee Viewpoint Survey; Balancing Mission, Risk and Compliance; Meeting with Dr. Crim.

*Tuesday, December 10, 2019; 8:00 a.m.–12:00 p.m.*

NSF’s Leadership Development Program; CFO Office of Tomorrow—Part 2; State of the BOAC; CEOSE Update; Committee Business/Wrap Up.

Dated: November 14, 2019.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2019–25062 Filed 11–18–19; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

[NRC–2019–0227]

### Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Biweekly notice.

**SUMMARY:** Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and

make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from October 22, 2019, to November 4, 2019. The last biweekly notice was published on November 5, 2019.

**DATES:** Comments must be filed by December 19, 2019. A request for a hearing must be filed by January 21, 2020.

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

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2019–0227. Address questions about NRC docket IDs in [Regulations.gov](https://www.regulations.gov) to Jennifer Borges; telephone: 301–287–9127; email: [Jennifer.Borges@nrc.gov](mailto:Jennifer.Borges@nrc.gov). For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1927, email: [Lynn.Ronewicz@nrc.gov](mailto:Lynn.Ronewicz@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Obtaining Information and Submitting Comments

##### A. Obtaining Information

Please refer to Docket ID NRC–2019–0227, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2019–0227.
- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-

available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

#### B. Submitting Comments

Please include Docket ID NRC-2019-0227, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

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

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

## II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

### III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

#### A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the

action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <https://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity

to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

#### *B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <https://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be

submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper

filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly-available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the "Obtaining Information and Submitting Comments" section of this document.

*Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, STN 50-530, and STN 72-44, Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (Palo Verde, PVNGS), and Palo Verde Independent Spent Fuel Storage Installation, Maricopa County, Arizona*

*Date of amendment request:* October 18, 2019. A publicly-available version is in ADAMS under Accession No. ML19291F735.

*Description of amendment request:* The amendments would revise certain Emergency Response Organization (ERO) positions in the Palo Verde Emergency Plan. Specifically, the proposed changes would revise certain ERO positions in accordance with guidance specified in the "Alternative Guidance for Licensee Emergency Response Organizations," finalized in a letter from the NRC to the Nuclear Energy Institute, dated June 12, 2018 (ADAMS Accession No. ML18022A352).

The proposed changes would also relocate the non-minimum staff ERO personnel from the Palo Verde Emergency Plan to emergency preparedness implementing procedures.

The proposed changes have been reviewed considering the requirements of 10 CFR 50.47, "Emergency Plans," paragraph (b); 10 CFR 50 Appendix E, "Emergency Planning and Preparedness for Production and Utilization Facilities"; and other applicable emergency preparedness NRC guidance documents. These regulations establish emergency planning standards that require (1) adequate staffing, (2) satisfactory performance of key functional areas and critical tasks, and (3) timely augmentation of the response capability.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed changes to the PVNGS Emergency Plan do not increase the probability or consequences of an accident. The proposed changes do not impact the function of plant Structures, Systems, or Components (SSCs). The proposed changes do not affect accident initiators or accident precursors, nor do the changes alter design

assumptions. The proposed changes do not alter or prevent the ability of the onsite ERO to perform their intended functions to mitigate the consequences of an accident or event.

Therefore, the proposed changes to the PVNGS Emergency Plan do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed changes have no impact on the design, function, or operation of any plant SSCs. The proposed changes do not affect plant equipment or accident analyses. The proposed changes do not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed changes do not introduce failure modes that could result in a new accident, and the proposed changes do not alter assumptions made in the safety analysis.

Therefore, the proposed changes to the PVNGS Emergency Plan do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.*, fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There are no changes being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety are unaffected by the proposed changes to the ERO staffing.

The proposed changes are associated with the PVNGS Emergency Plan staffing and do not impact operation of the plant or its response to transients or accidents. The proposed changes do not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Safety analysis acceptance criteria are not affected by these proposed changes. The proposed changes to the Emergency Plan will continue to provide the necessary on-site ERO response staff.

Therefore, the proposed changes to the PVNGS Emergency Plan do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request

for amendments involves no significant hazards consideration.

*Attorney for licensee:* Michael G. Green, Associate General Counsel, Nuclear and Environmental, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 7602, Phoenix, AZ 85072-2034.

*NRC Branch Chief:* Jennifer L. Dixon-Herrity.

*Duke Energy Progress, LLC, Docket No. 50-261, H.B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina*

*Date of amendment request:* June 4, 2019, as supplemented by letter dated October 24, 2019. Publicly-available versions are in ADAMS under Accession Nos. ML19155A037, and ML19299A010, respectively.

*Description of amendment request:* The proposed amendment would revise the H. B. Robinson Steam Electric Plant, Unit No. 2, Technical Specifications (TSs) relating to alternating current (AC) surveillance requirements (SRs).

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed change revises TS 3.8.2, SR 3.8.2.1 to reflect that HBRSEP [H. B. Robinson Steam Electric Plant] SR 3.8.1.18 is not required to be met in the TS 3.8.2 Applicability (*i.e.*, Modes 5 and 6 and during movement of irradiated fuel assemblies). The proposed change modifies the SR 3.8.2.1 to be consistent with NUREG-1431. The AC power systems are not an initiator of any accident previously evaluated. As a result, the probability of an accident previously evaluated is not increased. The consequences of an accident with the proposed SR 3.8.2.1 listing HBRSEP SR 3.8.1.18 as an exception are no different than the consequences of an accident in Modes 5 or 6 or during the movement of irradiated fuel assemblies with the existing SR 3.8.2.1 that requires SR 3.8.1.18 to be met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change revises TS 3.8.2, SR 3.8.2.1 to reflect that HBRSEP SR 3.8.1.18 is not required to be met in the TS 3.8.2 Applicability (*i.e.*, Modes 5 and 6 and during movement of irradiated fuel assemblies). The

proposed change modifies the SR 3.8.2.1 to be consistent with NUREG-1431. Limiting Condition for Operation (LCO) 3.8.2 ensures that in the event of an accident during shutdown, sufficient capability exists to support systems necessary to mitigate the event and maintain the unit in the shutdown or refueling condition for an extended period, assuming either a loss of all offsite power or a loss of all onsite diesel generator power. SR 3.8.2.1 helps ensure that LCO 3.8.2 is met but SR 3.8.2.1 does not create the possibility of a new or different kind of accident from any accident previously evaluated. Thus, not requiring SR 3.8.1.18 to be met in the TS 3.8.2 Applicability does not alter that fact. The proposed change also does not alter the design, physical configuration or mode of operation of any plant structure, system or component. No physical changes are being made to any portion of the plant, so no new accident causal mechanisms are being introduced. The proposed change also does not result in any new mechanisms that could initiate damage to the reactor or its principal safety barriers (*i.e.*, fuel cladding, reactor coolant system or primary containment).

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change revises TS 3.8.2, SR 3.8.2.1 to reflect that HBRSEP SR 3.8.1.18 is not required to be met in the TS 3.8.2 Applicability (*i.e.*, Modes 5 and 6 and during movement of irradiated fuel assemblies). The proposed change modifies the SR 3.8.2.1 to be consistent with NUREG-1431. Only one offsite circuit is required to be Operable by LCO 3.8.2 and SR 3.8.2.1 will continue to ensure that the LCO is met. With the proposed change, adequate AC power continues to be provided to mitigate events postulated during shutdown, such as a fuel handling accident. Furthermore, the proposed change does not alter any design basis or safety limit established in the UFSAR [Updated Final Safety Analysis Report] or license.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, DEC45A, Charlotte NC 28202.

*NRC Branch Chief:* Undine Shoop.

*Energy Northwest, Docket No. 50-397, Columbia Generating Station, Benton County, Washington*

*Date of amendment request:* September 12, 2019. A publicly-

available version is in ADAMS under Accession No. ML19255K007.

*Description of amendment request:* The amendment would adopt Technical Specifications Task Force (TSTF) Traveler TSTF-529, "Clarify Use and Application Rules," which would revise the Technical Specification (TS) requirements in Section 1.3 and Section 3.0 regarding Limiting Condition for Operation (LCO) and Surveillance Requirement (SR) usage.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed changes to [TS] Section 1.3 ["Completion Times"] and LCO 3.0.4 have no effect on the requirement for systems to be Operable and have no effect on the application of TS actions. The proposed change to SR 3.0.3 states that the allowance may only be used when there is a reasonable expectation the surveillance will be met when performed. Since the proposed changes do not significantly affect system Operability, they will have no significant effect on the initiating events for accidents previously evaluated and will have no significant effect on the ability of the systems to mitigate accidents previously evaluated.

Therefore, it is concluded that the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change to the TS usage rules do not affect the design or function of any plant systems. The proposed change does not change the Operability requirements for plant systems or the actions taken when plant systems are not operable.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change clarifies the application of Section 1.3 and LCO 3.0.4 and does not result in changes in plant operation. SR 3.0.3 is revised to allow application of SR 3.0.3 when an SR has not been previously performed and there is reasonable expectation that the SR will be met when performed. This expands the use of SR 3.0.3 while ensuring the affected system is capable of performing its safety function. As a result, plant safety is either improved or unaffected.

Therefore, it is concluded that this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* William A. Horin, Esq., Winston & Strawn, 1700 K Street NW, Washington, DC 20006–3817.

*NRC Branch Chief:* Jennifer L. Dixon-Herrity.

*Exelon FitzPatrick, LLC and Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant (JAFNPP), Oswego County, New York*

*Date of amendment request:* August 8, 2019. A publicly-available version is in ADAMS under Accession No. ML19220A043.

*Description of amendment request:* The amendment would approve the adoption of the alternative source term (AST), in accordance with 10 CFR 50.67, for use in calculating the loss-of-coolant accident dose consequences at James A. FitzPatrick Nuclear Power Plant.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The implementation of AST assumptions has been evaluated in revisions to the analysis of the loss-of-coolant accident (LOCA).

Based upon the results of these analysis, it has been demonstrated that, with the requested changes, the dose consequences of this limiting event are within the regulatory requirements and guidance provided by the NRC for use with the AST. The regulatory requirements and guidance is presented in 10 CFR 50.67, "Accident source term," and associated NRC Regulatory Guide 1.183 and Standard Review Plan Section 15.0.1. The AST is an input to calculations used to evaluate the consequences of an accident, and does not, by itself, affect the plant response, or the actual pathway of the radiation released from the fuel. It does, however, better represent the physical characteristics of the release, so that appropriate mitigation techniques may be applied.

The proposed changes are also consistent with the guidance of Technical Specifications Task Force Traveler (TSTF) 551, "Revise Secondary Containment Surveillance Requirements," Revision 3,

which was approved by the NRC on September 21, 2017.

The equipment affected by the proposed change is mitigative in nature and relied upon after an accident has been initiated. Application of the AST does not involve any physical changes to the plant design and is not an initiator of an accident. Removal of the MSLC [Main Steam Leakage Collection] system is not required by the four criteria specified in 10 CFR 50.36. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. As such, removal of operability requirements during the specified conditions will not significantly increase the probability of occurrence for an accident previously analyzed. Since design basis accident initiators are not being altered by adoption of the AST analyses, the probability of an accident previously evaluated is not affected. Also, the consequences of previously evaluated accidents remain within the regulatory limits.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change does not involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed change). The proposed changes, effectively increasing the allowable main steam isolation valve (MSIV) leakage and crediting the Standby Liquid Control (SLC) system for LOCA mitigation do not create initiators or precursors of a new or different kind of accident. Similarly, it does not physically change any structures, systems, or components involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

Safety margins and analytical conservatisms have been evaluated and have been found acceptable. The analyzed event has been carefully selected and margin has been retained to ensure that the analysis adequately bounds postulated event scenarios. The dose consequences due to design basis accidents comply with the requirements of 10 CFR 50.67 and the guidance of Regulatory Guide 1.183.

The proposed change is associated with the implementation of a new licensing basis for JAFNPP design basis accidents. Approval of the change from the original source term to a new source term taken from Regulatory Guide 1.183 is being requested. The results of the accident analysis, revised in support of the proposed license amendment, are

subject to revised acceptance criteria. The analysis has been performed using conservative methodologies, as specified in Regulatory Guide 1.183. Safety margins have been evaluated and analytical conservatism has been utilized to ensure that the analysis adequately bounds the postulated limiting event scenario. The dose consequences of this design basis accident remain within the acceptance criteria presented in 10 CFR 50.67 and Regulatory Guide 1.183.

The proposed change continues to ensure that the doses at the exclusion area boundary and low population zone boundary, as well as the Control Room, are within corresponding regulatory limits.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

*NRC Branch Chief:* James G. Danna.

*Exelon FitzPatrick, LLC and Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York*

*Date of amendment request:* September 26, 2019. A publicly-available version is in ADAMS under Accession No. ML19269C622.

*Description of amendment request:* The amendment would revise Technical Specification requirements for inoperable dynamic restraints (snubbers) consistent with NRC-approved Revision 4 to Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–372, "Addition of LCO 3.0.8, Inoperability of Snubbers."

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed change allows a delay time before declaring supported Technical Specification (TS) systems inoperable when the associated snubber(s) cannot perform its required safety function. Entrance into Actions or delaying entrance into Actions is

not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The consequences of an accident while relying on the delay time allowed before declaring a TS supported system inoperable and taking its Actions are no different than the consequences of an accident under the same plant conditions while relying on the existing TS supported system Actions. Therefore, the consequences of an accident previously evaluated are not significantly increased by this change. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change allows a delay time before declaring supported TS systems inoperable when the associated snubber(s) cannot perform its required safety function. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change allows a delay time before declaring supported TS Systems inoperable when the associated snubber(s) cannot perform its required safety function. The proposed change restores an allowance in the pre-Improved Standard Technical Specifications (ISTS) conversion TS that was unintentionally eliminated by the conversion. The pre-ISTS TS were considered to provide an adequate margin of safety for plant operation, as does post-ISTS conversion TS. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* Donald P. Ferraro, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Suite 305, Kennett Square, PA 19348.

*NRC Branch Chief:* James G. Danna.

*Southern Nuclear Operating Company, Docket No. 52-026, Vogtle Electric Generating Plant (Vogtle or VEGP), Unit 4, Burke County, Georgia*

*Date of amendment request:* August 22, 2019, as revised by letter dated October 25, 2019. A publicly-available

version is in ADAMS under Accession Nos. ML19234A327 and ML19298D420, respectively.

*Description of amendment request:*

The amendment would revise the provided area of horizontal and vertical steel reinforcement for Vogtle Unit 4 Wall L from elevation 117'-6" to 135'-3", and would revise the provided area of horizontal steel reinforcement for VEGP Unit 4 Wall 7.3 from elevation 117'-6" to 135'-3". The proposed changes would impact Updated Final Safety Analysis Report (UFSAR) Tier 2\* information in UFSAR Tables 3H.5-5 and 3H.5-7, and Figures 3H.5-4 and 3H.5-12. The licensee's request dated August 22, 2019, was originally noticed in the **Federal Register** on September 24, 2019 (84 FR 50082). The licensee's supplement dated October 25, 2019, provided information regarding an additional non-conformance identified for Wall L that would require changes to Tier 2\* information in the UFSAR to revise the provided area of vertical reinforcement. This expanded the scope of the request described in the original notice. Therefore, the notice is being reissued in its entirety to include the revised scope, description of the amendment request, and proposed no significant hazards consideration determination.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

As described in UFSAR Subsections 3H.5.1.2 and 3H.5.1.3, interior Wall 7.3 and Wall L are located in the auxiliary building. UFSAR, Section 3H.5 classifies Interior Wall on Column Line 7.3, from elevation (EL) 66'-6" to 160'-6" as a "Critical Section." UFSAR, Section 3H.5 classifies Interior Wall on Column Line L, from EL 117'-6" to 153'-0" as a "Critical Section." Deviations were identified in the constructed walls from the design requirements. The proposed changes modify the provided area of steel reinforcement for VEGP Unit 4 Wall L and Wall 7.3 from elevation 117'-6" to 135'-3". These changes maintain conformance to American Concrete Institute (ACI) 349-01 and have no adverse impact on the seismic response of Wall L and Wall 7.3 Wall L and Wall 7.3 continue to withstand the design basis loads without loss of structural integrity or the safety-related functions. The proposed changes do not affect the operation of any system or equipment that initiates an analyzed accident or alter any structures, systems, and components (SSC) accident initiator or initiating sequence of events.

This change does not adversely affect the design function of VEGP Unit 4 Wall L and Wall 7.3, or the SSCs contained within the auxiliary building. This change does not involve any accident initiating components or events, thus leaving the probabilities of an accident unaltered.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of a previously evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change modifies the provided area of steel reinforcement for VEGP Unit 4 Wall L and Wall 7.3 from elevation 117'-6" to 135'-3". As demonstrated by the continued conformance to the applicable codes and standards governing the design of the structures, the walls withstand the same effects as previously evaluated. The proposed change does not affect the operation of any systems or equipment that may initiate a new or different kind of accident or alter any SSC such that a new accident initiator or initiating sequence of events is created. The proposed change does not adversely affect the design function of auxiliary building Wall L and Wall 7.3, or any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or non-safety-related equipment. This change does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

*Response:* No.

The proposed change modifies the provided area of steel reinforcement for VEGP Unit 4 Wall L and Wall 7.3 from elevation 117'-6" to 135'-3". This change maintains conformance to ACI 349-01. The changes to Wall L and Wall 7.3 reinforcement from elevation 117'-6" to 135'-3" do not change the performance of the affected portion of the auxiliary building for postulated loads. The criteria and requirements of ACI 349-01 provide a margin of safety to structural failure. The design of the auxiliary building structure conforms to criteria and requirements in ACI 349-01 and therefore, maintains the margin of safety. The change does not alter any design function, design analysis, or safety analysis input or result, and sufficient margin exists to justify departure from the Tier 2\* requirements for the walls. As such, because the system continues to respond to design basis accidents in the same manner as before without any changes to the expected response of the structure, no safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes. Accordingly, no significant safety margin is reduced by the change.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

*NRC Branch Chief:* Victor E. Hall.

*Tennessee Valley Authority, Docket Nos. 50–259, 50–260, and 50–296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama*

*Date of amendment request:* September 18, 2019. A publicly-available version is in ADAMS under Accession No. ML19262F378.

*Description of amendment request:* The proposed amendments would revise the Browns Ferry Nuclear Plant, Units 1, 2, and 3, Emergency Plan to extend staff augmentation times for Emergency Response Organization functions.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed increase in staff augmentation times has no effect on normal plant operation or on any accident initiator or precursors and does not impact the function of plant structures, systems, or components (SSCs). The proposed change does not alter or prevent the ability of the Emergency Response Organization to perform their intended functions to mitigate the consequences of an accident or event. The ability of the emergency response organization to respond adequately to radiological emergencies has been demonstrated as acceptable through a staffing analysis as required by 10 CFR 50 Appendix E.IV.A.9.

Therefore, the proposed Emergency Plan changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed change does not impact the accident analysis. The change does not

involve a physical alteration of the plant (*i.e.*, no new or different type of equipment will be installed), a change in the method of plant operation, or new operator actions. The proposed change does not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. This proposed change increases the staff augmentation response times in the Emergency Plan, which are demonstrated as acceptable through a staffing analysis as required by 10 CFR 50 Appendix E.IV.A.9. The proposed change does not alter or prevent the ability of the Emergency Response Organization to perform their intended functions to mitigate the consequences of an accident or event.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.*, fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed change is associated with the Emergency Plan staffing and does not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications. The proposed change does not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed change. Safety analysis acceptance criteria are not affected by this proposed change. The revised Emergency Plan will continue to provide the necessary response staff with the proposed change. A staffing analysis and a functional analysis were performed for the proposed change on the timeliness of performing major tasks for the functional areas of Emergency Plan. The analysis concluded that an extension in staff augmentation times would not significantly affect the ability to perform the required Emergency Plan tasks. Therefore, the proposed change is determined to not adversely affect the ability to meet 10 CFR 50.54(q)(2), the requirements of 10 CFR 50 Appendix E, and the emergency planning standards as described in 10 CFR 50.47(b).

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

*NRC Branch Chief:* Undine Shoop.

*Virginia Electric and Power Company (Dominion Energy Virginia)—Virginia, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia*

*Date of amendment request:* September 19, 2019. A publicly-available version is in ADAMS under Accession No. ML19269B775.

*Description of amendment request:* The amendments would revise Technical Specifications (TSs) for the Surry Power Station (Surry), Units 1 and 2. The proposed change would revise TS Figure 3.1–1, “Surry Units 1 and 2 Reactor Coolant System Heatup Limitations,” and Figure 3.1–2, “Surry Units 1 and 2 Reactor Coolant System Cooldown Limitations,” to update the cumulative core burnup applicability limit and to revise and relocate the limiting material property basis from the TS figures to the TS Bases. The proposed changes would be implemented as a result of evaluations performed for the Surry subsequent license renewal application.

*Basis for proposed no significant hazards consideration determination:* As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the [proposed] change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed change revises the Surry Units 1 and 2 TS RCS [Reactor Coolant System] Heatup and Cooldown Limitations figures to reflect an increase in the cumulative core burnup applicability limit to 68 EFPY [Effective Full Power Years]. The existing Surry TS RCS P–T Limits, LTOPS [Low Temperature Overpressure Protection System] Setpoint, and T-enable value remain valid and conservative for cumulative core burnup up to 68 EFPY, thus increasing the cumulative core burnup applicability limit for RCS P–T Limits, LTOPS Setpoints and LTOPS T-enable to 68 EFPY has no bearing on the probability or consequences of an accident previously evaluated. These evaluations address the LTOPS design basis mass addition accident (inadvertent charging pump start), heat addition accident (Reactor Coolant Pump (RCP) start with a secondary-to-primary temperature difference of 50 °F) and Pressurized Thermal Shock (PTS) events, the analysis of which is covered by 10 CFR 50.61.

The increased cumulative core burnup applicability is accomplished through application of improved analytical margins using the  $K_{IC}$  reference stress intensity factor, instead of the older, more conservative  $K_{Ia}$  reference stress intensity factor. Dominion Energy Virginia assessed the effect of use of the analytical margins and determined that the existing TS limits (RCS P–T Limits,

LTOPS Setpoints and LTOPS T-enable) governing reactor vessel integrity remain valid and conservative for cumulative core burnup to 68 EFPY. No changes to plant systems, structures or components are proposed, and no new operating modes are established.

Therefore, there is no increase in the probability or consequences of any accident previously evaluated.

2. Does the [proposed] change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

No changes to plant operating conditions, operating limits or setpoints are being proposed and no changes to plant systems, structures or components are being implemented. The existing Surry TS RCS P-T Limits, LTOPS Setpoints, and LTOPS T-enable value remain valid and conservative for cumulative core burnups up to 68 EFPY. Analysis supporting the increased cumulative core burnup applicability limit was performed in accordance with applicable regulatory guidance and confirms that design functions (*i.e.*, ensuring that combined pressure and thermal stresses under normal operating heatup and cooldown conditions and under design basis accident conditions at low temperature) are maintained.

Therefore, the proposed change does not create the possibility of any accident or malfunction of a different type previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The increased cumulative core burnup applicability limit is accomplished through application of improved analytical margins provided by using the  $K_{IC}$  reference stress intensity factor, instead of the older, more conservative  $K_{Ia}$  reference stress intensity factor. Dominion Energy Virginia assessed the effect of the use of the analytical margins and determined that the existing TS P-T Limits, LTOPS Setpoint, and LTOPS T-enable value governing reactor vessel integrity remain valid and conservative for cumulative core burnups up to 68 EFPY. No Changes to plant systems, structures or components are proposed, and no new operating modes are established. Furthermore, plant operating limits and setpoints are not being changed. Consequently, the TS P-T Limits, LTOPS Setpoint, and LTOPS T-enable value provide acceptable margin to vessel fracture under both normal operation and LTOPS design basis (mass addition and heat addition) accident conditions for cumulative core burnups up to 68 EFPY.

Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

*Attorney for licensee:* W.S. Blair, Senior Counsel, Dominion Energy Services Inc., 120 Tredegar St., RS-2, Richmond, VA 23219.

*NRC Branch Chief:* Michael T. Markley.

#### IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

*Duke Energy Carolinas, LLC, Docket Nos. 50-269, 50-270, and 50-287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina*

*Date of amendment request:* September 14, 2018, as supplemented by letters dated January 24, 2019, and July 31, 2019.

*Brief description of amendments:* The amendments revised the Updated Final

Safety Analysis Report regarding tornado licensing basis to allow credit for the Standby Shutdown Facility to mitigate a tornado with the assumed initial conditions of loss of all alternating current power to all units with significant tornado damage to one unit, approval for the use of tornado missile probabilistic methodology, and approval for elimination of the spent fuel pool to high pressure injection flow path for reactor coolant makeup.

*Date of issuance:* October 31, 2019.

*Effective date:* As of the date of issuance and shall be implemented by the completion of the following refueling outages: 1EC33 (Fall 2024) for Unit 1, 2EC32 (Fall 2025) for Unit 2, and 3EC33 (Spring 2026) for Unit 3.

*Amendment Nos.:* 415 (Unit 1), 417 (Unit 2), and 416 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML19260E084; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. DPR-38, DPR-47, and DPR-55:* The amendments revised the Facility Operating Licenses and Updated Final Safety Analysis Report.

*Date of initial notice in Federal Register:* April 2, 2019 (84 FR 12641). The supplemental letter dated July 31, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 2019.

*No significant hazards consideration comments received:* No.

*Duke Energy Progress, LLC, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina*

*Date of amendment request:* August 30, 2018.

*Brief description of amendments:* The amendments added new required actions and completion times for three inoperable control room air conditioning subsystems to Technical Specification 3.7.4, "Control Room Air Conditioning (AC) System."

*Date of issuance:* October 25, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 120 days of issuance.

*Amendment Nos.:* 294 (Unit 1) and 322 (Unit 2). A publicly-available version is in ADAMS under Accession

No. ML19254E076; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR-71 and DPR-62:* The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in Federal Register:* November 6, 2018 (83 FR 55571).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 25, 2019.

*No significant hazards consideration comments received:* No.

*Duke Energy Progress, LLC, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina*

*Date of amendment request:* October 18, 2018, as supplemented by letter dated April 3, 2019.

*Brief description of amendments:* The amendments revised the allowable value associated with Function 1.b (i.e., 4.16 kV Emergency Bus Undervoltage (Loss of Voltage)—Time Delay) in Table 3.3.8.1-1, "Loss of Power Instrumentation," of Technical Specification 3.3.8.1.

*Date of issuance:* October 31, 2019.

*Effective date:* As of the date of issuance and shall be implemented prior to the end of the 2023 Unit 2 refueling outage.

*Amendment Nos.:* 295 (Unit 1) and 323 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19268A054; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR-71 and DPR-62:* The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

*Date of initial notice in Federal Register:* January 31, 2019 (84 FR 811). The letter dated April 3, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 31, 2019.

*No significant hazards consideration comments received:* No.

*Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas*

*Date of amendment request:* September 5, 2019.

*Brief description of amendment:* The amendments extended the implementation dates for Amendment Nos. 263 and 314, "Revision to the Emergency Action Level Scheme," which were issued on January 17, 2019, for Arkansas Nuclear One, Units 1 and 2, respectively. Amendment Nos. 263 and 314 were effective on the date of issuance (i.e., January 17, 2019) and were required to be implemented on or before October 30, 2019. Amendment Nos. 267 and 317 for Arkansas Nuclear One, Units 1 and 2, respectively, extend the implementation dates from October 30, 2019, to January 14, 2020.

*Date of issuance:* October 22, 2019.

*Effective date:* As of the date of issuance and shall be implemented by January 14, 2020.

*Amendment Nos.:* 267 (Unit 1) and 317 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19269B672; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR-51 and NPF-6:* The amendments revised the Emergency Plan.

*Date of initial notice in Federal Register:* September 19, 2019 (84 FR 49349).

The Commission's related evaluation of the amendments and final determination of no significant hazards consideration is contained in a Safety Evaluation dated October 22, 2019.

*No significant hazards consideration comments received:* No.

*Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana*

*Date of amendment request:* April 12, 2018, as supplemented by letters dated June 13, 2018; January 19, 2019; and July 11, 2019.

*Brief description of amendment:* The amendment approved the use of the TRANFLOW code for determining pressure drops across the steam generator secondary side internal components.

*Date of issuance:* October 24, 2019.

*Effective date:* As of the date of issuance and shall be implemented 30 days from the date of issuance.

*Amendment No.:* 256. A publicly-available version is in ADAMS under Accession No. ML19275D438;

documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. NPF-38:* The amendment revised the Updated Final Safety Analysis Report.

*Date of initial notice in Federal Register:* September 4, 2018 (83 FR 44919). The supplements dated January 19, 2019, and July 11, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 24, 2019.

*No significant hazards consideration comments received:* No.

*Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station (Peach Bottom), Units 2 and 3, York and Lancaster Counties, Pennsylvania*

*Date of amendment request:* April 26, 2019, as supplemented by letters dated May 23, 2019, and July 24, 2019.

*Brief description of amendments:* The amendments revised the Peach Bottom, Units 2 and 3, Technical Specifications (TSs) to support a temporary one-time extension of the completion time for TS 3.8.1, "AC Power—Operating." Required Action A.3, from 7 days to 21 days. This temporary one-time TS change was needed to allow sufficient time to perform physical modification work to replace 27 electrical cables from the transformer to the junction box serving the feed switchgear.

*Date of issuance:* October 29, 2019.

*Effective date:* As of the date of issuance.

*Amendments Nos.:* 328 (Unit 2) and 331 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML19266A622; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. DPR-44 and DPR-56:* The amendments revised the Renewed Facility Operating Licenses and TSs.

*Date of initial notice in Federal Register:* June 18, 2019 (84 FR 28345). The supplemental letters dated May 23, 2019, and July 24, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's

original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 29, 2019.

*No significant hazards consideration comments received:* No.

*Exelon Generation Company, LLC, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York*

*Date of amendment request:* January 15, 2019.

*Brief description of amendment:* The amendment revised the R. E. Ginna Nuclear Power Plant emergency response organization (ERO) positions identified in the emergency plan, including the on-shift, minimum, and full-augmentation ERO staffing requirements. The proposed revisions include eliminating ERO positions; adding ERO positions; changing position descriptions, duties, and duty locations; and relocating certain position descriptions to other parts of the emergency plan or to implementing procedures.

*Date of issuance:* October 29, 2019.

*Effective date:* As of the date of issuance and shall be implemented on or before December 31, 2019.

*Amendment No.:* 134. A publicly-available version is in ADAMS under Accession No. ML19252A246; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–18:* The amendment revised the Renewed Facility Operating License.

*Date of initial notice in Federal Register:* April 23, 2019 (84 FR 16894). The supplemental letter dated May 23, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 29, 2019.

*No significant hazards consideration comments received:* No.

*Holtec Pilgrim, LLC and Holtec Decommissioning International, LLC, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts*

*Date of amendment request:* September 13, 2018, as supplemented

by letters dated January 10, February 8, March 14, and July 16, 2019.

*Brief description of amendment:* The amendment revised the Pilgrim Nuclear Power Station Renewed Facility Operating License and the associated Technical Specifications to Permanently Defueled Technical Specifications, consistent with the permanent cessation of operations and permanent removal of fuel from the reactor vessel.

*Date of issuance:* October 28, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 30 days.

*Amendment No.:* 250. A publicly-available version is in ADAMS under Accession No. ML19275E425; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–35:* The amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in Federal Register:* November 6, 2018 (83 FR 55572). The supplemental letters dated January 10, February 8, March 14, and July 16, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 28, 2019.

*No significant hazards consideration comments received:* No.

*Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska*

*Date of amendment request:* February 28, 2019.

*Brief description of amendment:* The amendment revised the Cooper Nuclear Station Technical Specifications to define a new time limit for restoring inoperable reactor coolant system (RCS) leakage detection instrumentation to operable status and establish alternate methods of monitoring RCS leakage when one or more required monitors are inoperable. These changes are consistent with NRC-approved Technical Specifications Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–514, Revision 3, "Revise BWR [Boiling Water Reactor] Operability Requirements and Actions for RCS Leakage Instrumentation," as part of the consolidated line item improvement process.

*Date of issuance:* October 30, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 60 days of issuance.

*Amendment No.:* 263. A publicly-available version is in ADAMS under Accession No. ML19238A007; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

*Renewed Facility Operating License No. DPR–46:* Amendment revised the Renewed Facility Operating License and Technical Specifications.

*Date of initial notice in Federal Register:* June 4, 2019 (84 FR 25838).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 30, 2019.

*No significant hazards consideration comments received:* No.

*Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (Vogtle), Units 3 and 4, Burke County, Georgia*

*Date of amendment request:* April 26, 2019.

*Brief description of amendments:* The amendments revised the Combined License (COL) Nos. NPF–91 and NPF–92 for Vogtle, Units 3 and 4, and the Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific Design Control Document Tier 2\* and Tier 2 information related to the design-specific pre-operational Automatic Depressurization System (ADS) Blowdown Test. The amendments authorized changes to credit the previously completed ADS Blowdown first three plant tests as described in the licensing basis documents, including COL Condition 2.D.(2)(a). Specifically, the changes revised the COL, License Condition 2.D.(2)(a)2, by removing the requirement to perform the ADS Blowdown first three plant tests during pre-operational testing.

*Date of issuance:* October 22, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 30 days of issuance.

*Amendment Nos.:* 165 (Unit 3) and 163 (Unit 4). A publicly-available version is in ADAMS under Package Accession No. ML19262F850; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Combined License Nos. NPF–91 and NPF–92:* The amendments revised the Facility Combined Licenses.

*Date of initial notice in Federal Register:* June 18, 2019 (84 FR 28346).

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated October 22, 2019.

*No significant hazards consideration comments received:* No.

*STP Nuclear Operating Company, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas*

*Date of amendment request:* April 24, 2019.

*Brief description of amendments:* The amendments revised Technical Specification (TS) Tables 2.2-1, 3.3-1, and 4.3-1 to change the description of the P-13 permissive interlock for the Reactor Trip System instrumentation. The current phrases, "Turbine Impulse Chamber Pressure" and "Turbine Impulse Pressure," are replaced with the phrase, "Turbine Inlet Pressure," throughout the TSs, resulting in a more generic P-13 description that does not specify a particular turbine design.

*Date of issuance:* October 24, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 90 days of issuance.

*Amendment Nos.:* 217 (Unit 1) and 203 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML19217A060; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

*Renewed Facility Operating License Nos. NPF-76 and NPF-80:* The amendments revised the Renewed Facility Operating Licenses and TSs.

*Date of initial notice in Federal Register:* June 4, 2019 (84 FR 25840).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 24, 2019.

*No significant hazards consideration comments received:* No.

*Vistra Operations Company LLC, Docket Nos. 50-445 and 50-446, Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2, Somervell County, Texas*

*Date of amendment request:* October 31, 2018, as supplemented by letters dated March 28, 2019, and June 3, 2019.

*Brief description of amendments:* The amendments revised the Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2, Emergency Plan by changing the Emergency Response Organization (ERO) staff augmentation times and reducing the required number of ERO positions.

*Date of issuance:* November 4, 2019.

*Effective date:* As of the date of issuance and shall be implemented within 180 days from the date of issuance.

*Amendment No.:* 172 (Unit 1) and 172 (Unit 2). A publicly-available version is

in ADAMS under Accession No. ML19267A018; documents related to the amendments are listed in the Safety Evaluation enclosed with the amendments.

*Facility Operating License Nos. NPF-87 and NPF-89:* The amendments revised the Emergency Plan.

*Date of initial notice in Federal Register:* January 2, 2019 (84 FR 26). The supplemental letters dated March 28, 2019, and June 3, 2019, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 4, 2019.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 8th day of November, 2019.

For the Nuclear Regulatory Commission.

**Jamie M. Heisserer,**

*Acting Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2019-24748 Filed 11-18-19; 8:45 am]

**BILLING CODE 7590-01-P**

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## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: CAHPS Enrollee Survey 3206-NEW

**AGENCY:** Office of Personnel Management.

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a proposed information collection (ICR) 3206-NEW, Consumer Assessment of Healthcare Providers and Systems (CAHPS®). As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on July 22, 2019 at Volume 84 FR 35137 allowing for a 60-day public comment period. We received one comment from an association of FEHB health plan carriers that did not relate to the CAHPS survey. Therefore, no changes have been made to our estimates or to the proposed information collection. The purpose of

this notice is to allow an additional 30 days for public comments.

**DATES:** Comments are encouraged and will be accepted until December 19, 2019. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-6974. **SUPPLEMENTARY INFORMATION:** The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

The Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on the administration of the CAHPS® survey for the Federal Employees Health Benefits (FEHB) Program. The CAHPS® surveys asks consumers and patients to report on and evaluate their experiences with health care. These surveys cover topics that are important to consumers and focus on aspects of quality that consumers are best qualified to assess, such as the communication skills of providers and

ease of access to health care services. OPM uses the CAHPS® results as part of the FEHB Plan Performance Assessment (PPA). The PPA enables a consistent, objective evaluation of carrier performance and also provides more transparency for enrollees. This assessment uses a discrete set of quantifiable measures to examine key aspects of performance in the areas of clinical quality, customer service and resource use. Eight CAHPS® measures are part of this discrete set of quantifiable measures.

Taken together with more traditional assessments of contract administration, these measures help ensure that enrollees receive high quality affordable healthcare and a positive customer experience. The PPA is linked to carrier profit and adjustment factors. FEHB contracts include language to incorporate the PPA as a determinant of the Service Charge or Performance Adjustment.

#### Analysis

*Agency:* Healthcare and Insurance, Office of Personnel Management.

*Authority:* 5 U.S.C. 8910.

*Title:* CAHPS Survey.

*OMB Number:* 3206-NEW.

*Frequency:* Annually.

*Affected Public:* Federal Employees and Retirees.

*Number of Respondents:* 73,505.

*Estimated Time per Respondent:* 15 minutes.

*Total Burden Hours:* 18,376 hours.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2019-25003 Filed 11-18-19; 8:45 am]

BILLING CODE 6325-64-P

#### POSTAL REGULATORY COMMISSION

[Docket Nos. MC2020-23 and CP2020-22; MC2020-24 and CP2020-23]

#### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments were due:* November 15, 2019.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit

comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

#### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

deadline(s) for each request appear in section II.

#### II. Docketed Proceeding(s)

1. *Docket No(s):* MC2020-23 and CP2020-22; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 126 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 7, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 15, 2019.

2. *Docket No(s):* MC2020-24 and CP2020-23; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 127 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* November 7, 2019; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* November 15, 2019.

This Notice will be published in the **Federal Register**.

**Darcie S. Tokioka,**

*Acting Secretary.*

[FR Doc. 2019-24956 Filed 11-18-19; 8:45 am]

BILLING CODE 7710-FW-P

#### POSTAL SERVICE

#### Product Change—Priority Mail Express and 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:* November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202-268-8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 13, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 104 to Competitive Product List*. Documents are available at

www.prc.gov, Docket Nos. MC2020–25, CP2020–24.

**Sean Robinson,**  
*Attorney, Corporate and Postal Business Law.*  
 [FR Doc. 2019–24964 Filed 11–18–19; 8:45 am]  
**BILLING CODE 7710–12–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:* November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Sean Robinson, 202–268–8405.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 13, 2019, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 560 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2020–26, CP2020–25.

**Sean Robinson,**  
*Attorney, Corporate and Postal Business Law.*  
 [FR Doc. 2019–24965 Filed 11–18–19; 8:45 am]  
**BILLING CODE 7710–12–P**

**RAILROAD RETIREMENT BOARD**

**Proposed Collection; Comment Request**

**SUMMARY:** In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB’s estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and purpose of information collection:* Supplement to Claim of Person Outside the United States; OMB 3220–0155.

Under the Social Security Amendments of 1983 (Pub. L. 98–21), which amends Section 202(t) of the Social Security Act, effective January 1, 1985, the Tier I or the overall minimum (O/M) portion of an annuity, and Medicare benefits payable under the Railroad Retirement Act to certain beneficiaries living outside the U.S., may be withheld. The benefit

withholding provision of Public Law 98–21 applies to divorced spouses, spouses, minor or disabled children, students, and survivors of railroad employees who (1) initially became eligible for Tier I amounts, O/M shares, and Medicare benefits after December 31, 1984; (2) are not U.S. citizens or U.S. nationals; and (3) have resided outside the U.S. for more than six consecutive months starting with the annuity beginning date. The benefit withholding provision does not apply, however to a beneficiary who is exempt under either a treaty obligation of the U.S., in effect on August 1, 1956, or a totalization agreement between the U.S. and the country in which the beneficiary resides, or to an individual who is exempt under other criteria specified in Public Law 98–21.

RRB Form G–45, *Supplement to Claim of Person Outside the United States*, is currently used by the RRB to determine applicability of the withholding provision of Public Law 98–21. Completion of the form is required to obtain or retain a benefit. One response is requested of each respondent. The RRB proposes minor non-burden impacting changes to Form G–45.

**ESTIMATE OF ANNUAL RESPONDENT BURDEN**

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–45 .....	100	10	17

*Additional Information or Comments:* To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or [Kennisha.Tucker@rrb.gov](mailto:Kennisha.Tucker@rrb.gov). Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to [Brian.Foster@rrb.gov](mailto:Brian.Foster@rrb.gov).

Written comments should be received within 60 days of this notice.

**Brian Foster,**  
*Clearance Officer.*  
 [FR Doc. 2019–24933 Filed 11–18–19; 8:45 am]  
**BILLING CODE 7905–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–87512; File No. SR–CboeEDGX–2019–069]

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fat Finger Check in Rule 21.17 as it Applies To Stop Limit Orders**

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 4, 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<sup>3</sup> and Rule 19b-4(f)(6) thereunder.<sup>4</sup> 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 the fat finger check in Rule 21.17 as it applies to Stop Limit Orders. 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/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

### **II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### **A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

##### **1. Purpose**

The Exchange proposes to amend its fat finger check under Rule 21.17(a)(2) as it applies to Stop Limit Orders. Currently, Rule 21.17(a)(2) provides that if a User submits a buy (sell) limit order to the System with a price that is more than an Exchange-determined buffer

amount above (below) the NBO (NBB), the System will reject or cancel back to the User the limit order (*i.e.* the “fat finger” check). This check applies to orders and quotes with a limit price with the exception of bulk messages.<sup>5</sup>

The Exchange proposes to add Stop Limit Orders to Rule 21.17(a)(2) as an additional order type to which the fat finger check does not apply. A Stop Limit Order is an order that becomes a limit order when the stop price (selected by the User) is elected. A Stop Limit Order to buy is elected and becomes a buy limit order when the consolidated last sale in the option occurs at or above, or the NBB is equal to or higher than, the specified stop price. A Stop Limit Order to sell is elected and becomes a sell limit order when the consolidated last sale in the option occurs at or below, or the NBO is equal to or lower than, the specified stop price.<sup>6</sup> Stop Limit Orders allow Users increased control and flexibility over their transactions and the prices at which they are willing to execute an order. The purpose of a Stop Limit Order is to not execute upon entry, and instead rest in the System until the market reaches a certain price level, at which time the order could be executed. As such, when a buy (sell) Stop Limit Order is activated, its limit price may likely be outside of the buffer amount above (below) the NBO (NBB) in anticipation of capturing rapidly increasing (decreasing) market prices.

The primary purpose of the fat finger check is to prevent limit orders from executing at potentially erroneous prices upon entry, because the limit prices are “too far away” from the then-current NBBO. As noted above, a Stop Limit Order is not intended to execute upon entry. Currently, because a Stop Limit Order does not “become” a limit order until activated, the limit order fat finger check applies to a Stop Limit Order at the time the order is activated. As noted above, at that time, the limit price may cross the NBO, and thus may be cancelled due to the fat finger check if the limit price crosses the NBO by more than the buffer. Therefore, the manner in which the fat finger check cancels/rejects a Stop Limit Order may conflict with the intended purpose of a Stop Limit Order and a User’s control over the time when and the price at which it executes. For example, assume that when the NBBO is 8.00 × 8.05, a User submits a Stop Limit Order to buy

at 9.25 and a stop price of 8.15 and the Exchange has set the fat finger buffer to \$1.00. Assume the NBBO then updates to 8.15 × 8.20. The updated NBB equals the stop price of the order will activate the stop price of the Stop Limit Order, converting it into a limit order to buy at 9.25, which would be more than the fat finger buffer of \$1.00 above the current NBO, thus canceled/rejected by the System in accordance with the fat finger check. The Exchange also notes that the System is currently able to apply only one buffer amount across multiple order types. Therefore, the Exchange would not be able to expand the buffer amount to accommodate Stop Limit Orders without potentially over-expanding the buffer amount for other limit orders that execute upon entry.

The Exchange notes that a User’s Stop Limit Orders would still be subject to other price protections already in place on the Exchange. In particular, drill-through price protections are in place pursuant to Rule 21.17(a)(4), such that, if a buy (sell) order would execute (*i.e.*, when the stop price for a Stop Limit Order is activated), the System executes the order up to a buffer amount (established by the Exchange) above (below) the NBO (NBB) that existed at the time of order entry (“the drill-through price”).

The Exchange believes that allowing a Stop Limit Order, once activated, with a limit price outside of the NBBO (notwithstanding any fat finger buffer) to execute at that limit price (up to the drill-through buffer amount) is consistent with the intended purpose of a Stop Limit Order. As stated, when a buy (sell) Stop Limit Order is activated, its limit price is intended to be at a consequential amount above (below) the NBO (NBB) in order to capture rapidly increasing (decreasing) trade prices, to which the NBBO would as rapidly track and reflect. To cancel or reject such orders based on the NBBO at the time of its activation would inhibit Stop Limit Orders from capturing favorable trade prices as a result of a rapidly shifting market. The Exchange further notes that its affiliated exchange, Cboe Exchange, Inc. (“Cboe Options”), recently submitted a rule filing that also proposed to exclude Stop Limit Orders from its fat finger check, which function in substantively the same manner as on the Exchange.<sup>7</sup>

##### **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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The Exchange notes that a separate provision governs a fat finger check specific to bulk messages. See Rule 21.17(a)(6).

<sup>6</sup> See Rule 21.1(d)(12) (definition of Stop Limit Order).

<sup>7</sup> See SR-CBOE-2019-102 (October 29, 2019).

thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.<sup>8</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>9</sup> 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)<sup>10</sup> 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 benefits market participants by ensuring that they are able to use Stop Limit Orders to achieve their intended purpose. As stated, Stop Limit Orders are intended to increase User price control and flexibility, particularly in the face of price swings and market volatility, by resting in the System until the market reaches a certain price level. Thus, they are not intended to execute upon entry. Conversely, the primary purpose of the fat finger check is to prevent limit orders from executing at potentially erroneous prices upon entry, because the limit prices are “too far away” from the then-current NBBO. By excluding Stop Limit Orders from the fat finger check, which would currently cancel/reject a Stop Limit Order if its buy (sell) limit price was above (below) the NBO (NBB) upon activation of its stop limit price, the proposed rule change removes impediments to and perfects the mechanism of a free and open market and national market system by allowing Users the control and flexibility to set the limit prices on Stop Limit Orders so as to capture significant market fluctuations, which, as stated, result in corresponding significant adjustments in the NBBO. Therefore, the proposed rule change is designed to protect investors by allowing their Stop Limit Orders to execute as intended without being canceled or rejected in connection with the NBBO that existed at the time of their activation, and instead to consider rapid price movements and corresponding NBBO

adjustments. The Exchange notes that the proposed rule change will not affect the protection of investors or the maintenance of a fair and orderly market because the drill-through price controls would apply to Stop Limit Orders when their stop prices are activated and they become limit orders.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition 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 all Users' Stop Limit Orders will be excluded from the fat finger check in the same manner. Also, all Users' Stop Limit Orders will continue to be subject to other specific price controls in place once their stop prices are activated and they become limit orders. 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 the proposed change is merely designed to allow Users' Stop Limit Orders to execute in a manner that achieves their intended purpose by updating a price protection mechanism already in place on the Exchange and applicable only to trading on the Exchange.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 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

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>13</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange believes that waiver of the operative delay is appropriate because, as the Exchange discussed above, by excluding Stop Limit Orders from the fat finger check, which would currently cancel/reject a Stop Limit Order if its buy (sell) limit price was above (below) the NBO (NBB) upon activation of its stop limit price, will benefit market participants by ensuring that they are able to use Stop Limit Orders to achieve their intended purpose. Thus, the Exchange believes that the proposed rule change is designed to protect investors by allowing their Stop Limit Orders to execute as intended without being canceled or rejected due to the application of the fat finger check provision. Further, the Exchange believes waiver of the operative delay is consistent with the protection of investors and the public interest because the proposed rule change is substantively similar to a rule filing recently submitted by its affiliated exchange, Cboe Options, and thus presents no new or novel issues.<sup>15</sup>

The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal will permit Stop Limit Orders to execute as intended and not be inadvertently cancelled in certain situations, as discussed above, by the fat finger check provision. Therefore, the Commission hereby waives the operative delay and designates the proposal as operative upon filing.<sup>16</sup>

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

of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See *supra* note 7.

<sup>16</sup> 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).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> *Id.*

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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2019-069 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-2019-069. 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-2019-069 and

should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>17</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-24968 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87517; File No. SR-Phlx-2019-49]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Remove Rule Text From Phlx Rule 1101A

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 8, 2019, Nasdaq PHLX LLC ("Phlx" 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 remove rule text from Phlx Rule 1101A, "Terms of Options Contracts" at Commentary .05 in connection to the listing of P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month ("NDXPM").

The Exchange also proposes to remove other obsolete rule text regarding indices within Rule 1101A(1)(2), Rule 1104A, "SIG Indices, LLLP", Rule 1106A, "Lehman Brothers Inc. Indexes", Rule 1108A, "MSCI EM Index" and Rule 1109A "MSCI EAFE Index."

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>17</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

#### 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

Phlx proposes to remove rule text from Phlx Rule 1101A, "Terms of Options Contracts" at Commentary .05 in connection to the listing of P.M.-settled Nasdaq-100 Index Options expiring on the third Friday of the month ("NDXPM"). The Exchange also proposes to remove other obsolete rule text regarding indices within Rule 1101A(1)(2), Rule 1104A, "SIG Indices, LLLP", Rule 1106A, "Lehman Brothers Inc. Indexes", Rule 1108A, "MSCI EM Index" and Rule 1109A "MSCI EAFE Index."

###### Pilot

In August 2017, the Commission approved a proposed rule change for the listing of NDXPM options on a pilot basis on Phlx, with the Pilot to terminate on the earlier of (i) 12 months following the date of the first listing of the NDXPM options, or (ii) December 29, 2018 pursuant to Phlx Rule 1101A, "Terms of Options Contracts" Commentary .05.<sup>3</sup> By way of background, the Pilot permitted the listing and trading, on a pilot basis, of NASDAQ-100 options with third-Friday-of-the-month expiration dates, whose exercise settlement value was based on the closing index value, symbol XQC, of the NASDAQ-100 on the expiration day ("P.M.-settled").

<sup>3</sup> See Securities Exchange Act Release No. 81293 (August 2, 2017), 82 FR 37138 (August 8, 2017) (approving SR-Phlx-2017-04) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Permit the Listing and Trading of P.M.-Settled Nasdaq-100 Index Options on a Pilot Basis) See also Securities Exchange Act Release No. 85692 (April 18, 2019), 84 FR 17213 (April 24, 2019) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month)("Pilot").

The Exchange extended the pilot through May 6, 2019, and, subsequently through November 4, 2019, because P.M.-settled options on the NASDAQ-100 Index (“NASDAQ-100”) had not yet been listed by Phlx.<sup>4</sup> The Exchange did not renew this Pilot a third time and therefore the Pilot expired on November 4, 2019.

At this time, the Exchange proposes to remove Commentary .05 to Phlx Rule 1101A as this Pilot has expired. The Exchange also proposes to renumber Commentary .06 to Phlx 1101A as .05.

#### Other Amendments

The Exchange proposes to remove the following indexes at Rule 1001A(a)(2)(xxii) SIG Oil Exploration & Production Index™, (xxiv) KBW Capital Markets Index, (xxv) KBW Insurance Index, (xxvi) KBW Mortgage Finance Index, (xxvii) KBW Regional Banking Index, (xxxiii) NASDAQ China Index<sup>SM</sup>, and (xxxiv) SIG Energy MLP Index™. The Exchange proposes to remove the reserved rules and re-letter the remaining rule text. These indexes are no longer traded so the rule text is obsolete. There is no outstanding interest in any of the aforementioned indexes. If Phlx determines to list any of these indexes at a future date the Exchange will file a proposal with the Commission.

The Exchange proposes to remove other obsolete rule text regarding indices. The Exchange no longer lists SIG Indices and therefore proposes to remove rule text which permits the listing of such index options within Rule 1104A, “SIG Indices, LLLP.” The Exchange no longer lists Lehman Brothers Indexes and therefore proposes to remove rule text which permits the listing of such index options within Rule 1106A, “Lehman Brothers Inc. Indexes.” The Exchange also no longer lists the MSCI EM or MSCI EAFE index options. The Exchange proposes to remove Rule 1108A, “MSCI EM Index” and Rule 1109A “MSCI EAFE Index.” There is no outstanding interest in any of the aforementioned indexes. These indexes have not been listed in some time on Phlx. If Phlx determines to list any of these indexes at a future date the

Exchange will file a proposal with the Commission.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>5</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>6</sup> 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. The Exchange believes that removing the rule text related to the expired Pilot within Commentary .05 to Phlx Rule 1101A will protect investors and the public interest by avoiding confusion as to the existence of this Pilot. Further the Exchange believes that removing obsolete language related to the listing of index options which have not been listed for some time on Phlx will also protect investors and the public interest by avoiding confusion as to the availability of these listings. There is no outstanding interest in any of the aforementioned indexes. If Phlx determines to list any of these indexes at a future date the Exchange will file a proposal with the Commission.

#### 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. With the expiration of the Pilot, NDXPM options would not be listed by Phlx and therefore would not be available to any market participant. Further, no market participant may trade any of the index options which are being deleted.

#### 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 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<sup>7</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>8</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2019-49 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-Phlx-2019-49. 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

<sup>4</sup> See Securities Exchange Act Release Nos. 84685 (November 29, 2019), 83 FR 62942 (December 6, 2018) (SR-Phlx-2018-76) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Pilot Period for the Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month) and 85692 (April 18, 2019), 84 FR 17213 (April 24, 2019) (SR-Phlx-2019-16) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Pilot Period for the Listing of P.M.-Settled Nasdaq-100 Index Options Expiring on the Third Friday of the Month).

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 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.

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-Phlx-2019-49 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-24978 Filed 11-18-19; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87522; File No. SR-LCH SA-2019-009]

### Self-Regulatory Organizations; LCH SA; Notice of Filing of Proposed Rule Change Relating to Amendments to CDS Clear Reference Guide To Allow Index Basis Packages Margining

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on October 29, 2019, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. 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

Banque Centrale de Compensation, which conducts business under the

name LCH SA ("LCH SA"), is proposing to amend its (i) Reference Guide: CDS Clear Margin Framework (the "CDS Clear Risk Methodology") in order to allow Index Basis Packages margining as a single instrument.

The text of the proposed rule change has been annexed as Exhibit 5.<sup>3</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

##### A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

###### 1. Purpose

LCH SA CDS Clear is proposing to amend its CDS Clear Risk Methodology in order to consider any relevant and identified Index Basis Packages identified as a single instrument.

###### (a) Index Basis Package Principles

LCH SA CDS Clear currently clears CDS on a number of indices such as iTraxx Main, iTraxx Cross-over, iTraxx Senior Financials as well as all the Single Name constituents of these indices. The iTraxx Subordinated Financials indices will soon be made eligible for clearing as well. Indices and their constituents are currently managed and margined as independent instruments. However, market participants may execute Index Basis Packages consisting of an Index CDS trade and individual Single Name CDS trades on each of the reference entities constituents of such Index perfectly offsetting the index.

The following criteria would need to be required to constitute an Index Basis Package:

- The package is constituted of an Index CDS and Single Names CDS on all the entities constituting the index
- The position (Long/Short) on the Index offsets the positions on the Single Names (Short/Long).
- The notional of the Index and across all the Single Names match exactly

- All the Single Names CDS trades to have the same currency, coupon and maturity as the Index CDS
- All the Single Name CDS trades to have the same Seniority, ISDA Definition and Restructuring Clause than as constituents of the Index

Clearing Members and/or Clients will be required to identify all trades being part of an Index Basis Package and to notify LCH SA CDS Clear. CDS Clear would then perform controls to ensure all principles and requirements stated above for qualifying the trades as an Index Basis Package are satisfied and would flag them with a common ID number. These trades will continue to be margined as different trades until these tasks and controls have been fully completed and the qualification as an Index Basis Package confirmed.

Once an Index Basis Package is validated as complete, the margin enhancement proposed in the current rule change would then be applied as part of the overnight margin calculation.

In order to ensure that the trades continue to meet the criteria of an Index Basis Package, controls will be performed every day at the start of the overnight batch process.

Index Basis Packages identified and flagged as such will be excluded from compression runs with the rest of the portfolio in order to avoid breaking any packages.

Index Basis Packages can be unflagged as such at the Clearing Member and/or Client's request. The Index CDS and the Single Name CDS would then be treated and margined separately as per the current framework.

In case of a Clearing Member's default, CDS Clear will have the ability to liquidate Index Basis Packages in a dedicated auction should it be advised to do so by the Default Management Group in order to minimize the liquidation costs.

###### (b) Proposed Changes to CDS Clear Risk Methodology

In order to take into account the specific risk created by Index Basis Packages positions, LCH SA proposes to amend the calculation of the Spread Margin and the calculation of the Liquidity Charge Margin as described in its Reference Guide, *CDS Clear Margin Framework*.

LCH SA CDS Clear currently considers an Index Basis Package as multiple instruments in the calculation of its Spread Margin. In accordance with the portfolio margining requirements under Article 27 of Commission Delegated

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> All capitalized terms not defined herein have the same definition as the Rule Book, Supplement or Procedures, as applicable.

Regulation (EU) No 153/2013<sup>4</sup> (the “RTS”), LCH SA CDSClear applies a cap of 80% to the possible margin offsets reduction. Therefore the Spread Margin of an Index Basis Package is calculated as the maximum between the expected shortfall of the package and 20% of the sum of the expected shortfalls calculated for each components of the package.

Considering that this does not appropriately reflect the actual risk of an Index Basis Package meeting the criteria stated above, CDSClear is proposing to amend its CDSClear Risk Methodology in order to consider Index Basis Packages identified as such as a single instrument when calculating the amount of margins required. In particular, the 80% cap on offsets between the components of the Index Basis Package would not be applied in the calculation of the Spread Margin, but would be maintained between an Index Basis Package and all the other positions in the portfolio.

In the opinion published in April 2017<sup>5</sup> and clarifying the application of Article 27 of the RTS, the European Securities and Market Authority (“ESMA”), acknowledges the low level of risk presented by a package consisting in a future on an index and futures on each of the constituents of the index and allows a CCP to acknowledge margin reduction in excess of 80% in this specific case.

Considering that an Index Basis Package would likely be sold off in a dedicated auction in case of default of a Clearing Member, LCH SA also proposes to amend the calculation of the Liquidity Charge Margin described in the CDSClear Risk Methodology in order to better reflect the actual cost it would incur when liquidating an Index Basis Package. CDSClear proposes to charge a specific bid/ask spread for each Index family underlying an Index Basis Package identified as such rather than use the current Liquidity Charge Margin algorithm based on charging bid/ask spreads for each individual component in the package taken independently. The current Liquidity Charge Margin methodology will nevertheless remain in the calculation specific to Index Basis Packages identified as such by acting as a cap to the new calculation method.

Finally, Index Basis Packages flagged as such would be excluded from the Recovery Risk, Interest Risk, or Wrong Way Risk Margin calculations as by

construction Index Basis Packages are immune to the risks these margins aim at capturing.

No other changes are made to the CDSClear Risk Methodology.

#### (c) Proposed Changes to CDSClear Risk Methodology

The CDS Clearing Rulebook, Supplement and Procedures will not need to be amended for the IBP initiative purposes. Only one new Clearing Notice is expected to be published, this notice defines what an IBP is and the procedure to be followed to request a set of Cleared Trades to be identified as an IBP.

#### 2. Statutory Basis

LCH SA believes that the proposed rule change in connection with the specific margin calculations for Index Basis Packages identified as such is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934<sup>6</sup> (the “Act”) and the regulations thereunder, including the standards under Rule 17Ad-22.<sup>7</sup> In particular, Section 17(A)(b)(3)(F)<sup>8</sup> of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

As noted above, the proposed rule change is designed to apply specific margin calculations for Index Basis Packages flagged as such in order:

—To appropriately collect and maintain financial resources intended to cover the risks to which LCH SA is exposed in connection with offering clearing services for Index Basis Packages. As such, LCH SA will be able to minimize the risk that losses associated with the default of a participant (or participants) in the clearing service will extend to other participants in the service.

—To reflect the specific features of Index Basis Packages, notably the way that these are executed by market participants, which in turn promotes the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts and transactions and contributes to the safeguarding of securities and funds associated with security-based swap transactions in LCH SA’s custody or

control, or for which LCH SA is responsible.

For these reasons, LCH SA believes that the proposed rule change should help promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts and transactions. Similarly, it should enhance LCH SA’s ability to help assure the safeguarding of securities and funds which are in the custody or control of LCH SA or for which it is responsible.

LCH SA believes that the proposed changes to the CDSClear Margin Framework and the Default Fund Methodology satisfy the requirements of Rule 17Ad-22(e).<sup>9</sup>

Rule 17Ad-22(e)(4) requires a covered clearing agency to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing and settlement processes by maintaining sufficient financial resources,<sup>10</sup> and Rule 17Ad-22(e)(6) requires a covered clearing agency that provides central counterparty services to cover its credit exposures to its participants by establishing a risk-based margin system that meets certain minimum requirements.<sup>11</sup>

As described above, LCH SA proposes to amend its CDSClear Methodology Framework to manage the risks associated with the clearing of Index Basis Packages identified as such. Specifically, the proposed rule change amends the Spread Margin calculation for Index Basis Packages by not applying the 80% cap on offsets between the various instruments constituting the package. It also amends the Liquidity Charge Margin by applying a specific bid-ask spread per Index family underlying of an Index Basis Package identified as such in order to reflect the way that those packages trade in the market and would likely be auctioned off in the case of a default of a Clearing Member, as well as by capping the new Liquidity Charge Margin calculation by the amount calculated using the current Liquidity Charge framework based on an individual bid-ask spread per component of the Index Basis Package. Finally, all the other margins part of the CDSClear Risk Methodology will not be calculated on Index Basis Packages flagged as such as immune to those risks due to the complete offsets between the components of the package.

These changes are designed to use an appropriate risk-based model to set

<sup>4</sup> <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:052:0041:0074:EN:PDF>.

<sup>5</sup> [https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-18\\_opinion\\_on\\_portfolio\\_margining.pdf](https://www.esma.europa.eu/sites/default/files/library/esma70-708036281-18_opinion_on_portfolio_margining.pdf).

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 17 CFR 240.17Ad-22.

<sup>8</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad-22(e).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(4)(i).

<sup>11</sup> 17 CFR 240.17Ad-22(e)(6)(i).

margin requirements and use such margin requirements to limit LCH SA's credit exposures to participants in clearing Index Basis Packages and/or other CDS and CDS Options under normal market conditions, consistent with Rule 17Ad-22(e)(3).<sup>12</sup> LCH SA also believes that its risk-based margin methodology takes into account, and generates margin levels commensurate with the risks and particular attributes of each of Index Basis Packages, other CDS as well as CDS Options at the product and portfolio levels, appropriate to the relevant market it serves, consistent with Rule 17Ad-22(e)(6)(i) and (v).<sup>13</sup> In addition, LCH SA believes that the margin calculation under the revised CDSClear Margin Framework would sufficiently account for the 5-day liquidation period for house account portfolios and 7-day liquidation period for client portfolios and therefore, is reasonably designed to cover LCH SA's potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default, consistent with Rule 17Ad-22(e)(6)(iii).<sup>14</sup>

Further, Rule 17Ad-22(e)(4)(ii)<sup>15</sup> requires a covered clearing agency that provides central counterparty services for security-based swaps to maintain financial resources additional to margin to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, meeting the cover two standard. LCH SA believes that its Default Fund Methodology, not being impacted by the proposed rule change, will therefore still appropriately incorporate the risk of clearing Index Basis Packages, CDS, and CDS Options which, together with the proposed changes to the CDSClear Margin Framework, will be reasonably designed to ensure that LCH SA maintains sufficient financial resources to meet the cover two standard, in accordance with Rule 17Ad-22(e)(4)(ii).<sup>16</sup>

LCH SA also believes that the proposed rule changes are consistent with the provisions of Rule 17Ad-22(e)(17)<sup>17</sup> requiring a covered clearing agency to manage operational risks by (i) identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls; (ii) ensuring that systems have a high

degree of security, resiliency, operational reliability, and adequate, scalable capacity; and (iii) establishing and maintaining a business continuity plan that addresses events posing a significant risk of disrupting operations.<sup>18</sup>

As stated above LCH SA will flag each component of an Index Basis Package using a common ID number to ensure complete identification of the package and perform checks to ensure all principles and requirements for qualifying as an Index Basis Package are satisfied. No margin enhancement will be given until the full Index Basis Package is complete. Once an Index Basis Package is validated as complete, the specific margin calculations will then be applied as part of the overnight margin calculation.

LCH SA will also implement additional automated controls in its systems performed daily to ensure all the requirements are met on a continuous basis.

Index Basis Packages will be excluded from compressions with the rest of the portfolio in order to avoid being broken up.

LCH SA will update its operational procedures and IT systems to ensure all the above is adequately implemented and operational risk reduced to a very minimum.

Rule 17Ad-22(e)(2)<sup>19</sup> requires LCH SA to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act.<sup>20</sup>

LCH SA's governance arrangements clearly assign and document responsibility for risk decisions and require consultation with or approval from the LCH SA Board, Risk committees, or management. LCH SA's proposed rule change was decided in accordance with the LCH SA governance process, which included review of the changes to the CDSClear Margin Framework and related risk management considerations by the LCH SA Executive Risk Committee. These governance arrangements continue to be clear and transparent, such that information relating to the assignment of responsibilities for risk decisions and the requisite involvement of the LCH SA Board, committees, and management is clearly documented, consistent with the requirements of Rule 17Ad-22(e)(2).<sup>21</sup>

For the reasons stated above, LCH SA believes that the proposed rule change is consistent with the requirements of

prompt and accurate clearance and settlement of securities transactions, and assuring the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, in accordance with Section 17A(b)(3)(F)<sup>22</sup> of the Act, with the requirements of operational risk management in Rule 17Ad-22(e)(17),<sup>23</sup> and with clear and transparent governance arrangements in Rule 17Ad-22(e)(2).<sup>24</sup>

#### *B. Clearing Agency's Statement on Burden on Competition*

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.<sup>25</sup> LCH SA does not believe that the proposed rule change would impose burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed changes to the CDSClear Margin Framework, would apply equally to all Clearing Members and Clients whose portfolios include Index Basis Packages as long as a request to identify them as such was received by LCH SA and the controls performed confirmed the completeness of the package. Because the margin methodology is risk-based, consistent with the requirements in Rule 17Ad-22(b)(2) and (e)(6), depending on a Clearing Member's portfolio, each Clearing Member would be subject to a margin requirement commensurate with the risk particular to its portfolio. Such margin requirement impose burdens on a Clearing Member but such burdens would be necessary and appropriate to manage LCH SA's credit exposures to its CDSClear participants consistent with the requirements under the Act as described above.

Therefore, LCH SA does not believe that the proposed rule change would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *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. LCH SA will notify the Commission of any written comments received by LCH SA.

<sup>12</sup> 17 CFR 240.17Ad-22(e)(3).

<sup>13</sup> 17 CFR 240.17Ad-22(e)(6)(i) and (v).

<sup>14</sup> 17 CFR 240.17Ad-22(e)(6)(iii).

<sup>15</sup> 17 CFR 240.17Ad-22(e)(4)(ii).

<sup>16</sup> 17 CFR 240.17Ad-22(e)(4)(ii).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(17).

<sup>18</sup> 17 CFR 240.17Ad-22(e)(17).

<sup>19</sup> 17 CFR 240.17Ad-22(e)(2).

<sup>20</sup> 15 U.S.C. 78q-1.

<sup>21</sup> 17 CFR 240.17Ad-22(e)(2).

<sup>22</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>23</sup> 17 CFR 240.17Ad-22(e)(17).

<sup>24</sup> 17 CFR 240.17Ad-22(e)(2).

<sup>25</sup> 15 U.S.C. 78q-1(b)(3)(I).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-LCH SA-2019-009 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-LCH SA-2019-009. 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 LCH SA and on LCH SA's website at: <https://www.lch.com/resources/rules-and-regulations/proposed-rule-changes-0>. 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-LCH SA-2019-009 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-24980 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87526; File No. SR-DTC-2019-009]

### Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Amend the Redemptions Guide Relating to the Call Lottery Process for Partial Redemptions

**November 13, 2019.**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 31, 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. 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 of DTC<sup>3</sup> consists of amendments to the

<sup>26</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (the "Rules"), available at [http://www.dtcc.com/-/media/Files/Downloads/legal/rules/dtc\\_rules.pdf](http://www.dtcc.com/-/media/Files/Downloads/legal/rules/dtc_rules.pdf).

Procedures<sup>4</sup> set forth in the DTC Corporate Actions Redemptions Service Guide<sup>5</sup> ("Redemptions Guide") relating to DTC's call lottery process for the processing of partial redemptions ("Partial Calls"), specifically with respect to allocations made for odd lot positions in a called Security held by a Participant, as 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 consists of amendments to the Procedures set forth in the Redemptions Guide relating to DTC's lottery process for the processing of Partial Calls, specifically with respect to allocations made for odd lot positions in a called Security held by a Participant, as described below.

###### Background

###### Partial Calls and the Call Lottery

An issuer of a Security may be allowed under the terms of the Security to call a portion of the par value of the Security outstanding for redemption, *i.e.*, a Partial Call.<sup>6</sup> In such a case, some investors may have all or a portion of their position redeemed by the issuer, while others may not have any portion of their position redeemed.

When an issuer initiates a Partial Call, DTC requires the trustee for the Security to publish notice of such event or mail notice of the event, including the specific amount to be redeemed, to the registered holders.<sup>7</sup> After DTC receives or collects notice of the Partial Call, DTC creates an announcement through

<sup>4</sup> Pursuant to the Rules, the term "Procedures" means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. See Rule 1, Section 1, *id.*

<sup>5</sup> Available at <http://www.dtcc.com/-/media/Files/Downloads/legal/service-guides/Redemptions.pdf>.

<sup>6</sup> See *id.* at 19.

<sup>7</sup> See *id.*

its redemptions service,<sup>8</sup> and preliminary call notice information is made available to Participants.<sup>9</sup>

Under DTC’s Procedures set forth in the Redemptions Guide relating to a Partial Call, DTC allocates the called Securities among Participants that hold the applicable Security by means of an impartial lottery, based upon Participants’ net long positions as of the close of business on the day prior to the publication of the call notice.<sup>10</sup> Upon performing the call lottery, DTC reports the results to Participants.<sup>11</sup>

**Odd Lots**

From time to time, a Participant may hold position in a Security that is not within the stated increments of the Security, *i.e.*, the par value at which, pursuant to the terms of the issue, the Security can be purchased and traded. For example, a bond contract for a Security may provide that all purchases must be made in authorized denominations equal to a multiple of such an incremental value. E.g., if the incremental value for the Security is \$5,000 par value, then any amount held by a Participant that has a par value that is not a multiple of \$5,000, such as a position with a par value of \$5,001, would be an odd lot;<sup>12</sup> a position of \$105,000 would not be an odd lot because \$105,000 is a multiple of \$5,000.

Running the lottery with the odd lot position intact could result in another Participant being driven into an odd lot position, because when the lottery is applied against existing odd lot positions it may result in the creation of new positions for other Participants that are not valued in a multiple of the established incremental value. Odd lot positions that are created during the lottery process may have adverse repercussions on Participants to which the odd lot positions are allocated and

their clients, because odd lot securities are more difficult to trade due to the terms of the issue requiring trades to be made only in multiples of the incremental value.

Pursuant to the proposed rule change, DTC would implement a revision of the call lottery process to prevent creating new odd lot positions for CUSIPs with minimum increments of \$5,000 principal amount or less. For purposes of running the lottery, Participants with odd lot positions would have their positions adjusted down to nearest value that is divisible by the minimum incremental value. However, the Participant would continue to hold the Securities reduced from its position for this purpose in its Account. This means that the Participant with the initial odd lot would continue to maintain an odd lot position after the lottery is run, but no new odd lot positions would be created.

Following is an example of how the proposed change would govern the determination of the portion of a Participant’s position that would be subject to allocation during a Partial Call on the affected Security:

*Example (incremental value of \$5,000):*

Participant	Position	Adjusted position
1	105,000	* 105,000
2	151,000	* 150,000
3	194,000	* 190,000

\* (no adjustment)

**Proposed Rule Change**

Pursuant to the proposed rule change, DTC would amend the Redemptions Guide to insert the following text into the section titled “Partial Calls”:

*Partial Calls When Participant Positions Are Not Divisible by the Issue’s Incremental Value*

From time to time, Participants may hold positions that are not within the stated increments of the security (odd lot). For issues where the incremental value is \$5,000 or less, each Participant that has position that is not divisible by the incremental value will have their lottery position rounded down to the nearest value that is divisible by the minimum incremental value. These rounded positions will be indicated as adjusted positions within the entitlement screens and will be used as the position that will be included in performing the lottery. No adjustments will be made for any securities that have minimal incremental values greater than \$5,000.

*Example (incremental value of 5,000):*

Participant	Position	Adjusted position
1	105,000	* 105,000

Participant	Position	Adjusted position
2	151,000	* 150,000
3	194,000	* 190,000

\* (no adjustment)

In addition, a copyright date in the text of the Redemptions Guide is currently shown as 1999–2014. Pursuant to the proposed rule change, DTC would revise the text of the Redemptions Guide to reflect a copyright date of 1999–2019.

**Implementation Timeframe**

The proposed rule change would be implemented upon its approval by the Commission.

**2. Statutory Basis**

Section 17A(b)(3)(F) of the Act<sup>13</sup> requires that the rules of the clearing agency be designed, *inter alia*, to promote the prompt and accurate clearance and settlement of securities transactions. As described above, odd lot positions are more difficult for Participants and their clients to trade. The proposed rule change would prevent the creation of new odd lot positions during the lottery process for issues where the incremental value is \$5,000 or less. Therefore, DTC believes that the proposed rule change is consistent with this provision of the Act, because by amending the Redemptions Guide to exclude odd lots from Partial Call lottery processing as described above, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions by preventing the creation of new odd lots during the process, and therefore facilitate the allocation of positions that are more amenable to trading for transactions that are processed and settled through DTC’s system.

**(B) Clearing Agency’s Statement on Burden on Competition**

DTC believes that the proposed rule change could impose a burden on competition. By excluding from a call lottery the portion of a Participant’s position in a Security that is not within the stated increments of the Security as described above, the proposed rule change would result in those Participants continuing to hold the odd lot portion of their position regardless of the outcome of the lottery results. In addition, having fewer Securities available to participate in the call lottery from those Participants with the “odd lot” portion of their respective positions excluded may result in other

<sup>8</sup> DTC’s redemption service includes announcing, collecting, allocating, and reporting redemption and maturity payments on behalf of its Participants holding Eligible Securities. *See id.* at 7.

<sup>9</sup> *See id.* at 19.

<sup>10</sup> *See id.*

<sup>11</sup> *See id.* at 21.

<sup>12</sup> As an example, an odd lot position may be created as a result of a beneficial holder’s account at a Participant being split into two accounts as a result of an event such as a divorce or the administration of the estate of the beneficial holder. If the division of the assets in the beneficial holder’s account at the Participant ultimately results in a portion of the beneficial holder’s position in the subject Security being transferred to another Participant, and the remaining balance of the Security in the beneficial holder’s account at the Participant that held the full position prior to the split is not in a par value amount that is a multiple of the authorized denomination, then an odd lot amount could be created in a Participant’s DTC account.

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F).

Participants having a larger portion of their positions in the Security redeemed in connection with the Partial Call. This outcome may present a burden or benefit to a Participant versus others with respect to a given redemption resulting from a Partial Call, depending on whether the terms of a Partial Call would be favorable to the Participant.

DTC believes that any burden on competition presented by the proposal would not be significant because only the “odd lot” portion of a Participant’s holdings for Securities denominated in increments of \$5,000 or less would be excluded from the Partial Call, thus creating a cap<sup>14</sup> on the number of a Participant’s Securities that could be excluded from a call lottery, and thus limiting the benefit or burden that a Participant whose Securities are called would realize versus other Participants.

DTC believes that any burden on competition that may be imposed by the proposed rule changes, as described above, would be necessary and appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act,<sup>15</sup> because preventing the creation of new odd lots resulting from the allocation for a call lottery on a Security affected by the proposal would instead result in positions that (i) avoid the adverse repercussions, with respect to tradability of the Security, on a Participant who would otherwise have been allocated a new odd lot position by the inclusion of one or more odd lot positions of other Participants in the call lottery, as described above, and (ii) are available in an incremental value that can be used to satisfy Delivery obligations with respect to open trading positions in the Security, and would therefore promote the prompt and accurate clearance and settlement of securities transactions in the marketplace for an affected Security.

DTC believes the proposed rule change may promote competition, because eliminating the creation of new odd lot positions for called Securities where the incremental value is \$5,000 or less would prevent circumstances where additional Participants, beyond any Participants that already hold odd lot positions prior to the running of the lottery, are allocated positions in odd lot amounts, which, as described above, would be more difficult for the Participants and their clients to trade

than positions held in multiples of the incremental value.

*(C) Clearing Agency’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

DTC has not received or solicited any written comments relating to this proposal. 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**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–DTC–2019–009 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–2019–009. 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 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–2019–009 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019–24977 Filed 11–18–19; 8:45 am]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–87519; File No. SR–NYSEARCA–2019–80]

**Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.31–E To Delete Cross Orders**

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on November 1, 2019, NYSE Arca, Inc. (“NYSE Arca” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>16</sup> 17 CFR 200.30–3(a)(12).

<sup>15</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>14</sup> An odd lot can only be an amount less than the incremental value of the Security. Thus, if the incremental value of a Security is \$5,000, then the amount of a Participant’s total position excluded from a call lottery on that Security would be capped at \$4,999.

<sup>15</sup> 15 U.S.C. 78q–1(b)(3)(I).

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 7.31–E (Orders and Modifiers) to delete Cross Orders from its rules and make other conforming changes. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://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 purpose of the proposed rule change is to amend the Exchange's rules to delete Cross Orders.

As defined in Rule 7.31–E(g), a Cross Order is a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price"). The Exchange offers one type of Cross Order, the Limit IOC Cross Order. As defined in Rule 7.31–E(g)(1), a Limit IOC Cross Order is a Cross Order that must trade in full at its cross price, will not route, and will cancel at the time of order entry if the cross price is not between the BBO or would trade through the PBBO.

Due to a lack of demand for Cross Orders, the Exchange proposes to discontinue supporting Cross Orders. Specifically, in the last three months, the Exchange has not received any Cross Orders. Accordingly, the Exchange proposes to delete the definition of Cross Order from Rule 7.31–E(g), as well as the references to Cross Orders in Rules 7.10–E(e)(1), 7.11–E(a)(5)(E), 7.16–E(f)(5)(H), 7.18–E(c)(5), 7.34–E(c)(1)(B), 7.34–E(c)(1)(C), and 7.34–E(c)(2)(C). The Exchange proposes to designate Rules 7.31–E(g), 7.11–E(a)(5)(E), and 7.16–E(f)(5)(H) as Reserved and proposes to revise Rules

7.10–E(e)(1), 7.18–E(c)(5), 7.34–E(c)(1)(B), 7.34–E(c)(1)(C), and 7.34–E(c)(2)(C) to delete the references to Cross Orders. Subject to effectiveness of this proposed rule change, the Exchange will announce the implementation date of these changes through a Trader Update, which the Exchange anticipates will be in November 2019.

##### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>3</sup> in general, and Section 6(b)(5) of the Act,<sup>4</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanisms of a free and open market by eliminating a little-used order type and improving the clarity of the Exchange's rules. The Exchange further believes that deleting an order type rarely used by investors also removes impediments to and perfects the mechanism of a free and open market by facilitating market participants' navigation of the Exchange's rulebook and improving their ability to understand the order types available for trading on the Exchange. Moreover, the Exchange believes that the elimination of Cross Orders will simplify order processing and reduce the burden on system capacity, which the Exchange believes is consistent with promoting just and equitable principles of trade, as well as the protection of investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change would relieve a burden on competition by making the Exchange's rules easier to navigate and promoting regulatory clarity through the elimination of a seldom-used order type.

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>5</sup> and Rule 19b–4(f)(6) thereunder.<sup>6</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b–4(f)(6) thereunder.<sup>8</sup>

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

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>6</sup> 17 CFR 240.19b–4(f)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

• Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEARCA-2019-80 on the subject line.

#### Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEARCA-2019-80. 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-NYSEARCA-2019-80, and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Jill M. Peterson,**  
Assistant Secretary.

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**BILLING CODE 8011-01-P**

<sup>9</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87516; File No. SR-BOX-2019-32]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Options Market LLC Facility To Establish BOX Connectivity Fees for Participants and Non-Participants Who Connect to the BOX Network

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 31, 2019, BOX Exchange LLC (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission ("Commission") a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC ("BOX") facility. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxexchange.com>.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

#### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

The Exchange is refiling its proposal to amend the Fee Schedule regarding connectivity to BOX in order to provide greater detail and clarity concerning BOX's costs, as they pertain to expenses for network connectivity services. The Exchange is now presenting more connectivity cost details that correspond with income statement expense line items to provide greater transparency into its actual costs associated with providing network connectivity services. The Exchange believes that its proposed fees are fair and reasonable because they will permit recovery of less than all of the Exchange's costs for providing connectivity and will not result in excessive pricing or supracompetitive profit, when comparing the Exchange's total annual expense associated with providing the network connectivity services versus the total projected annual revenue the Exchange projects to collect for providing the network connectivity services.

The Exchange proposes to amend Section VI. (Technology Fees) of the BOX Fee Schedule to establish BOX Connectivity Fees for Participants and non-Participants who connect to the BOX network. Connectivity fees will be based upon the amount of bandwidth that will be used by the Participant or non-Participant. Further, BOX Participants or non-Participants connected as of the last trading day of each calendar month will be charged the applicable Connectivity Fee for that month. The Connectivity Fees will be as follows:

Connection type	Monthly fees
Non-10 Gb Connection ...	\$1,000 per connection.
10 Gb Connection .....	\$5,000 per connection.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

The Exchange also proposes to amend certain language and numbering in Section VI.A to reflect the changes discussed above. Specifically, the Exchange proposes to add the title “Third Party Connectivity Fees” under Section VI.A. Further, the Exchange proposes to add Section VI.A.2, which details the proposed BOX Connectivity Fees discussed above. Finally the Exchange is proposing to remove Section VI.C. High Speed Vendor Feed (“HSVF”), and reclassify the HSVF as a Port Fee.

The Exchange initially filed the proposed fees on July 19, 2018, designating the proposed fees effective July 1, 2018. The first proposed rule change was published for comment in the **Federal Register** on August 2, 2018.<sup>5</sup> The Commission received one comment letter on the proposal.<sup>6</sup> The proposed fees remained in effect until they were temporarily suspended pursuant to a suspension order (the “Suspension Order”) issued by the Division of Trading and Markets, which also instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>7</sup> The Commission subsequently received one further comment letter on the proposed rule change, supporting the decision to suspend and institute proceedings on the proposed fee change.<sup>8</sup>

In response to the Suspension Order, the Exchange timely filed a Notice of Intention to Petition for Review<sup>9</sup> and Petition for Review to vacate the Division’s Order,<sup>10</sup> which stayed the Division’s suspension of the filing. On November 16, 2018 the Commission granted the Exchange’s Petition for Review but discontinued the automatic stay.<sup>11</sup> The Exchange then filed a

statement to reiterate the arguments set forth in its petition for review and to supplement that petition with additional information.<sup>12</sup>

The Exchange subsequently refiled its fee proposal on November 30th, 2018. The proposed fees were noticed and again temporarily suspended pursuant to a suspension order issued by the Division of Trading and Markets, which also instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>13</sup> The Commission received two comment letters supporting the decision to suspend and institute proceedings on the proposed fee change.<sup>14</sup>

The Exchange again refiled its fee proposal on February 13, 2019. The proposed fees were noticed and again temporarily suspended pursuant to a suspension order issued by the Division of Trading and Markets, which also instituted proceedings to determine whether to approve or disapprove the proposed rule change.<sup>15</sup> The Commission received four comment letters supporting the decision to suspend and institute proceedings on the proposed fee change.<sup>16</sup>

On March 29, 2019, the Commission issued its Order Disapproving each

limitations on access. *See In re Securities Industry and Financial Markets Association*, Admin. Proc. File No. 3–18680 (Aug. 24, 2018). The Commission thereafter remanded that denial-of-access proceeding to the Exchange while “express[ing] no view regarding the merits” and emphasizing that it was “not set[ting] aside the challenged rule change[.]” *In re Applications of SIFMA & Bloomberg*, Exchange Act Rel. No. 84433, at 2 (Oct. 16, 2018) (“Remand Order”), available at <https://www.sec.gov/litigation/opinions/2018/34-84433.pdf>. The Division’s Suspension Order is inconsistent with the Commission’s intent in the Remand Order to leave the challenged fees in place during the pendency of the remand proceedings and singles out the Exchange for disparate treatment because it means that the Exchange—unlike every other exchange whose rule changes were the subject of the Remand Order—is not permitted to continue changing the challenged fees during the remand proceedings.

<sup>12</sup> See Letter from Amir Tayrani, Partner, Gibson, Dunn & Crutcher LLP, dated December 10, 2018.

<sup>13</sup> See Securities Exchange Act Release No. 84823 (December 14, 2018), 83 FR 65381 (December 20, 2018) (SR–BOX–2018–37).

<sup>14</sup> See Letters from Tyler Gellasch, Executive Director, The Healthy Markets Association (“Second Healthy Markets Letter”), and Chester Spatt, Pamela R. and Kenneth B. Dunn Professor of Finance, Tepper School of Business, Carnegie Mellon University (“Chester Spatt Letter”), to Brent J. Fields, Secretary, Commission, dated January 2, 2019.

<sup>15</sup> See Securities Exchange Act Release No. 85201 (February 26, 2019), 84 FR 7146 (March 1, 2019) (SR–BOX–2019–04).

<sup>16</sup> See Letters from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA (“Second SIFMA Comment Letter”), Tyler Gellasch, Executive Director, Healthy Markets Association (“Third Healthy Markets Letter”), Stefano Durdic, Former Owner of R2G Services, LLC, and Anand Prakash.

iteration of the BOX Proposal (“BOX Order”). In the BOX Order, the Commission highlighted a number of deficiencies it found in three separate rule filings by BOX to establish BOX’s connectivity fees that prevented the Commission from finding that BOX’s proposed connectivity fees were consistent with the Act.

On May 21, 2019 the Division of Trading and Markets released new Guidance on SRO Rule Filings Relating to Fees. The Exchange then refiled the proposed fees on June 26, 2019 to incorporate the new guidance released by the Commission.

The Commission received two comment letters on BOX’s June 26, 2019 Proposal.<sup>17</sup> The Third SIFMA Comment Letter did not request that the Commission suspend BOX’s Proposal, but rather requested that the Commission “carefully consider whether BOX provided sufficient evidence to satisfy the applicable statutory standards.” The Fourth Healthy Markets Letter walks through the procedural history of the BOX and MIAX filings and urges the Commission to propose reforms with regard to immediately effective rule filings.

On September 5, 2019 the Exchange withdrew the proposed rule change and refiled the proposed fees to further bolster its cost-based discussion to support its claim that the Proposal is fair and reasonable because they will permit recovery of a portion of BOX costs and will not result in excessive pricing or supra-competitive profit. The Commission received only one comment letter on the proposed rule change, twelve days after the comment period ended.<sup>18</sup> Of note, no Participant, other person, industry group, or operator of an options market commented on the proposed rule change. Rather, the only comment letter came from an operator of a single equities market (equities market structure and the resulting network demands are fundamentally different from those in the options markets) and which the operator also has a fundamentally different business model (and agenda) than does the Exchange. That letter called for, among other things, the Exchange to explain its basis for concluding it incurred substantially

<sup>17</sup> See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated August 5, 2019 (“Third SIFMA Comment Letter”) and Letter from Tyler Gellasch, Executive Director, Healthy Markets Association, dated August 5, 2019 (“Fourth Healthy Markets Letter”).

<sup>18</sup> See Letter from John Ramsay, Chief Market Policy Officer, Investors Exchange LLC (“IEX”) to Vanessa Countryman, Secretary, Commission, dated October 9, 2019.

<sup>5</sup> See Securities Exchange Act Release No. 83728 (July 27, 2018), 83 FR 37853 (August 2, 2018) (SR–BOX–2018–24).

<sup>6</sup> See Letter from Tyler Gellasch, Executive Director, The Healthy Markets Association, to Brent J. Fields, Secretary, Commission, dated August 23, 2018 (“Healthy Markets Letter”).

<sup>7</sup> See Securities Exchange Act Release No. 34–84168 (September 17, 2018).

<sup>8</sup> See Letter from Theodore R. Lazo, Managing Director and Associate General Counsel, and Ellen Greene, Managing Director, Financial Services Operations, Securities Industry and Financial Markets Association, dated October 15, 2018.

<sup>9</sup> See Letter from Amir Tayrani, Partner, Gibson, Dunn & Crutcher LLP, dated September 19, 2018.

<sup>10</sup> See Petition for Review of Order Temporarily Suspending BOX Exchange LLC’s Proposal to Amend the Fee Schedule on BOX Market LLC, dated September 26, 2018.

<sup>11</sup> See Securities Exchange Act Release No. 84614. Order Granting Petition for Review and Scheduling Filing of Statements, dated November 16, 2018. Separately, the Securities Industry and Financial Markets Association filed an application under Section 19(d) of the Exchange Act challenging the Exchange’s proposed fees as alleged prohibitions or

higher costs to provide lower-latency connections and further described the nature and closeness of the relationship between the identified costs and connectivity products and services as stated in the Exchange's cost allocation analysis.

The Exchange is again re-filing the fee proposal ("the Proposal") to provide greater detail and clarity concerning the Exchange's costs, as they pertain to the Exchange's expense relating to the provision of network connectivity services. The Exchange is also re-filing its proposal in order to clarify certain points raised in the IEX Letter.

The Exchange believes that the proposed fees are consistent with the Act because they (i) are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition; (ii) comply with the BOX Order and the Guidance; (iii) are, as demonstrated by this Proposal and supported by evidence (including data and analysis), constrained by significant competitive forces; and (iv) are, supported by specific information (including quantitative information), fair and reasonable because they will permit recovery of a portion of BOX's costs and will not result in excessive pricing or supracompetitive profit. Accordingly, the Exchange believes that the Commission should find that the proposed fees are consistent with the Act. The proposed rule change is immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.

As discussed herein, the Exchange believes that it is reasonable and appropriate to begin charging for physical connectivity fees to partially offset the costs associated with maintaining and enhancing a state-of-the-art exchange network infrastructure in the US options industry. There are significant costs associated with various projects and initiatives to improve overall network performance and stability, as well as costs paid to the third-party data centers for space rental, power used, etc.

BOX has always offered physical connectivity to Participants and non-Participants to access the BOX's trading platforms, market data, test systems and disaster recovery facilities. These physical connections consist of 10Gb and non-10Gb connections, where the 10Gb connection provides for faster processing of messages sent to it in comparison to the non-10Gb connection. Since launching in 2012, BOX has not charged for physical connectivity and has instead relied on transaction fees as the basis of revenue. However, in recent years transaction

fees have continually decreased across the options industry. At the same time these transactions fees were decreasing, the options exchanges, except for BOX, began charging physical connectivity fees to market participants. As such, BOX began to find itself at a significant competitive disadvantage due to the decreased transaction fees at other exchanges. To remain competitive, BOX was forced to follow suit and decrease its transaction fees in order to continue receiving order flow to the Exchange. While other exchanges lowered transaction fees, they were still able to rely on the connectivity fee revenues as a means of covering a portion of the costs to operate their respective exchanges. BOX had no choice but to begin charging Participants and non-Participants fees for connecting directly to the BOX network (which BOX has taken considerable measures to maintain and enhance for the benefit of those Participants and non-Participants) in order to remain competitive with the other options exchanges in the industry.

As discussed in the Exchange's recent Petition for Review of the Commission's Order Disapproving BOX's three filings, not allowing BOX to charge such connectivity fees arbitrarily and inequitably treats BOX differently from each of the other exchanges that submitted prior immediately effective connectivity fee filings that were not suspended or disapproved by the Commission.<sup>19</sup> The Exchange notes that all other options exchanges currently charge for similar physical connectivity.<sup>20</sup>

<sup>19</sup> See Securities Exchange Act Release No. 85927. Order Granting Petition for Review and Scheduling Filing of Statements, dated May 23, 2019.

<sup>20</sup> Nasdaq PHLX LLC ("Phlx"), The Nasdaq Stock Market LLC ("Nasdaq"), NYSE Arca, Inc. ("Arca"), NYSE American LLC ("NYSE American"), Nasdaq ISE, LLC ("ISE"), Cboe Exchange, Inc. ("Cboe"), Cboe BZX Exchange, Inc. ("CboeBZX"), Cboe EDGX Exchange, Inc. ("CboeEDGX") and Cboe C2 Exchange, Inc. ("C2") all offer a type of 10Gb and non-10Gb connectivity alternative to their participants. See Phlx, and ISE Rules, General Equity and Options Rules, General 8, Section 1(b). Phlx and ISE each charge a monthly fee of \$2,500 for each 1Gb connection, \$10,000 for each 10Gb connection and \$15,000 for each 10Gb Ultra connection, which is the equivalent of the Exchange's 10Gb ULL connection. See also Nasdaq Price List—Trading Connectivity. Nasdaq charges a monthly fee of \$7,500 for each 10Gb direct connection to Nasdaq and \$2,500 for each direct connection that supports up to 1Gb. See also NYSE American Fee Schedule, Section V.B, and Arca Fees and Charges, Co-Location Fees, NYSE American and Arca each charge a monthly fee of \$5,000 for each 1Gb circuit, \$14,000 for each 10Gb circuit and \$22,000 for each 10Gb LX circuit, which is the equivalent of the Exchange's 10Gb ULL connection. See also Cboe, CboeBZX, CboeEDGX and C2 Fee Schedules. Cboe charges monthly quoting and order entry bandwidth packet fees. Specifically, Cboe charges \$1,600 for the 1st through 5th packet, \$800 for the 6th through 8th packet, \$400 for the 9th

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,<sup>21</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>22</sup>

The Exchange believes that the proposed fees in general constitute an equitable allocation of fees, and are not unfairly discriminatory, because they allow BOX to recover costs associated with offering access through the network connections. The proposed fees are also expected to offset the costs both the Exchange and BOX incur in maintaining and implementing ongoing improvements to the trading systems, including connectivity costs, costs incurred on software and hardware enhancements and resources dedicated to software development, quality assurance, and technology support.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act, in that the proposed fee changes are fair, equitable and not unreasonably discriminatory, because the fees for the connectivity alternatives available on BOX, as proposed, are constrained by significant competitive forces. The U.S. options markets are highly competitive (there are currently 16 options markets) and a reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. As stated above, BOX instituted the proposed fees after finding itself at a competitive disadvantage with other options exchanges. As other options exchanges lowered their transaction fees, they were

through 13th packet and \$200 for the 14th packet and each additional packet. CboeBZX, CboeEDGX and C2 each charge a monthly fee of \$2,500 for each 1Gb connection and \$7,500 for each 10Gb connection.

<sup>21</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>22</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

still able to rely on the connectivity fee revenues as a means of covering a portion of the costs to operate their respective exchanges. By not charging for connectivity, BOX could not realistically compete for order flow through reduced transaction fees and still remain solvent.

Further, as the Exchange explained to the Division in previous filings and comment letters, the existence of robust competition between exchanges to attract order flow requires exchanges to keep prices for all of their joint services—including connectivity to the exchanges' networks at a pro-competitive level.<sup>23</sup> This conclusion is substantiated by the report prepared by Professor Janusz A. Ordovery and Gustavo Bamberger addressing the theory of "Platform Competition" and its application to the pricing of exchanges' services, including connectivity services.<sup>24</sup> In the report, Ordovery and Bamberger explain that "the provision of connectivity services . . . is inextricably linked to the provision of trading services, so that, as a matter of economics, it is not possible to appropriately evaluate the pricing of connectivity services in isolation from the pricing of trading and other 'joint' services offered by" an exchange. Ordovery and Bamberger state that "connectivity services are an 'input' into trading" and that "excessive pricing of such services would raise the costs of trading on [an exchange] relative to its rivals and thus discourage trading on" that exchange.

Although the Ordovery/Bamberger Statement focuses on the pricing of connectivity services by Nasdaq-affiliated equities exchanges, its "overarching conclusion . . . that the pricing of connectivity services should not be analyzed in isolation" applies with equal force to the proposed BOX fees. As discussed herein, BOX is engaged with rigorous competition with other exchanges to attract order flow to its platform. As such, BOX is constrained in its ability to price its joint services—including connectivity services—at supracompetitive levels. That competition ensures that BOX's connectivity fees are set at levels consistent with the requirements of the Exchange Act.

The Exchange acknowledges that there is no regulatory requirement that any market participant must connect to BOX, or that any participant must

connect at any specific connection speed. The rule structure for options exchanges are, in fact, fundamentally different from those of equities exchanges. In particular, options market participants are not forced to connect to (and purchase market data from) all options exchanges, as shown by the number of Participants of BOX as compared to the much greater number of participants at other options exchanges. Not only does BOX have less than half the number of participants as certain other options exchanges, but there are also a number of BOX Participants that do not connect directly to BOX. Further, of the number of Participants that connect directly to BOX, many such Participants do not purchase market data from BOX. In addition, of the market makers that are connected to BOX, it is the individual needs of the market maker that require whether they need one connection or multiple connections to BOX. BOX has market maker Participants that only purchase one connection (10Gb) and BOX has market maker Participants that purchase multiple connections. It is all driven by the business needs of the market maker. Market makers that are consolidators that target resting order flow tend to purchase more connectivity than market makers that simply quote all symbols on BOX. Even though non-Participants purchase and resell 10Gb and non-10Gb connections to both Participants and non-Participants, no market makers currently connect to BOX indirectly through such resellers.

The argument that all broker-dealers are required to connect to all exchanges is not true in the options markets. The options markets have evolved differently than the equities markets both in terms of market structure and functionality. For example, there are many order types that are available in the equities markets that are not utilized in the options markets, which relate to mid-point pricing and pegged pricing which require connection to the SIPs and each of the equities exchanges in order to properly execute those orders in compliance with best execution obligations. In addition, in the options markets there is a single SIP (OPRA) versus two SIPs in the equities markets, resulting in few hops and thus alleviating the need to connect directly to all the options exchanges. Additionally, in the options markets, the linkage routing and trade through protection are handled by the exchanges, not by the individual participants. Thus not connecting to an options exchange or disconnecting from an options exchange does not

potentially subject a broker-dealer to violate order protection requirements as suggested by SIFMA. The Exchange recognizes that the decision of whether to connect to BOX is separate and distinct from the decision of whether and how to trade on BOX. The Exchange acknowledges that many firms may choose to connect to BOX, but ultimately not trade on it, based on their particular business needs.

Further, there is competition for connectivity to BOX. BOX competes with ten (10) non-Participants who resell BOX connectivity or market data. These are resellers of BOX connectivity—they are not arrangements between broker dealers to share connectivity costs. Those non-Participants resell that connectivity to multiple market participants over that same connection, including both Participants and non-Participants of BOX. When connectivity is re-sold by a third-party, BOX does not receive any connectivity revenue from that sale. It is entirely between the third-party and the purchaser, thus constraining the ability of BOX to set its connectivity pricing as indirect connectivity is a substitute for direct connectivity. There are currently ten (10) non-Participants that purchase connectivity to BOX. Those non-Participants resell that connectivity or market data to approximately twenty-seven (27) customers, some of whom are agency broker-dealers that have tens of customers of their own. Some of those twenty-seven (27) customers also purchase connectivity directly from BOX. Accordingly, indirect connectivity is a viable alternative that is already being used by non-Participants of BOX, constraining the price that BOX is able to charge for connectivity.

The Exchange is comprised of 50 BOX Participants. Of those 50 Participants, 27 Participants have purchased 10Gb or non-10Gb connections or some combination of multiple various connections. The remaining Participants who have not purchased any connectivity to BOX are still able to trade on BOX indirectly through other Participants or non-Participant service bureaus that are connected. These remaining Participants who have not purchased connectivity are not forced or compelled to purchase connectivity, and they retain all of the other benefits of membership with the Exchange. Accordingly, Participants and non-Participants have the choice to purchase connectivity and are not compelled to do so in any way.

The Exchange believes that the proposed fees are fair, equitable and not unreasonably discriminatory because the connectivity pricing is directly

<sup>23</sup> Letter from Lisa J. Fall, BOX, to Brent J. Fields, Secretary, Securities and Exchange Commission (Feb. 19, 2019), <https://www.sec.gov/comments/sr-box-2018-24/srbox201824-4945872-178516.pdf>.

<sup>24</sup> *Id.*

related to the relative costs to BOX to provide those respective services and does not impose a barrier to entry to smaller participants. Accordingly, BOX offers various direct connectivity alternatives and various indirect connectivity (via third party) alternatives. BOX recognizes that there are various business models and varying sizes of market participants conducting business on BOX. The decision of which type of connectivity to purchase, or whether to purchase connectivity at all for a particular exchange, is based on the business needs of the firm. To assist prospective Participants or firms considering connecting to BOX, the Exchange provides information about BOX's available connectivity alternatives on the BOX website.<sup>25</sup> Section 2.4 of the BOX Connectivity Guide details the bandwidth requirements depending on the type of traffic each firm requires.

The non-10Gb direct connectivity alternatives<sup>26</sup> are all comprised of bandwidth of equal to or less than 1Gb and are purchased by market participants that require less bandwidth. For example, a firm requiring only simple order routing (which requires 128 kbps of bandwidth) would be satisfied with a non-10Gb connection. Additionally, non-10Gb connections can fully support both the sending of orders and the consumption of BOX's HSVF Data Feed.<sup>27</sup> By definition, non-10Gb connections utilize less bandwidth and consume less resources from the network. Additionally, non-10Gb connections and their interface modules cost considerably less than 10Gb connections. Accordingly, because these connections consume the least resources of the Exchange and are the least costly for the Exchange to provide, the non-10Gb connections are at a lower price point than the 10Gb connections.

In contrast, market participants that purchase 10Gb connections utilize the most bandwidth and consume the most resources from the network.<sup>28</sup> The 10Gb

connection offers optimized connectivity for latency sensitive participants and is faster in round trip time for connection oriented traffic to BOX than the non-10Gb connection. This lower latency is achieved through more advanced network equipment, such as advanced hardware and switching components, which translates to increased costs to BOX. A 10Gb connection uses at least ten times the network infrastructure as the non-10Gb connections as BOX has to scale the systems by the amount and size of all connections regardless of how they are used.<sup>29</sup> Accordingly, the Exchange believes that the allocation of the proposed fees (\$1,000 per non-10Gb connection and \$5,000 per 10Gb connection) are reasonable based on the resources consumed by the respective type of connection—lower resource consuming market participants pay the least, and highest resource consuming market participants pay the most, particularly since higher resource consumption translates to higher costs to BOX.<sup>30</sup>

Separately, the Exchange is not aware of any reason why market participants could not simply drop their connections and cease being BOX Participants if the Exchange were to establish unreasonable and uncompetitive price increases for its connectivity alternatives. Market participants choose to connect to a particular exchange and because it is a choice, BOX must set reasonable connectivity pricing, otherwise prospective participants would not connect and existing participants would disconnect or connect through a third-party reseller of connectivity. No options market participant is required by rule, regulation, or competitive forces to be a BOX Participant.<sup>31</sup> As evidence of the fact that market participants can and do disconnect from exchanges based on connectivity pricing, see the R2G Services LLC ("R2G") letter based on BOX's proposed rule changes to increase its connectivity fees. The R2G

letter stated, "[w]hen BOX instituted a \$10,000/month price increase for connectivity; we had no choice but to terminate connectivity into them as well as terminate our market data relationship. The cost benefit analysis just didn't make any sense for us at those new levels."<sup>32</sup> Accordingly, this example shows that if an exchange sets too high of a fee for connectivity and/or market data services for its relevant marketplace, market participants can choose to disconnect from the exchange.

Several market participants choose not to be BOX Participants and choose not to access BOX, and several market participants also access BOX indirectly through another market participant. If all market participants were required to be Participants of each exchange and connect directly to the exchange, all exchanges would have over 200 Participants, in line with Cboe's total membership.

The Exchange believes that its proposal is consistent with Section 6(b)(4) of the Act because the proposed fees allow the BOX to recover a portion of the costs incurred by BOX associated with maintaining and enhancing a state-of-the-art exchange network infrastructure in the US options industry. Additionally, there are significant costs associated with various projects and initiatives to improve overall network performance and stability, as well as costs paid to the third-party data centers for space rental, power used, etc.

The Exchange notes that unlike its competitors, BOX does not own its own data center and therefore cannot control data center costs. While some of the data center expenses are fixed, much of the expenses are not fixed, and thus increases as the number of physical connections increase. For example, new non-10Gb and 10Gb connections require the purchase of additional hardware to support those connections. Further, as the total number of all connections increase, BOX needs to increase their data center footprint and consume more power, resulting in increased costs charged by their third-party data center provider.

Further, as discussed herein, because the costs of operating a data center are significant and not economically feasible for BOX, BOX does not operate its own data centers, and instead contracts with a third-party data center provider. The Exchange notes that

<sup>25</sup> See BOX Connectivity Guide at <https://boxoptions.com/assets/NET-BX-001E-BOX-Network-Connection-Specifications-v2.7.pdf>.

<sup>26</sup> Non-10Gb connectivity alternatives are comprised of protocol types that are at or under 1Gb bandwidth. The protocol types are: Gigabit Ethernet, Ethernet, Fast Ethernet, Fiber Channel, OC-3, Singlemode Fiber, ISDN, POTS and T1.

<sup>27</sup> BOX's HSVF Data Feed does not require a 10Gb physical connection. However, to receive the five best limits on the HSVF, a 10Gb connection is required. On MIAx, the 1Gb connection cannot support the consumption of the top of market data feed or the depth data feed product—both require a 10Gb connection.

<sup>28</sup> Supporting a 10Gb connection requires larger internal uplinks, firewalls and sniffer devices, all of which cost considerably more to maintain than support for non-10Gb connections.

<sup>29</sup> The Exchange's network infrastructure requirements are based on the premise of all connections operating at full capacity.

<sup>30</sup> The IEX Comment Letter questioned if there were cost differentials between 10Gb and non-10Gb connections, stating that "the hardware components to support a 10Gb connection are essentially the same as those for a non-10Gb connection . . . there may be marginally higher maintenance costs in the way of replacements or upgrades for a 10Gb option, but IEX believes the difference in exchange cost for a 10Gb connection will certainly be less than twice that of a higher latency connection." As described above, this is not true for BOX.

<sup>31</sup> Cboe Exchange Inc. has over 200 members, Nasdaq ISE, LLC has approximately 100 members, and NYSE American LLC has over 80 members. In comparison, the BOX has 51 Participants.

<sup>32</sup> The Exchange notes that R2G was a non-Participant service provider who connected to BOX at no cost and then sold BOX connectivity and market data to its customers. The \$10,000 charge referenced in the R2G Letter was for two (2) 10Gb connections.

larger, dominant exchange operators own/operate their data centers, which offers them greater control over their data center costs. Because those exchanges own and operate their data centers as profit centers, BOX is subject to additional costs. Connectivity fees, which are charged for accessing the BOX's data center network infrastructure, are directly related to the network and offset such costs.

As detailed in the Exchange's and BOX Market's<sup>33</sup> 2018 audited financial statements which are publicly available as part of the Exchange's Form 1 Amendment, BOX only has two sources of revenue that it can control: Transaction fees and non-transactions fees.<sup>34</sup> Accordingly, BOX must cover all of its expenses from these two sources of revenue.

The Proposed Fees are fair and reasonable because they will not result in excessive pricing or supracompetitive profit, when comparing the total annual expense of the Exchange and BOX associated with providing the network connectivity services versus the total projected annual revenue of the Exchange<sup>35</sup> and BOX associated with providing the network connectivity services.

For 2018, the annual expense for BOX and the Exchange associated with providing the network connectivity services was approximately \$8.9 million. This amount is comprised of both direct and indirect expenses. The financial information below is meant to provide greater detail and clarity concerning BOX's cost allocations as they pertain to expenses for network connectivity services; and further describe the nature and closeness of the relationship between the identified costs and connectivity services where possible.

The direct expense (which relates 100% to the network infrastructure, associated data center processing equipment required to support various connections, network monitoring systems and associated software required to support the various forms of connectivity) was approximately \$6.4

million.<sup>36</sup> A more detailed breakdown of the direct annual operational expense in 2018 includes the following:

- Over \$2.8 million for space rental, power usage, connections, etc. at the Exchanges data centers;<sup>37</sup>
- Over \$1.1 million for data center support and management of third party vendors;<sup>38</sup>
- Over \$700,000 in technological improvements to the data center infrastructure;<sup>39</sup>
- Over \$1.4 million for resources for technical and operational services for the Exchange's data centers;<sup>40</sup> and
- \$400,000 in market data connectivity fees.<sup>41</sup>

The indirect expense (which includes expense from such areas as trading operations, software development, business development, information technology, marketing, human resources, legal and regulatory, finance and accounting) that the Exchange and BOX allocate to the maintenance and support of network connectivity services was approximately \$2.5 million.<sup>42</sup> Included in this indirect expense total are the following:

<sup>36</sup> Direct connectivity expenses are a portion of the following line items in the BOX and Exchange Form 1 Financial Statements: Technical and Operational, Other and Communications and Data Processing. The Exchange notes that these direct expenses include all expenses associated with the Exchanges' data centers. BOX's infrastructure design does not distinguish network connectivity expenses from other data center expenses. In other words, network connectivity is intertwined with the overall infrastructure of the BOX system.

<sup>37</sup> This cost can be found in three line items in the Statement of Income of the BOX and Exchange Form 1 documents: "Professional Services: Other," "Professional Services: Technical and Operational"; and "Communications and data processing."

<sup>38</sup> These costs include annual service and support contracts with a large number of third party vendors to support the data centers and trading platform. These costs appear in the "Professional Services: Technical and Operational" line item of the Statement of Income of the BOX and Exchange Form 1 documents.

<sup>39</sup> This cost is represented on the BOX's Financial Statement document under the "Computer equipment and software and leasehold improvements" line item. The associated amortization in 2018 was excluded from the indirect depreciation outlined herein.

<sup>40</sup> These costs are included in the "Professional Services: Technical and Operational" line item of the Statement of Income of the BOX and Exchange Form 1 documents.

<sup>41</sup> A portion can be tied to the "Communications and data processing" line item of the BOX and Exchange Statement of Income. The remaining portion is in the "Professional Services: Other" line item of the BOX and the Exchange Statement of Income. Of note, regarding market data connectivity fees, this is the cost associated with BOX consuming connectivity/content from the equities markets in order to operate the Exchange, causing BOX to effectively pay its competitors for this connectivity.

<sup>42</sup> Indirect expenses for connectivity are a portion of the following line items in the BOX and Exchange Form 1 Financial Statements: Employee

• Over \$1 million in employee compensation and benefits for full-time employees that support network connectivity services;<sup>43</sup>

• Over \$1 million in software and hardware depreciation;<sup>44</sup>

• Over \$100,000 in office space and rent to support employees related to network connectivity;<sup>45</sup> and

• Over \$200,000 in miscellaneous data, communications, external IT, and regulatory audit costs relate to expenses that support general connectivity for trading and personnel support.<sup>46</sup>

Total projected annualized revenue associated with selling the network connectivity services (reflecting the proposed fees on a fully-annualized basis, using July 2019 data) for BOX is projected to be approximately \$4.6 million. This projected revenue amount of \$4.6 million represents approximately 13% of total net revenue of BOX and Exchange for 2018 of approximately \$35.5 million. The Exchange believes that an indirect expense allocation of 10% of total expense (less direct expense) to network connectivity services is fair and reasonable, as total projected network connectivity revenue represents approximately 13% of total net revenue for 2018. That is, direct expense of \$6.4 million plus indirect expense of \$2.5 million fairly reflects the total annual

Costs, Depreciation and Amortization, Consulting, Financial and Administrative, and Other. The Exchange notes that these indirect expenses represent approximately 10% of the total annual expenses for BOX and the Exchange in 2018.

<sup>43</sup> This cost includes employees in network operations, trading operations, development, system operations, business, etc., as well as staff in general corporate departments (such as legal, regulatory, and finance) that support those employees and functions. BOX's employee compensation and benefits expense relating to providing network connectivity services was a portion of the total expense for employee compensation and benefits that is stated in the 2018 Financial Statements for BOX and the Exchange.

<sup>44</sup> This cost includes depreciation and amortization of hardware and software used to provide network connectivity services, including equipment, servers, cabling, purchased software and internally developed software used in the production environment to support the provision of network connectivity for trading.

BOX's depreciation and amortization expense relating to providing network connectivity services was a portion of the total expense for depreciation and amortization that is stated in the 2018 Financial Statements for BOX and the Exchange.

<sup>45</sup> This cost includes occupancy costs for leased office space for staff that support the provision of network connectivity services. BOX and Exchange's combined occupancy expense relating to providing network connectivity services is a portion of the total expense for occupancy that is stated in the 2018 Financial Statements for BOX and the Exchange.

<sup>46</sup> The combined miscellaneous expense relating to trading connectivity and personnel support was a portion of multiple line items in the 2018 Financial Statements for BOX and the Exchange.

<sup>33</sup> BOX Exchange LLC ("Exchange") and BOX Options Market LLC ("BOX") are two different entities. The Exchange is a national securities exchange registered with the SEC under Section 6 of the Securities Exchange Act of 1934. The Exchange fulfills the regulatory functions and responsibilities and oversees BOX, the equity options market. Expenses associated with network connectivity services are born by both the Exchange and BOX.

<sup>34</sup> Options Price Authority Reporting ("OPRA") income is not controlled by BOX.

<sup>35</sup> Revenues for the Exchange are limited to the Options Regulatory Fee ("ORF") and fines and disgorgements.

expense associated with providing the network connectivity services, both from the perspective of similar revenue and expense percentages (Connectivity to total), as well as matching connectivity resources to connectivity expenses. The Exchange believes that this is a conservative allocation of indirect expense. Accordingly, the total projected connectivity revenue for BOX, reflective of the proposed fees, on an annualized basis, of \$4.6 million, is almost half of the total annual actual BOX and Exchange connectivity expense (direct and indirect) for 2018 of \$8.9 million. Further, even the direct expense associated with providing network connectivity (\$6.4 million) exceeds expected revenue from connectivity.

The Exchange projects comparable network connectivity revenue and expense for 2019 for BOX. Accordingly, the Proposed Fees are fair and reasonable because they do not result in excessive pricing or supracompetitive profit, when comparing the actual network connectivity costs to the Exchange and BOX versus the projected network connectivity annual revenue. Additional information on overall revenue and expense can be found in the Exchange's and BOX's 2018 audited financial results, which is publicly available as part of the Exchange's Form 1 filed with the Commission.

The Exchange again notes that other exchanges have similar connectivity alternatives for their participants, including similar low-latency connectivity. For example, Nasdaq PHLX LLC ("Phlx"), NYSE Arca, Inc. ("Arca"), NYSE American LLC ("NYSE American") and Nasdaq ISE, LLC ("ISE") all offer a 1Gb, 10Gb and 10Gb low latency ethernet connectivity alternatives to each of their participants.<sup>47</sup> The Exchange further notes that Phlx, ISE, Arca and NYSE American each charge higher rates for such similar connectivity to primary and secondary facilities.<sup>48</sup>

The financials above show that BOX has incurred substantial costs associated with maintaining and enhancing the BOX network. These costs, coupled

with BOX's historically low transaction fees, place BOX at a competitive disadvantage against other options exchanges who charge connectivity fees to market participants. BOX has no choice but to begin charging Participants and non-Participants fees for connecting directly to the network which BOX has taken considerable measures to maintain and enhance for the benefit of those Participants and non-Participants in order to remain competitive with the other options exchanges in the industry.

Finally, the Exchange believes redefining the HSVF Connection Fee as a Port Fee is reasonable, equitable and not unfairly discriminatory. This classification is more accurate because an HSVF subscription is not enabled through a physical connection to the Exchange. Although market participant must be credentialed by BOX to receive the HSVF, anyone can become credentialed by submitting the required documentation.<sup>49</sup> The Exchange does not propose to alter the amount of the existing HSVF fee; subscribers to the HSVF will continue to pay \$1,500 per month. As with the Connectivity Fees, BOX's HSVF Port Fee is in line with industry practice.<sup>50</sup>

#### *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.

#### *Intra-Market Competition*

The Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. In particular, the Exchange has received no official complaints from Participants that purchase the Exchange's connectivity that the Exchange's fees or the Proposed Fees are negatively impacting or would negatively impact their abilities to compete with other market participants or that they are placed at a disadvantage.<sup>51</sup> The Exchange believes

that the Proposed Fees do not place certain market participants at a relative disadvantage to other market participants because the connectivity pricing is associated with relative usage of the various market participants and does not impose a barrier to entry to smaller participants. As described above, the less expensive non-10Gb direct connection is generally purchased by market participants that utilize less bandwidth. The market participants that purchase 10Gb connections utilize the most bandwidth, and those are the participants that consume the most resources from the network. Accordingly, the Proposed Fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation of the Proposed Fees reflect the network resources consumed by the various size of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pay the most, particularly since higher bandwidth consumption translates to higher costs to BOX.

#### *Inter-Market Competition*

The Exchange believes the Proposed Fees do not place an undue burden on competition on other SROs that is not necessary or appropriate. In particular, options market participants are not forced to connect to (and purchase market data from) all options exchanges, as shown by the number of Participants of BOX as compared to the much greater number of members at other options exchanges (as described above). Not only does BOX have less than half the number of Participants as certain other options exchanges, but there are also a number of the Exchange's Participants that do not connect directly to BOX. Additionally, the Exchange notes other exchanges have similar connectivity alternatives for their participants, including similar low-latency connectivity, but with much higher rates to connect.<sup>52</sup> The Exchange is also unaware of any assertion that its existing fee levels or the Proposed Fees would somehow unduly impair its competition with other options exchanges. To the contrary, if the fees charged are deemed too high by market participants, they can simply disconnect.

Unilateral action by the Exchange in establishing fees for services provided to its Participants and others using its facilities will not have an impact on

<sup>47</sup> See Phlx and ISE Rules, General Equity and Options Rules, General 8, Section 1(b). Phlx and ISE each charge a monthly fee of \$2,500 for each 1Gb connection, \$10,000 for each 10Gb connection and \$15,000 for each 10Gb Ultra connection, which the equivalent of the Exchange's 10Gb ULL connection. See also NYSE American Fee Schedule, Section V.B, and Arca Fees and Charges, Co-Location Fees. NYSE American and Arca each charge a monthly fee of \$5,000 for each 1Gb circuit, \$14,000 for each 10Gb circuit and \$22,000 for each 10Gb LX circuit, which the equivalent of the Exchange's 10Gb ULL connection.

<sup>48</sup> *Id.*

<sup>49</sup> See *Trading Interface Specification*, BOX Options, <https://boxoptions.com/technology/trading-interface-specifications/>.

<sup>50</sup> See Cboe Data Services, LLC (CDS) Fee Schedule § VI (charging \$500 per month for up to five users to access the Enhanced Controlled Data Distribution Program).

<sup>51</sup> The Exchange notes that it did receive one complaint from a non-Participant third party that, prior to the proposed fees, received connectivity for free and resold it to other market participants. This

non-Participant ceased connectivity to the Exchange in January 2019.

<sup>52</sup> See *supra* note 20.

competition. As a small exchange in the already highly competitive environment for options trading, the Exchange does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Exchange Act. The Exchange's proposed fees, as described herein, are comparable to and generally lower than fees charged by other options exchanges for the same or similar services. Lastly, the Exchange believes the proposed change will not impose a burden on intramarket competition as the proposed fees are applicable to all Participants and others using its facilities that connect to BOX.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act<sup>53</sup> and Rule 19b-4(f)(2) thereunder,<sup>54</sup> because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-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-BOX-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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2019-32, and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>55</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-24976 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

**Submission for OMB Review; Comment Request**

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

*Extension:*

Rules 901, 902, 903(a), 904, 905, 906, 907, and 908 of Regulation SBSR, SEC File No. 270-629 OMB Control No. 3235-0718.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for approval of extension of the previously approved collection of information provided for in Rules 901, 902, 903(a), 904, 905, 906, 907, and 908 of Regulation SBSR (17 CFR 242.901, 902, 903(a), 904, 905, 906, 907, and 908) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Regulation SBSR consists of ten rules, Rules 900 to 909 under the Exchange Act. Regulation SBSR provides generally for the reporting of security-based swap information to a registered security-based swap data repository ("registered SDRs") or the Commission, and the public dissemination of security-based swap transaction, volume, and pricing information by registered SDRs. Rule 901 specifies, with respect to each reportable event pertaining to covered transactions, who is required to report, what data must be reported, when it must be reported, where it must be reported, and how it must be reported. Rule 901(a)(1) of Regulation SBSR requires a platform to report to a registered security-based swap data repository ("registered SDR") a security-based swap executed on such platform that will be submitted to clearing. Rule 901(a)(2)(i) of Regulation SBSR requires a registered clearing agency to report to a registered SDR any security-based swap to which it is a counterparty. Rules 902 to 909 of Regulation SBSR provide additional details as to how such reporting and public dissemination is to occur.

The Commission estimates that a total of approximately 4900 entities will be impacted by Regulation SBSR, including registered SDRs, registered security-based swap dealers, registered major securities-based swap participants, registered clearing agencies, platforms, and reporting sides and other market participants. The Commission estimates that the total reporting burden for Regulation SBSR, for all respondents, is approximately 538,257.60 hours initially (which equates to approximately 179,419.20 hours per year when annualized over three years), with a total ongoing burden thereafter of approximately 1,887,021.07 hours per year. Thus, the aggregate yearly burden is approximately

<sup>53</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>54</sup> 17 CFR 240.19b-4(f)(2).

<sup>55</sup> 17 CFR 200.30-3(a)(12).

2,066,441 hours (2,066,440.27 rounded up). In addition, the Commission estimates that the total cost for all of Regulation SBSR for all respondents is approximately \$21,264,300 initially (which equates to approximately \$7,088,100 per year when annualized over three years), with a total ongoing cost thereafter of approximately \$80,331,371 per year. Thus, the aggregate annual cost for all respondents is approximately \$87,419,472 (\$87,419,471.30 rounded up). A detailed break-down of the burdens applicable to each type of entity is provided in the supporting statement.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-25001 Filed 11-18-19; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87521; File No. SR-CboeBZX-2019-094]

### Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule Applicable to the BZX Equities Trading Platform as it Relates to Pricing for Orders Routed to Cboe EDGA Exchange, Inc. Using the ALLB, TRIM, or SLIM Routing Strategy

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 1, 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 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. (“BZX” or the “Exchange”) is filing with the Securities and Exchange Commission (the “Commission”) a proposed rule change to amend the fee schedule applicable to the BZX equities trading platform (“BZX Equities”) as it relates to pricing for orders routed to Cboe EDGA Exchange, Inc. (“EDGA”) using the ALLB, TRIM, or SLIM routing strategy. 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/](http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/)), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the BZX Equities fee schedule to change the pricing applicable to orders routed to EDGA using the ALLB, TRIM, or SLIM routing strategy, as a result of a recent pricing change by EDGA effective on November 1, 2019. The Exchange proposes to implement the proposed

change to its fee schedule on November 1, 2019. Currently, the Exchange provides a rebate of \$0.0024 per share for orders routed to EDGA using the ALLB, TRIM, or SLIM routing strategy (yielding fee codes AA and BJ), which was a pass-through of the standard rebate EDGA had previously provided to orders that removed liquidity from EDGA. Effective November 1, 2019, EDGA reduced its standard rebate per share for orders that remove liquidity in securities priced at or above \$1.00 from \$0.0024 to \$0.0018. As such, the Exchange proposes to similarly reduce the per share rebate for orders routed to EDGA (yielding fee codes AA and BJ) from \$0.0024 to \$0.0018 in order to reflect the reduction in the rebate available for orders removing liquidity on EDGA.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act.<sup>3</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>4</sup> which requires that Exchange Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient.

In particular, the Exchange believes that the proposed change is reasonable because it reflects a pass-through of a recent pricing change by EDGA for liquidity removing orders, as described above. The Exchange believes that the proposed change is reasonable because it will maintain proportionality with the standard corresponding rebate offered by EDGA while also maintaining Member interest in routing orders through the Exchange by passing on better pricing to Members that choose to enter such orders on the Exchange, thereby encouraging additional order flow to be entered on the BZX Book. The Exchange believes that additional order flow through the BZX Book will result in greater liquidity to the benefit of all market participants on the Exchange by providing more trading opportunities.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. § 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(4).

The Exchange also believes that the proposed change constitutes an equitable allocation of reasonable fees that is not unfairly discriminatory because the proposed rebate is designed to continue to reflect the rebate offered (and recently updated) by EDGA to orders that remove liquidity and would apply equally to all Members that choose to use the Exchange to route liquidity removing orders to EDGA. Furthermore, the Exchange notes that routing through the Exchange is voluntary, and, because the Exchange operates in a highly competitive environment as discussed below, Members that do not favor the proposed pricing can readily direct order flow directly to EDGA or through competing venues or providers of routing services.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange 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, as amended. The Exchange believes the proposed routing fee change will not impose an undue burden on competition because the proposed rebate is merely intended to maintain consistency between the Exchange's rebates for orders routed to EDGA with the rebates currently offered by EDGA for liquidity removing orders.

The Exchange does not believe the proposed rebate will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated, the Exchange will uniformly assess the proposed routing fee on all Members who choose to route orders through the Exchange to EDGA. As noted above, the proposed rebate intends pass through the same rebates for liquidity removing orders from EDGA on to Members, thereby, adding order flow to the BZX Book which will result in more trading opportunities to the benefit of all market participants on the Exchange.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the Exchange operates in a highly competitive market and routing through the Exchange is voluntary. Therefore, Members may opt to disfavor the Exchange's pricing if they believe that alternatives, including 12 other equities exchanges and 32 alternative trading systems, offer them better value or if they disfavor the proposed change. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly

available information, no single equities exchange has more than 17% of the market share.<sup>5</sup> Therefore, no exchange possesses significant pricing power in the execution of equity order flow. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation National Market System ("NMS"), the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>6</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."<sup>7</sup> Regardless, the Exchange notes that the proposed change to the EDGA-related routing fee is merely meant to pass through the rebate associated with executing orders on that market, and is therefore not designed to have any significant impact on competition. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *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.

<sup>5</sup> See Cboe Global Markets U.S. Equities Market Volume Summary (October 28, 2019), available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>6</sup> See Securities Exchange Act Release No. 51808 (June 29, 2015) 70 FR 37495 (August 29, 2015).

<sup>7</sup> *NetCoalition v. Securities and Exchange Commission*, 615 F.3d 525 (D.C. Cir. 2010).

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>8</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>9</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>10</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CboeBZX-2019-094 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File No. SR-CboeBZX-2019-094. 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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>10</sup> 15 U.S.C. 78s(b)(2)(B).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CboeBZX-2019-094, and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019-24981 Filed 11-18-19; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87514; File No. SR-NYSEArca-2019-78]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Listing and Trading of Shares of the Innovator PTAM Core Bond ETF Under NYSE Arca Rule 8.600-E

November 13, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 30, 2019, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") a proposed rule change, and on November 8, 2019, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety. The proposed rule change, as modified by Amendment No. 1, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is

publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.600-E ("Managed Fund Shares"): Innovator PTAM Core Bond ETF. This Amendment No. 1 to SR-NYSEArca-2019-78 replaces SR-NYSEArca-2019-78 as originally filed and supersedes such filing in its entirety. The proposed change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.600-E which governs the listing and trading of Managed Fund Shares on the Exchange:<sup>4</sup> Innovator PTAM Core Bond ETF (the "Fund").

The Shares will be offered by Innovator ETFs Trust (the "Trust"), which is registered with the Commission as an open-end

management investment company.<sup>5</sup> The Fund is a series of the Trust.

Innovator Capital Management, LLC will be the investment adviser ("Innovator" or "Adviser") to the Fund. PT Asset Management, LLC ("PTAM" or the "Sub-Adviser"), will serve as the Fund's investment sub-adviser. Foreside Fund Services, LLC will be the distributor ("Distributor") for the Fund's Shares. US Bancorp Fund Services LLC will act as the administrator and transfer agent for the Fund. U.S. Bank, N.A. will serve as the custodian ("Custodian") for the Fund.

Commentary .06 to Rule 8.600-E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect and maintain a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.<sup>6</sup> In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information

<sup>5</sup> The Trust is registered under the 1940 Act. On July 5, 2019, the Trust filed with the Commission its registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333-146827 and 811-22135) ("Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order upon which the Trust may rely, granting certain exemptive relief under the 1940 Act. See Investment Company Act Release No. 32854 (October 6, 2017) (File No. 812-14781).

<sup>6</sup> An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the "Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2-E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

regarding the open-end fund's portfolio. The Adviser and Sub-Adviser are not registered as broker-dealers. The Adviser is not affiliated with a broker-dealer. The Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser or the Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to relevant personnel and any broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

#### Innovator PTAM Core Bond ETF

##### Principal Investments

According to the Registration Statement, the investment objective of the Fund is to seek to maximize total return through income and capital appreciation. Under normal market conditions,<sup>7</sup> the Fund intends to invest at least 80% of its net assets in a portfolio of "Fixed Income Securities" (described below).<sup>8</sup>

In managing the Fund's portfolio, PTAM intends to use a value-oriented strategy looking for higher-yielding and undervalued fixed income securities that offer above-average total return. Pursuant to this investment strategy, the Fund may invest in the following Fixed Income Securities, as discussed below:

<sup>7</sup> The term "normal market conditions" is defined in NYSE Arca Rule 8.600-E(c)(5). On a temporary basis, including for defensive purposes, during the initial invest-up period (*i.e.*, the six-week period following the commencement of trading of Shares on the Exchange) and during periods of high cash inflows or outflows (*i.e.*, rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods), the Fund may depart from its principal investment strategies; for example, it may hold a higher than normal proportion of its assets in cash. During such periods, the Fund may not be able to achieve its investment objective. The Fund may adopt a defensive strategy when the Adviser and/or the Sub-Adviser believes securities in which the Fund normally invests have elevated risks due to market, political or economic factors and in other extraordinary circumstances.

<sup>8</sup> The Fund may enter into short sales of any securities in which the Fund may invest.

- U.S. Government obligations<sup>9</sup> and sovereign debt obligations of non-U.S. governments;
- U.S. Government Agency Securities (including agency asset-backed securities ("ABS") and agency mortgage-backed securities ("MBS"));<sup>10</sup>
  - Non-agency ABS;<sup>11</sup>
  - Non-agency MBS;<sup>12</sup>
  - Stripped MBS;<sup>13</sup>
  - Treasury Inflation Protected Securities ("TIPS");
  - Corporate bonds;
  - Bank loans, including first lien senior secured floating rate bank loans ("Senior Loans"), secured and unsecured loans, second lien or more junior loans, and bridge loans;
  - Fixed income convertible securities;
  - Municipal bonds and municipal securities issued by tender option bond trusts (collectively, "Municipal Securities"); and
  - Custodial receipts trusts.

The Fund may invest up to 75% of its net assets in Municipal Securities.

The Fund may hold cash and cash equivalents.<sup>14</sup> In addition, the Fund may hold the following short-term

<sup>9</sup> Examples of U.S. Government obligations include direct obligations of the U.S. Treasury, including Treasury bills, notes and bonds, all of which are backed as to principal and interest payments by the full faith and credit of the United States, and separately traded principal and interest component parts of such obligations that are transferable through the Federal book-entry system known as Separate Trading of Registered Interest and Principal of Securities ("STRIPS") and Coupons Under Book Entry Safekeeping ("CUBES").

<sup>10</sup> Examples of U.S. Government Agency Securities include securities issued or guaranteed by agencies and instrumentalities of the U.S. government. These include all types of securities issued by the Government National Mortgage Association ("Ginnie Mae"), the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac"), including funding notes, subordinated benchmark notes, collateralized mortgage obligations ("CMOs") and Real Estate Mortgage Investment Conduits ("REMICs").

<sup>11</sup> For purposes of this filing, non-agency ABS are collateralized bond obligations ("CBOs"), collateralized loan obligations ("CLOs"), and other collateralized debt obligations ("CDOs").

<sup>12</sup> For purposes of this filing, non-agency MBS are collateralized mortgage obligations ("CMOs"); commercial mortgage-backed securities ("CMBS"); residential mortgage-backed securities ("RMBS"); and principal-only (PO) and interest-only (IO) stripped MBS. Non-agency ABS and non-agency MBS are referred to herein as "Private ABS/MBS." The Fund may invest in agency RMBS and CMBS by investing in to-be-announced transactions.

<sup>13</sup> Stripped MBS are derivative multi-class mortgage securities which are usually structured with two classes of shares that receive different proportions of the interest and principal from a pool of mortgage assets. These include IO and PO securities issued outside a REMIC or CMO structure.

<sup>14</sup> For purposes of this filing, cash equivalents are the short-term instruments with maturities of less than 3 months enumerated in Commentary .01(c) to Rule 8.600-E.

instruments with maturities of three months or more: Certificates of deposit; bankers' acceptances; repurchase agreements and reverse repurchase agreements; bank time deposits; and commercial paper.

The Fund may utilize exchange-listed and over-the-counter ("OTC") traded derivatives instruments for duration/ yield curve management and/or hedging purposes, for risk management purposes or as part of its investment strategies. The Fund will use derivative instruments primarily to hedge interest rate risk, actively manage interest rate exposure, hedge foreign currency risk and actively manage foreign currency exposure. The Fund may also use derivative instruments to enhance returns, as a substitute for, or to gain exposure to, a position in an underlying asset, to reduce transaction costs, to maintain full market exposure, to manage cash flows or to preserve capital. Derivatives may also be used to hedge risks associated with the Fund's other portfolio investments. The Fund will not use derivative instruments to gain exposure to Private ABS/MBS, and derivative instruments linked to such securities will be used for hedging purposes only. Derivatives that the Fund may enter into are the following: Futures on interest rates, currencies, Fixed Income Securities and fixed income indices; exchange-traded and OTC options on interest rates, currencies, Fixed Income Securities and fixed income indices; swap agreements on interest rates, currencies, Fixed Income Securities and fixed income indices; credit default swaps ("CDX"); and currency forward contracts.

##### Non-Principal Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in the Principal Investments described above, the Fund may invest its remaining assets in the following "Non-Principal Investments."

The Fund may invest in exchange-traded common stock, exchange-traded preferred stock, and exchange-traded real estate investment trusts ("REITs").

The Fund may invest in the securities of other investment companies registered under the 1940 Act, including money market funds, exchange-traded funds ("ETFs"), open-end funds (other than money market funds and other ETFs), and U.S. exchange-traded closed-end funds.<sup>15</sup>

<sup>15</sup> For purposes of this filing, the term "ETFs" are Investment Company Units (as described in NYSE Arca Rule 5.2-E(j)(3)); Portfolio Depository Receipts (as described in NYSE Arca Rule 8.100-E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600-E). All ETFs will be listed and traded

The Fund may hold exchange-traded notes (“ETNs”).<sup>16</sup>

The Fund may hold exchange-traded or OTC “Work Out Securities.”<sup>17</sup>

The Fund may hold exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities.

#### Investment Restrictions

The Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. The Fund’s holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund’s holdings in derivative instruments used to gain exposure to a specific reference asset is limited to 5% of the Fund’s total assets (determined at the time of purchase).

The Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS.

The Fund may invest up to 75% of its net assets in Municipal Securities that have a minimum original principal outstanding of less than \$100 million. Under normal market conditions, the Fund’s investments in Municipal Securities will satisfy the following criteria:

i. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund’s portfolio;<sup>18</sup>

in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (e.g., 2X, -2X, 3X or -3X) ETFs.

<sup>16</sup> ETNs are Index-Linked Securities (as described in NYSE Arca Rule 5.2-E(j)(6)). While the Fund may invest in inverse ETNs, the Fund will not invest in leveraged or inverse leveraged ETNs (e.g., 2X or -3X).

<sup>17</sup> For purposes of this filing, Work Out Securities are U.S. or foreign equity securities of any type acquired in connection with restructurings related to issuers of Fixed Income Securities held by the Fund. Work Out Securities are generally traded OTC, but may be traded on a U.S. or foreign exchange.

<sup>18</sup> The Exchange notes that the Commission has approved the listing and trading of another issue of Managed Fund Shares that principally holds municipal securities for which no single issuer would account for more than 10% of the weight of the fund’s portfolio. See Securities Exchange Act Release No. 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR-NYSEArca-2016-107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF under Rule 8.600).

ii. No individual Municipal Security will account for more than 5% of the weight of the Fund’s portfolio;<sup>19</sup>

iii. The Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund’s total assets.<sup>20</sup>

The Exchange proposes that up to 25% of the Fund’s assets may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund’s investments (that is, “hedge”). The Fund’s investments in OTC derivatives other than OTC derivatives used to hedge the Fund’s portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund’s portfolio. For purposes of these percentage limitations on OTC derivatives, the weight of such OTC derivatives will be calculated as the aggregate gross notional value of such OTC derivatives.

The Fund’s holdings of bank loans will not exceed 15% of the Fund’s total assets, and the Fund’s holdings of bank loans other than Senior Loans will not exceed 5% of the Fund’s total assets.

The Fund’s holdings in fixed income convertible securities and in equity securities issued upon conversion of such convertible securities will not exceed 10% of the Fund’s total assets.

The Fund’s holdings in Work Out Securities will not exceed 5% of the Fund’s total assets.

The Fund will not invest in securities or other financial instruments that have not been described in this proposed rule change.

<sup>19</sup> The Exchange notes that the Commission has approved the listing and trading of another issue of Managed Fund Shares that principally holds municipal securities for which no single bond would exceed 5% of the fund’s portfolio. See Securities Exchange Act Release No. 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600).

<sup>20</sup> The Exchange notes that the Commission has approved the listing and trading of other issues of Managed Fund Shares that principally hold municipal securities for which the applicable fund’s assets in municipal securities of any one state would be limited to 30% of such fund’s assets. See Securities Exchange Act Release Nos. 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF under NYSE Arca Equities Rule 8.600); 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR-NYSEArca-2016-107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF under Rule 8.600); 78913 (September 23, 2016) (SR-Nasdaq-2016-002) (order approving listing and trading of the First Trust Municipal High Income ETF of First Trust Exchange-Traded Fund III).

#### Other Restrictions

The Fund’s investments, including derivatives, will be consistent with the Fund’s investment objective and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage). That is, the Fund’s investments will not be used to seek performance that is the multiple or inverse multiple (e.g., 2X or -3X) of the Fund’s primary broad-based securities benchmark index (as defined in Form N-1A).<sup>21</sup>

#### Use of Derivatives by the Fund

The Fund may invest in the types of derivatives described in the “Principal Investments” section above for the purposes described in that section. Investments in derivative instruments will be made in accordance with the Fund’s investment objective and policies.

To limit the potential risk associated with such transactions, the Fund will enter into offsetting transactions or segregate or “earmark” assets determined to be liquid by the Adviser in accordance with procedures established by the Trust’s Board of Trustees. In addition, the Fund has included appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund’s use of derivatives, may give rise to leverage, causing the Fund to be more volatile than if it had not been leveraged. Because the markets for certain assets, or the assets themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

#### Impact on Arbitrage Mechanism

The Adviser and the Sub-Adviser believe there will be minimal, if any, impact to the arbitrage mechanism as a result of the Fund’s use of derivatives and Private ABS/MBS. The Adviser and the Sub-Adviser understand that market makers and participants should be able to value derivatives and Private ABS/MBS as long as the positions are disclosed with relevant information. The Adviser and the Sub-Adviser believe that the price at which Shares of the Fund trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares of the Fund at their net

<sup>21</sup> The Fund’s broad-based securities benchmark index will be identified in a future amendment to the Registration Statement following the Fund’s first full calendar year of performance.

asset value (“NAV”), which should ensure that Shares of the Fund will not trade at a material discount or premium in relation to their NAV.

The Adviser and Sub-Adviser do not believe there will be any significant impacts to the settlement or operational aspects of the Fund’s arbitrage mechanism due to the use of derivatives and Private ABS/MBS.

#### Creation and Redemption of Shares

The Fund will issue and redeem Shares on a continuous basis at NAV<sup>22</sup> only in large blocks of Shares (“Creation Units”) in transactions with “Authorized Participants” (described below). A Creation Unit will consist of 50,000 Shares. The size of a Creation Unit is subject to change.

To be eligible to place orders with the Distributor to create a Creation Unit of the Fund, an entity must be (i) a “Participating Party,” *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation (“NSCC”); or (ii) a Depository Trust Company (“DTC”) Participant, and, in each case, must have executed an agreement with the Fund, the Distributor and the Administrator with respect to creations and redemptions of Creation Units. A Participating Party and DTC Participant are collectively referred to as an Authorized Participant.

All orders to create Creation Units must be placed for one or more Creation Unit size aggregations. All orders to create Creation Units must be received by the Distributor no later than 4:00 p.m., E.T. on the date such order is placed in order for the creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form.

Shares may be redeemed only in Creation Unit aggregations at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Custodian and only on a business day. Orders to redeem Creation Units must be received by 4:00 p.m., E.T.

The Custodian, through the NSCC, will make available prior to the opening of business on the Exchange (currently 9:30 a.m., E.T.) on each business day, the amount of cash that will be applicable (subject to possible

amendment or correction) to redemption requests received in proper form on that day. The redemption proceeds for a Creation Unit Aggregation generally will consist of cash in an amount equal to the NAV of Fund Shares next determined after a redemption request is received, less a redemption transaction fee.

#### Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolio for the Fund will not meet all of the “generic” listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund’s portfolio will meet all such requirements except for those set forth in Commentary .01(a)(1) and (a)(2) (with respect to the Fund’s investments in equity securities), (b)(1) (with respect to the Fund’s investments in Fixed Income Securities, including Municipal Securities), (b)(4) (with respect to the Fund’s investments in Private ABS/MBS), (b)(5) (with respect to the Fund’s investments in Private ABS/MBS), and (e) (with respect to the Fund’s investments in OTC derivatives), as described below.

The Fund will not comply with all of the requirements set forth in

Commentary .01(a)(1)<sup>23</sup> and (a)(2)<sup>24</sup> to

<sup>23</sup> Commentary .01(a)(1) to NYSE Arca Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum market value of at least \$75 million;

(B) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each shall have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months;

(C) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) shall not exceed 65% of the equity weight of the portfolio;

(D) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares;

(E) Except as provided herein, equity securities in the portfolio shall be U.S. Component Stocks listed on a national securities exchange and shall be NMS Stocks as defined in Rule 600 of Regulation NMS under the Securities Exchange Act of 1934; and

(F) American Depositary Receipts (“ADRs”) in a portfolio may be exchange-traded or non-exchange-traded. However, no more than 10% of the equity weight of a portfolio shall consist of non-exchange-traded ADRs.

<sup>24</sup> Commentary .01(a)(2) to NYSE Arca Rule 8.600–E provides that the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(A) Non-U.S. Component Stocks each shall have a minimum market value of at least \$100 million;

(B) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of \$25,000,000, averaged over the last six months;

(C) The most heavily weighted Non-U.S. Component stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio;

(D) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; and

<sup>22</sup> The NAV of the Fund’s Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange (“NYSE”), generally 4:00 p.m., Eastern Time (“E.T.”). NAV per Share will be calculated by dividing the Fund’s net assets by the number of Fund Shares outstanding.

NYSE Arca Rule 8.600–E with respect to the Fund’s investments in equity securities.<sup>25</sup> Instead, the Exchange proposes that (i) the Fund’s investments in equity securities will meet the requirements of Commentary .01(a) with the exception of Commentary .01(a)(1)(C) and .01(a)(1)(D) (with respect to U.S. Component Stocks) and Commentary .01(a)(2)(C) and .01(a)(2)(D) (with respect to Non-U.S. Component Stocks). Any Fund investment in exchange-traded common stocks, preferred stocks, REITs, ETFs, ETNs, exchange-traded equity securities issued upon conversion of fixed income convertible securities, exchange-traded Work Out Securities and U.S. exchange-traded closed-end funds would provide for enhanced diversification of the Fund’s portfolio and, in any case, would be Non-Principal Investments and would not exceed 20% of the Fund’s net assets in the aggregate. With respect to any Fund holdings of exchange-traded equity securities issued upon conversion of fixed income convertible securities and exchange-traded Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund’s total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in equity securities issued upon conversion of fixed income convertible securities or Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund’s holdings in other securities. Therefore, the Fund’s holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund’s voluntary investment decisions. The Adviser and Sub-Adviser represent that, under these circumstances, application of the weighting requirements of Commentary .01(a)(1)(C) and Commentary .01(a)(2)(C) and the minimum number of components requirements of Commentary .01(a)(1)(D) and Commentary .01(a)(2)(D) would impose an unnecessary burden on the Fund’s ability to hold such equity securities.

The Fund will not comply with the requirement in Commentary .01(b)(1) to Rule 8.600–E that components that in

(E) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.

<sup>25</sup> For purposes of these exceptions, investments in equity securities that are OTC Work Out Securities, OTC equity securities issued upon conversion of fixed income convertible securities, or non-exchange-traded securities of other open-end investment companies (e.g., mutual funds) are excluded and are discussed further below.

the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of \$100 million or more. Instead, the Exchange proposes that components that in the aggregate account for at least 50% of the fixed income weight of the portfolio shall have a minimum original principal amount outstanding of \$50 million or more. As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.

With respect to the Fund’s investments in Municipal Securities, the Fund may invest up to 75% of its net assets in Municipal Securities that have a minimum original principal amount outstanding of less than \$100 million. No single Municipal Securities issuer will account for more than 10% of the weight of the Fund’s portfolio; no individual bond will account for more than 5% of the weight of the Fund’s portfolio; and the Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund’s total assets. The Exchange believes these limitations to the Funds [sic] investments in Fixed Income Securities, including Municipal Securities, would provide significant additional diversification to the Fund’s investments in Fixed Income Securities, and reduce concerns that the Fund’s investments in such securities would be readily susceptible to market manipulation.

The Fund will not comply with the requirements in Commentary .01(b)(4) to Rule 8.600–E that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio meet one of the criteria specified in Commentary .01(b)(4), because certain Private ABS/MBS cannot satisfy the criteria in Commentary .01(b)(4).<sup>26</sup> Instead, the Exchange proposes that the Fund’s investments in Fixed Income Securities other than Private ABS/MBS will be required to comply with the

<sup>26</sup> Commentary .01(b)(4) provides that component securities that in the aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of \$700 million or more; (c) from issuers that have outstanding securities that are notes, bonds debentures, or evidence of indebtedness having a total remaining principal amount of at least \$1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country.

requirements of Commentary .01(b)(4). As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.

The Exchange notes that the Commission has previously approved the listing of Managed Fund Shares with similar investment objectives and strategies without imposing requirements that a certain percentage of such funds’ securities meet one of the criteria set forth in Commentary .01(b)(4).<sup>27</sup>

The Fund will not comply with the requirement in Commentary .01(b)(5) to Rule 8.600–E that Private ABS/MBS in the Fund’s portfolio account, in the aggregate, for no more than 20% of the weight of the Fund’s portfolio.<sup>28</sup> Instead, the Exchange proposes that, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns, the Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS.

In addition, as noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.<sup>29</sup> The Exchange believes these limitations would provide additional diversification to the Fund’s Private ABS/MBS investments and reduce concerns that the Fund’s investment in

<sup>27</sup> See, e.g., Exchange Act Release Nos. 67894 (September 20, 2012) 77 FR 59227 (September 26, 2012) (SR–BATS–2012–033) (order approving the listing and trading of shares of the iShares Short Maturity Bond Fund); 70342 (September 6, 2013), 78 FR 56256 (September 12, 2013) (SR–NYSEArca–2013–71) (order approving the listing and trading of shares of the SPDR SSGA Ultra Short Term Bond ETF, SPDR SSGA Conservative Ultra Short Term Bond ETF and SPDR SSGA Aggressive Ultra Short Term Bond ETF).

<sup>28</sup> Commentary .01(b)(5) to Rule 8.600–E provides that non-agency, non-government-sponsored entity (“GSE”) and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the portfolio.

<sup>29</sup> As noted above, the Fund’s holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund’s holdings in derivative instruments used to gain exposure to a specific asset is limited to 5% of the Fund’s total assets (determined at the time of purchase).

such securities would be readily susceptible to market manipulation.

The Adviser and Sub-Adviser represent that the RMBS sector can be an important component of the Fund's investment strategy because of the potential for attractive risk-adjusted returns relative to other fixed income sectors and the potential to add significantly to the diversification in the Fund's portfolio. Similarly, the Private ABS/MBS sectors also have the potential for attractive risk-adjusted returns and added portfolio diversification.

The Fund's portfolio will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600–E.<sup>30</sup> Specifically, the Fund's investments in OTC derivatives may exceed 20% of Fund assets, calculated as the aggregate gross notional value of such OTC derivatives. The Exchange proposes that up to 25% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, "hedge"). The Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio, calculated as the aggregate gross notional value of such OTC derivatives.

The Adviser and Sub-Adviser believe that it is important to provide the Fund with additional flexibility to manage risk associated with its investments. Depending on market conditions, it may be critical that the Fund be able to utilize available OTC derivatives for this purpose to attempt to reduce impact of currency, interest rate or credit fluctuations on Fund assets. Therefore, the Exchange believes it is appropriate to apply a limit of up to 25% of the Fund's assets to the Fund's investments in OTC derivatives (calculated as the aggregate gross notional value of such OTC derivatives), including forwards, options and swaps, that are used for hedging purposes, as described above.<sup>31</sup>

<sup>30</sup> Commentary .01(e) to NYSE Arca Rule 8.600–E provides that the portfolio may hold OTC derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (e.g., stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing; however, on both an initial and continuing basis, no more than 20% of the assets in the portfolio may be invested in OTC derivatives. For purposes of calculating this limitation, a portfolio's investment in OTC derivatives will be calculated as the aggregate gross notional value of the OTC derivatives.

<sup>31</sup> The Commission has previously approved an exception from requirements set forth in

As noted above, the Fund may hold equity securities that are Work Out Securities, which generally are traded OTC (but that may be traded on a U.S. or foreign exchange), exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities, and non-exchange-traded securities of other open-end investment company securities (e.g., mutual funds). The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E with respect to the Fund's investments in non-exchange-traded securities of open-end investment company securities,<sup>32</sup> and notwithstanding that the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2) (A) through (E) to Rule 8.600–E. Investments in non-exchange-traded securities of open-end investment company securities will not be principal investments of the Fund.<sup>33</sup> Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term. With respect to any Fund holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent

Commentary .01(e) relating to investments in OTC derivatives similar to those proposed with respect to the Fund in Securities Exchange Act Release No. 80657 (May 11, 2017), 82 FR 22702 (May 17, 2017) (SR–NYSEArca–2017–09) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, Regarding Investments of the Janus Short Duration Income ETF Listed Under NYSE Arca Equities Rule 8.600).

<sup>32</sup> Commentary .01 (a) to Rule 8.600–E specifies the equity securities accommodated by the generic criteria in Commentary .01(a), namely, U.S. Component Stocks (as described in Rule 5.2–E(j)(3)); Non-U.S. Component Stocks (as described in Rule 5.2–E(j)(3)); Derivative Securities Products (i.e., Investment Company Units and securities described in Section 2 of Rule 8–E); and Index-Linked Securities that qualify for Exchange listing and trading under Rule 5.2–E(j)(6).

<sup>33</sup> For purposes of this section of the filing, non-exchange-traded securities of other registered investment companies do not include money market funds, which are cash equivalents under Commentary .01(c) to Rule 8.600–E and for which there is no limitation in the percentage of the portfolio invested in such securities.

that the Fund generally will not actively invest in OTC equity securities issued upon conversion of fixed income convertible securities or OTC Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions.

With respect to investments in non-exchange-traded investment company securities, because such securities have a net asset value based on the value of securities and financial assets the investment company holds, the Exchange believes it is both unnecessary and inappropriate to apply to such investment company securities the criteria in Commentary .01(a)(1).<sup>34</sup>

The Exchange notes that Commentary .01(a) through (d) to Rule 8.600–E exclude application of those provisions to certain "Derivative Securities Products" that are exchange-traded investment company securities, including Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)), Portfolio Depository Receipts (as described in NYSE Arca Rule 8.100–E) and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E).<sup>35</sup> In its

<sup>34</sup> The Commission has previously approved proposed rule changes under Section 19(b) of the Act for series of Managed Fund Shares that may invest in non-exchange traded investment company securities. See, e.g., Securities Exchange Act Release No. 78414 (July 26, 2016), 81 FR 50576 (August 1, 2016) (SR–NYSEArca–2016–79) (order approving listing and trading of shares of the Virtus Japan Alpha ETF under NYSE Arca Equities Rule 8.600).

<sup>35</sup> The Commission initially approved the Exchange's proposed rule change to exclude "Derivative Securities Products" (i.e., Investment Company Units and securities described in Section 2 of Rule 8) and "Index-Linked Securities (as described in Rule 5.2–E(j)(6)) from Commentary .01(a)(1) through (4) to Rule 5.2–E(j)(3) in Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units) ("2008 Approval Order"). See also, Securities Exchange Act Release No. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto to Amend the Eligibility Criteria for Components of an Index Underlying Investment Company Units). The Commission subsequently approved generic criteria applicable to listing and trading of Managed Fund Shares, including exclusions for Derivative Securities Products and Index-Linked Securities in Commentary .01(a)(1)(A) through (D), in Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 7 Thereto, Amending NYSE Arca Equities Rule 8.600 To

2008 Approval Order approving amendments to Commentary .01(a) to Rule 5.2(j)(3) that exclude Derivative Securities Products from certain provisions of Commentary .01(a) (which exclusions are similar to those in Commentary .01(a)(1) to Rule 8.600-E), the Commission stated that “based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations.” The Exchange notes that it would be difficult or impossible to apply to non-exchange-traded investment company securities the generic quantitative criteria (e.g., market capitalization, trading volume, or portfolio criteria) in Commentary .01 (a) through (d) applicable to U.S. Component Stocks. For example, the requirement for U.S. Component Stocks in Commentary .01(a)(1)(B) that there be minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of \$25,000,000, averaged over the last six months is tailored to exchange-traded securities (e.g., U.S. Component Stocks) and not to mutual fund shares, which do not trade in the secondary market. Moreover, application of such criteria would not serve the purpose served with respect to U.S. Component Stocks, namely, to establish minimum liquidity and diversification criteria for U.S. Component Stocks held by series of Managed Fund Shares.

The Exchange notes that the Commission has previously approved listing and trading of an issue of Managed Fund Shares that may invest in equity securities that are non-exchange-traded securities of other open-end investment company securities notwithstanding that the fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600-E with respect to such fund’s investments in such securities.<sup>36</sup> Thus, the Exchange believes that it is appropriate to permit the Fund to invest in non-exchange-traded open-end management investment company securities, as described above.

Adopt Generic Listing Standards for Managed Fund Shares). See also, Amendment No. 7 to SR-NYSEArca-2015-110, available at <https://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-9.pdf>.

<sup>36</sup> See, e.g., Securities Exchange Act Release No. 83319 (May 24, 2018) (SR-NYSEArca-2018-15) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Continue Listing and Trading Shares of the PGIM Ultra Short Bond ETF Under NYSE Arca Rule 8.600-E).

Deviations from the generic requirements are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors’ returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600-E, as described above, the Fund’s portfolio will meet all other requirements of Rule 8.600-E.

#### Availability of Information

The Fund’s website ([www.innovatoretf.com](http://www.innovatoretf.com)) will include the prospectus for the Fund that may be downloaded. The Fund’s website will include additional quantitative information updated on a daily basis including, for the Fund, (1) daily trading volume, the prior business day’s reported closing price, NAV and midpoint of the bid/ask spread at the time of calculation of such NAV (the “Bid/Ask Price”),<sup>37</sup> and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its website the Disclosed Portfolio as defined in NYSE Arca Rule 8.600-E(c)(2) that forms the basis for the Fund’s calculation of NAV at the end of the business day.<sup>38</sup>

On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600-E(c)(2) to the extent applicable. The website information will be publicly available at no charge.

<sup>37</sup> The Bid/Ask Price of the Fund’s Shares will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund’s NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

<sup>38</sup> Under accounting procedures followed by the Fund, trades made on the prior business day (“T”) will be booked and reflected in NAV on the current business day (“T+1”). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund’s Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. Authorized Participants may refer to the basket composition file for information regarding Fixed Income Securities, and any other instrument that may comprise the Fund’s basket on a given day.

Investors can also obtain the Trust’s Statement of Additional Information (“SAI”), the Fund’s Shareholder Reports, and the Fund’s Forms N-CSR and Forms N-SAR, filed twice a year. The Fund’s SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR, Form N-PX and Form N-SAR may be viewed on-screen or downloaded from the Commission’s website at [www.sec.gov](http://www.sec.gov).

Intra-day and closing price information regarding exchange-traded options will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding Fixed Income Securities will be available from major market data vendors. Price information relating to OTC options, forwards and swaps will be available from major market data vendors. Intra-day price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Intraday and other price information for the Fixed Income Securities in which the Fund will invest will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other market participants. Additionally, the Trade Reporting and Compliance Engine (“TRACE”) of the Financial Industry Regulatory Authority (“FINRA”) will be a source of price information for corporate bonds to the extent transactions in such securities are reported to TRACE.<sup>39</sup> Trade price and

<sup>39</sup> Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year. For Fixed Income Securities that are not reported to TRACE, (i) intraday price quotations will generally be available from broker-dealers and trading platforms (as applicable) and (ii) price information will be available from feeds from market data vendors,

Continued

other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access ("EMMA") system. Non-exchange-traded open-end investment company securities are typically priced once each business day and their prices will be available through the applicable fund's website or from major market data vendors. Price information regarding U.S. government securities, bank loans, Private ABS/MBS, cash equivalents and short-term instruments with maturities of three months or more generally may be obtained from brokers and dealers who make markets in such securities or through nationally recognized pricing services through subscription agreements. Information relating to Private ABS/MBS is widely available from major market data vendors such as Bloomberg.

Information regarding market price and trading volume of the Shares, ETFs, ETNs, common stocks, preferred stocks, REITs, equity securities issued upon conversion of fixed income convertible securities, Work-Out Securities and closed-end funds will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares, ETFs, ETNs, closed-end funds, REITs, U.S. exchange-traded common stocks, U.S. exchange-traded preferred stocks, U.S. exchange-traded equity securities issued upon conversion of fixed income convertible securities, and U.S. exchange-traded Work-Out Securities will be available via the Consolidated Tape Association ("CTA") high-speed line. Exchange-traded options quotation and last sale information for options cleared via the Options Clearing Corporation ("OCC") are available via the Options Price Reporting Authority ("OPRA"). In addition, the Portfolio Indicative Value ("PIV"), as defined in NYSE Arca Rule 8.600-E(c)(3), will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session.

#### Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to

halt or suspend trading in the Shares of the Fund.<sup>40</sup> Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12-E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Fund's Shares also will be subject to Rule 8.600-E(d)(2)(D) ("Trading Halts").

#### Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m., E.T. in accordance with NYSE Arca Rule 7.34-E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6-E, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

With the exception of the requirements of Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600-E as described above in "Application of Generic Listing Requirements," the Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600-E. Consistent with NYSE Arca Rule 8.600-E(d)(2)(B)(ii), the Adviser and Sub-Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio.

The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A-3<sup>41</sup> under the Act, as provided by NYSE Arca Rule 5.3-E. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

#### Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.<sup>42</sup>

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded options and certain exchange-traded futures, ETFs, ETNs, closed-end funds, certain common stocks, certain preferred stocks, certain REITs, certain equity securities issued upon conversion of fixed income convertible securities, and certain Work-Out Securities with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities.<sup>43</sup> In addition, the Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. FINRA also can access data obtained

<sup>42</sup> FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

<sup>43</sup> For a list of the current members of ISG, see [www.isgportal.org](http://www.isgportal.org). The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement ("CSSA").

<sup>40</sup> See NYSE Arca Rule 7.12-E.

<sup>41</sup> 17 CFR 240.10A-3.

from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer must notify the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

#### Information Bulletin

The Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (“Bulletin”) of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Early and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (4) how information regarding the PIV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be

calculated after 4:00 p.m., E.T. each trading day.

#### 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>44</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares are listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, certain exchange-traded options and certain exchange-traded futures, ETFs, ETNs, closed-end funds, certain common stocks, certain preferred stocks, certain REITs, certain equity securities issued upon conversion of fixed income convertible securities and certain Work-Out Securities with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in such securities and financial instruments from such markets and other entities. The Exchange may obtain information regarding trading in such securities and financial instruments from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

The Adviser and Sub-Adviser are not registered as broker-dealers. The Adviser is not affiliated with a broker-dealer. The Sub-Adviser is affiliated with a broker-dealer and has implemented and will maintain a fire

wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

The Exchange notes that, other than Commentary .01(a)(1), (a)(2), (b)(1), (b)(4), (b)(5), and (e) to Rule 8.600–E, as described above, the Fund’s portfolio will meet all other requirements of Rule 8.600–E.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares, ETFs, ETNs, closed-end funds, certain REITs, certain common stocks, certain preferred stocks, certain equity securities issued upon conversion of fixed income convertible securities, and certain Work-Out Securities will be available via the CTA high-speed line. Exchange-traded options quotation and last sale information for options cleared via the OCC are available via OPRA. The Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund’s holdings, NAV, the PIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that generally will principally hold fixed income securities and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the

<sup>44</sup> 15 U.S.C. 78f(b)(5).

Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA.

Deviations from the generic requirements, as described above, are necessary for the Fund to achieve its investment objective in a manner that is cost-effective and that maximizes investors' returns. Further, the proposed alternative requirements are narrowly tailored to allow the Fund to achieve its investment objective in a manner that is consistent with the principles of Section 6(b)(5) of the Act. As a result, it is in the public interest to approve listing and trading of Shares of the Fund on the Exchange pursuant to the requirements set forth herein.

As noted above, the Fund will not comply with the requirements set forth in Commentary .01(a)(1) and (a)(2) to NYSE Arca Rule 8.600–E with respect to the Fund's investments in equity securities. Instead, the Exchange proposes that (i) the Fund's investments in equity securities will meet the requirements of Commentary .01(a) with the exception of Commentary .01(a)(1)(C) and .01(a)(1)(D) (with respect to U.S. Component Stocks) and Commentary .01(a)(2)(C) and .01(a)(2)(D) (with respect to Non-U.S. Component Stocks).<sup>45</sup> The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such equity securities do not comply with the requirements set forth in Commentary .01(a)(1) and (a)(2) to NYSE Arca Rule 8.600–E in that any Fund investment in exchange-traded common stocks, preferred stocks, REITs, ETFs, ETNs, U.S. exchange-traded closed-end funds, exchange-traded equity securities issued upon conversion of fixed income convertible securities, and exchange-traded Work Out Securities would provide for enhanced diversification of the Fund's portfolio. Such securities would be Non-Principal Investments, not exceeding 20% of the Fund's net assets in the aggregate.

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in Municipal Securities will be well-diversified.

The Exchange believes that, notwithstanding that the Fund's

portfolio may not satisfy Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will not be susceptible to manipulation. As noted above, the Fund will not comply with the requirements set forth in Commentary .01(b)(1) to NYSE Arca Rule 8.600–E with respect to the Fund's investments in Fixed Income Securities, including Municipal Securities. The Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. In addition, at least 50% of the weight of the Fund's portfolio would continue to be subject to a substantial minimum (*i.e.*, \$50 million) original principal amount outstanding. These conditions would provide the Fund with greater ability to select from a broad range of Fixed Income Securities, as described above, that would support the Fund's investment goal.

With respect to the Fund's investments in Municipal Securities, such securities will be diversified in that no single Municipal Securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual Municipal Security will account for more than 5% of the weight of the Fund's portfolio; and the Fund will limit its investments in Municipal Securities of any one state or U.S. territory to 20% of the Fund's total assets.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such Private ABS/MBS do not comply with the requirements set forth in Commentary .01(b)(4) to NYSE Arca Rule 8.600–E because certain Private ABS/MBS cannot satisfy the criteria in Commentary .01(b)(4).<sup>46</sup> Instead, the Exchange proposes that the Fund's investments in Fixed Income Securities other than Private ABS/MBS will be required to comply with the requirements of Commentary .01(b)(4). As noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis. The Exchange believes this limitation would provide additional diversification to the Fund's investments in Private ABS/MBS, and reduce concerns that the Fund's investment in such securities

would be readily susceptible to market manipulation.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in such Private ABS/MBS do not comply with the requirements set forth in Commentary .01(b)(5) to NYSE Arca Rule 8.600–E. Instead, the Exchange proposes that, in order to enable the portfolio to be more diversified and provide the Fund with an opportunity to earn higher returns, the Fund may invest up to 50% of its total assets in the aggregate in Private ABS/MBS, provided that the Fund (1) may not invest more than 30% of its total assets in non-agency RMBS; (2) may not invest more than 25% of its total assets in non-agency CMBS; and (3) may not invest more than 25% of its total assets in non-agency ABS. In addition, the Fund's investment in Private ABS/MBS is expected to provide the Fund with benefits associated with increased diversification, as Private ABS/MBS investments tend to be less correlated to interest rates than many other fixed income securities.

In addition, as noted above, the Fund may not invest more than 5% of its total assets (determined at the time of purchase) in any one Fixed Income Security (excluding U.S. government securities and TIPS) on a per CUSIP basis.<sup>47</sup> The Exchange believes these limitations would provide additional diversification to the Fund's Private ABS/MBS investments and reduce concerns that the Fund's investment in such securities would be readily susceptible to market manipulation.

As noted above, the Fund's portfolio will not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600–E. The Exchange proposes that up to 25% of the Fund's assets (calculated as the aggregate gross notional value) may be invested in OTC derivatives that are used to reduce currency, interest rate or credit risk arising from the Fund's investments (that is, "hedge"), and that the Fund's investments in OTC derivatives other than OTC derivatives used to hedge the Fund's portfolio against currency, interest rate or credit risk will be limited to 20% of the assets in the Fund's portfolio, calculated as the aggregate gross notional value of such OTC

<sup>47</sup> As noted above, the Fund's holdings in derivative instruments for hedging purposes would be excluded from the determination of compliance with this 5% limitation. The total gross notional value of the Fund's holdings in derivative instruments used to gain exposure to a specific asset is limited to 5% of the Fund's total assets (determined at the time of purchase).

<sup>45</sup> See notes 23 and 24, *supra*.

<sup>46</sup> See note 26, *supra*.

derivatives. As noted above, the Fund will not use derivative instruments to gain exposure to Private ABS/MBS, and derivative instruments linked to such securities will be used for hedging purposes only.

The Exchange believes it is appropriate and in the public interest to approve listing and trading of Shares of the Fund notwithstanding that the Fund's holdings in OTC derivatives do not comply with the requirements set forth in Commentary .01(e) to NYSE Arca Rule 8.600–E in that, depending on market conditions, it may be critical that the Fund be able to utilize available OTC derivatives to attempt to reduce impact of currency, interest rate or credit fluctuations on Fund assets. Therefore, the Exchange believes it is appropriate to apply a limit of up to 25% of the Fund's assets to the Fund's investments in OTC derivatives (calculated as the aggregate gross notional value of such OTC derivatives), including forwards, options and swaps, that are used for hedging purposes, as described above.

The Adviser and Sub-Adviser represent that OTC derivatives can be tailored to hedge the specific risk arising from the Fund's investments and frequently may be a more efficient hedging vehicle than listed derivatives. For example, the Fund could obtain an OTC foreign currency derivative in a notional amount that exactly matches the notional amount of the Fund's investments. If the Fund were limited to investing up to 20% of assets in OTC derivatives, the Fund might have to "over hedge" or "under hedge" if round lot sizes in listed derivatives were not available. In addition, for example, an OTC CDX option can be structured to provide protection tailored to the Fund's credit exposure and can be a more efficient way to hedge credit risk with respect to specific exposures than listed derivatives. Similarly, OTC interest rate derivatives can be more effective hedges of interest rate exposure because they can be customized to match the basis risk arising from the term of the investments held by the Fund.

Because the Fund, in furtherance of its investment objective, may invest a substantial percentage of its investments in foreign currency denominated Fixed Income Securities, the 20% limit in Commentary .01(e) to Rule 8.600–E could result in the Fund being unable to fully pursue its investment objective while attempting to sufficiently mitigate investment risks. The inability of the Fund to adequately hedge its holdings would effectively limit the Fund's ability to invest in certain instruments,

or could expose the Fund to additional investment risk. For example, if the Fund's assets (on a gross notional value basis) were \$100 million and no listed derivative were suitable to hedge the Fund's risk, under the generic standards the Fund would be limited to holding up to \$20 million gross notional value in OTC derivatives (\$100 million \* 20%). Accordingly, the maximum amount the Fund would be able to invest in foreign currency denominated Fixed Income Securities while remaining adequately hedged would be \$20 million. The Fund then would hold \$60 million in assets that could not be hedged, other than with listed derivatives, which, as noted above, might not be sufficiently tailored to the specific instruments to be hedged.

In addition, by applying the 20% limitation in Commentary .01(e) to Rule 8.600–E, the Fund would be less able to protect its holdings from more than one risk simultaneously. For example, if the Fund's assets (on a gross notional basis) were \$100 million and the Fund held \$20 million in foreign currency denominated Fixed Income Instruments with two types of risks (*e.g.*, currency and credit risk) which could not be hedged using listed derivatives, the Fund would be faced with the choice of either holding \$20 million aggregate gross notional value in OTC derivatives to mitigate one of the risks while passing the other risk to its shareholders, or, for example, holding \$10 million aggregate gross notional value in OTC derivatives on each of the risks while passing the remaining portion of each risk to the Fund's shareholders.

The Adviser and Sub-Adviser believe that it is in the best interest of the Fund's shareholders for the Fund to be allowed to reduce the currency, interest rate or credit risk arising from the Fund's investments using the most efficient financial instrument. While certain risks can be hedged via listed derivatives, OTC derivatives (such as forwards, options and swaps) can be customized to hedge against precise risks. Accordingly, the Adviser and Sub-Adviser believe that OTC derivatives may frequently be a more efficient hedging vehicle than listed derivatives. Therefore, the Exchange believes that increasing the percentage limit in Commentary .01(e), as described above, to the Fund's investments in OTC derivatives, including forwards, options and swaps, that are used specifically for hedging purposes would help protect investors and the public interest.

As noted above, the Fund's portfolio will not meet the requirements of Commentary .01(a)(1)(A) through (E) to

Rule 8.600–E with respect to the Fund's investments in non-exchange-traded securities of open-end investment company securities, and, with respect to the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities, would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2)(A) through (E) to Rule 8.600–E. The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(a)(1)(A) through (E) to Rule 8.600–E with respect to the Fund's investments in non-exchange-traded securities of open-end investment company securities, and notwithstanding that the Fund's holdings of OTC equity securities issued upon conversion of fixed income convertible securities and OTC Work Out Securities would not meet the requirements of Commentary .01(a)(1)(A) through (E) and Commentary .01(a)(2)(A) through (E) to Rule 8.600–E. Investments in non-exchange-traded securities of open-end investment company securities will not be principal investments of the Fund.<sup>48</sup> Such investments, which may include mutual funds that invest, for example, principally in fixed income securities, would be utilized to help the Fund meet its investment objective and to equitize cash in the short term.

With respect to any Fund holdings of exchange-traded or OTC equity securities issued upon conversion of fixed income convertible securities and Work Out Securities, such securities will not exceed 10% and 5%, respectively, of the Fund's total assets. The Adviser and Sub-Adviser represent that the Fund generally will not actively invest in equity securities issued upon conversion of fixed income convertible securities or Work Out Securities, but may, at times, receive a distribution of such securities in connection with the Fund's holdings in other securities. Therefore, the Fund's holdings in equity securities issued upon conversion of fixed income convertible securities and Work Out Securities generally would not be acquired as the result of the Fund's voluntary investment decisions.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of shares of an additional type of

<sup>48</sup> See note 33, *supra*.

actively-managed exchange-traded product that will enhance competition

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that generally will principally hold fixed income securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

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 up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove 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, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2019-78 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2019-78. 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-NYSEArca-2019-78 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>49</sup>

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-24973 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-87518; File No. SR-NYSEArca-2019-26]**

### **Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Rule 7.31 to Delete Cross Orders**

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup>

<sup>49</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

notice is hereby given that on November 1, 2019, NYSE National, Inc. ("NYSE National" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by 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 7.31 (Orders and Modifiers) to delete Cross Orders from its rules and make other conforming changes. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://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 purpose of the proposed rule change is to amend the Exchange's rules to delete Cross Orders.

As defined in Rule 7.31(g), a Cross Order is a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price"). The Exchange offers one type of Cross Order, the Limit IOC Cross Order. As defined in Rule 7.31(g)(1), a Limit IOC Cross Order is a Cross Order that must trade in full at its cross price, will not route, and will cancel at the time of order entry if the cross price is not between the BBO or would trade through the PBBO.

Due to a lack of demand for Cross Orders, the Exchange proposes to discontinue supporting Cross Orders. Specifically, in the last three months,

the Exchange has not received any Cross Orders. Accordingly, the Exchange proposes to delete the definition of Cross Order from Rule 7.31(g), as well as the references to Cross Orders in Rules 7.10(e)(1), 7.11(a)(5)(E), 7.16(f)(5)(H), 7.34(c)(1)(C), and 7.34(c)(2)(C). The Exchange proposes to designate Rules 7.31(g), 7.11(a)(5)(E), and 7.16(f)(5)(H) as Reserved and proposes to revise Rules 7.10(e)(1), 7.34(c)(1)(C), and 7.34(c)(2)(C) to delete the references to Cross Orders. Subject to effectiveness of this proposed rule change, the Exchange will announce the implementation date of these changes through a Trader Update, which the Exchange anticipates will be in November 2019.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>3</sup> in general, and Section 6(b)(5) of the Act,<sup>4</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanisms of a free and open market by eliminating a little-used order type and improving the clarity of the Exchange's rules. The Exchange further believes that deleting an order type rarely used by investors also removes impediments to and perfects the mechanism of a free and open market by facilitating market participants' navigation of the Exchange's rulebook and improving their ability to understand the order types available for trading on the Exchange. Moreover, the Exchange believes that the elimination of Cross Orders will simplify order processing and reduce the burden on system capacity, which the Exchange believes is consistent with promoting just and equitable principles of trade, as well as the protection of investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change would relieve a burden on competition by making the Exchange's

rules easier to navigate and promoting regulatory clarity through the elimination of a seldom-used order type.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder.<sup>6</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. The Exchange states that the proposed rule change would not significantly affect the protection of investors or the public interest because it serves only to remove a rarely-used order type from the Exchange's rules, the elimination of which will streamline order processing and reduce the burden on system capacity at the Exchange. The Exchange also states that the proposed rule change would not impose any

significant burden on competition because simplifying the Exchange's rules by removing a little-used order type would promote regulatory clarity and transparency, ensuring that market participants can more readily identify the order types available for trading on the Exchange. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change would promote clarity in the Exchange's rules and help eliminate potential investor confusion. For these reasons, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.<sup>11</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSENAT-2019-26 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-NYSENAT-2019-26. 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/>

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

*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-NYSENAT-2019-26, and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2019-24972 Filed 11-18-19; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87520; File No. SR-CboeEDGX-2019-067]

### Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Amend the Fee Schedule Applicable to the EDGX Equities Trading Platform as It Relates to Pricing for Orders Routed to Cboe EDGA Exchange, Inc. Using the ALLB, ROUC, ROUE, or DIRC Routing Strategy

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 1, 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 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. ("EDGX" or the "Exchange") is filing with the Securities and Exchange Commission (the "Commission") a proposed rule change to amend the fee schedule applicable to the EDGX equities trading platform ("EDGX Equities") as it relates to pricing for orders routed to Cboe EDGA Exchange, Inc. ("EDGA") using the ALLB, ROUC, ROUE, or DIRC routing strategy. 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/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend the EDGX Equities fee schedule to change the pricing applicable to orders routed to EDGA using the ALLB, ROUC, ROUE, or DIRC routing strategy in securities priced at or above \$1.00, as a result of a pricing change by EDGA effective on November 1, 2019. The Exchange proposes to implement the proposed change to its fee schedule on November 1, 2019. Currently, the Exchange provides a rebate of \$0.0024 per share for orders routed to EDGA using the ALLB, ROUC, ROUE, or DIRC routing

strategy (yielding fee codes AA, I, and RR), which was a pass-through of the standard rebate EDGA had previously provided to orders that removed liquidity from EDGA. Effective November 1, 2019, EDGA reduced its standard rebate per share for orders that remove liquidity in securities priced at or above \$1.00 from \$0.0024 to \$0.0018. As such, the Exchange proposes to similarly reduce the per share rebate for orders routed to EDGA (yielding fee codes AA, I and RR) in securities priced at or above \$1.00 from \$0.0024 to \$0.0018 in order to reflect the reduction in the rebate available for orders removing liquidity on EDGA.

Currently, routed orders from the Exchange to EDGA using the ROUC, ROUE, or DIRC routing strategy (yielding fee codes I and RR) in securities priced below \$1.00 result in a fee of 0.30% of the dollar value.<sup>3</sup> However, the fee schedule applicable to Cboe BZX Exchange, Inc. ("BZX Equities") and the Cboe BYX Exchange, Inc. ("BYX") have no fee or charge for orders routed to EDGA,<sup>4</sup> and EDGA imposes no fee for liquidity removing orders entered directly on EDGA.<sup>5</sup> Therefore, the Exchange also proposes to eliminate such fee on the Exchange so that the fee applied to orders on the Exchange routed to EDGA are consistent with orders routed to EDGA from BZX Equities or BYX and with removing liquidity orders entered directly on EDGA.

###### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act.<sup>6</sup> Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,<sup>7</sup> which requires that Exchange Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be

<sup>3</sup> Orders routed from the Exchange to EDGA using the ALLB routing strategy in securities priced below \$1.00 are currently free.

<sup>4</sup> See footnotes 5, 10, and 11 of the BYX Exchange Fee Schedule. See also footnotes 10, 11, and 15 of the BZX Equities Exchange Fee Schedule.

<sup>5</sup> See fee codes N, W, 6, and BB from the EDGA Exchange Fee Schedule.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 17 CFR 200.30-3(a)(12), (59).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

excessive or incentives to be insufficient.

In particular, the Exchange believes that the proposed change to orders in securities priced equal to or greater than \$1.00 is reasonable because it reflects a pass-through of a recent pricing change by EDGA for liquidity removing orders, as described above. The Exchange believes that the proposed change is reasonable because it will maintain proportionality with the standard corresponding rebate offered by EDGA, thereby encouraging additional order flow to be entered on the EDGX Book. The Exchange also believes the proposed change to orders in securities priced less than \$1.00 is reasonable because it consistently removes fees from orders routed to EDGA from the Exchange, BYX, and BZX Equities, and aligns with the fee of liquidity removing orders entered directly on EDGA in securities priced less than \$1.00, while also maintaining Member interest in routing orders through the Exchange by providing better pricing to Members that choose to enter such orders on the Exchange, thereby encouraging additional order flow to be entered on the EDGX Book. The Exchange believes that additional order flow through the EDGX Book will result in greater liquidity to the benefit of all market participants on the Exchange by providing more trading opportunities.

The Exchange also believes that the proposed change constitutes an equitable allocation of reasonable fees that is not unfairly discriminatory because the proposed rebate for orders in securities priced equal to or greater than \$1.00 is designed to continue to reflect the rebate offered (and recently updated) by EDGA to orders that remove liquidity and would apply equally to all Members that choose to use the Exchange to route orders to EDGA. Similarly, the Exchange believes that the proposed change constitutes an equitable allocation of reasonable fees that is not unfairly discriminatory because the proposed fee for orders in securities priced less than \$1.00 is designed to consistently eliminate fees applied to orders routed to EDGA from the Exchange, BZX Equities, and BYX, as well as liquidity removing orders entered directly on EDGA, and would apply equally to all Members that choose to use the Exchange to route orders to EDGA. Furthermore, the Exchange notes that routing through the Exchange is voluntary, and, because the Exchange operates in a highly competitive environment as discussed below, Members that do not favor the proposed pricing can readily direct order flow directly to EDGA or through

competing venues or providers of routing services.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange 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, as amended. The Exchange believes the proposed routing fee change to orders in securities priced equal to or greater than \$1.00 will not impose an undue burden on competition because the proposed change is merely intended to maintain consistency between the Exchange's rebates for orders routed to EDGA with the recently updated rebates offered by EDGA for liquidity removing orders. Similarly, the Exchange believes the proposed routing fee change to orders in securities priced less than \$1.00 will not impose an undue burden on competition because the proposed change is intended to maintain consistency between the Exchange's fees and similar fees applied by BZX Equities and BYX to orders routed to EDGA and fees applied to liquidity removing orders entered directly on EDGA.

The Exchange does not believe the proposed fee change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated, the Exchange will uniformly assess the proposed routing fee on all Members who choose to route orders through the Exchange to EDGA. As noted above, the proposed fee intends to pass through the same rebates for liquidity removing orders from EDGA on to Members, thereby, adding order flow to the EDGX Book which will result in more trading opportunities to the benefit of all market participants on the Exchange.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the Exchange operates in a highly competitive market and routing through the Exchange is voluntary. Therefore, Members may opt to disfavor the Exchange's pricing if they believe that alternatives, including 12 other equities exchanges and 32 alternative trading systems, offer them better value or if they disfavor the proposed change. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the

market share.<sup>8</sup> Therefore, no exchange possesses significant pricing power in the execution of equity order flow. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation National Market System ("NMS"), the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>9</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the DC Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ."<sup>10</sup> Regardless, the Exchange notes that the proposed change to the EDGA-related routing fee in securities priced equal to or greater than \$1.00 is merely meant to pass through the rebate associated with executing orders on that market, and is therefore not designed to have any significant impact on competition. Further, the proposed change to the EDGA-related routing fee in securities priced less than \$1.00 is meant to consistently eliminate such fees associated with orders routed to EDGA across the Exchange, BZX Equities, and BYX and liquidity removing orders entered directly on EDGA. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>8</sup> See Cboe Global Markets U.S. Equities Market Volume Summary (October 28, 2019), available at [http://markets.cboe.com/us/equities/market\\_share/](http://markets.cboe.com/us/equities/market_share/).

<sup>9</sup> See Securities Exchange Act Release No. 51808 (June 29, 2015) 70 FR 37495 (August 29, 2015).

<sup>10</sup> *NetCoalition v. Securities and Exchange Commission*, 615 F.3d 525 (D.C. Cir. 2010).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>13</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-CboeEDGX-2019-067 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File No. SR-CboeEDGX-2019-067. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/>

*rules/sro.shtml*.) Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-CboeEDGX-2019-067, and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-24975 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

#### *Extension:*

Rule 155, SEC File No. 270-492, OMB Control No. 3235-0549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 155 (17 CFR 230.155) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) provides safe harbors for a

registered offering of securities following an abandoned private offering, or a private offering following an abandoned a registered offering, without integrating the registered and private offerings in either case. In connection with registered offering following an abandoned private offering, Rule 155 requires an issuer to include in any prospectus filed as a part of a registration statement disclosure regarding the abandoned private offering. Similarly, the rule requires an issuer to provide each offeree in a private offering following an abandoned registered offering with: (1) Information concerning the withdrawal of the registration statement; (2) the fact that the private offering is unregistered; and (3) the legal implications of the offering's unregistered status. All information submitted to the Commission is available to the public for review. Companies only need to satisfy the Rule 155 information requirements if they wish to take advantage of the rule's safe harbors. The Rule 155 information is required only on occasion. We estimate Rule 155 takes approximately 4 hours per response to prepare and is filed by 600 respondents annually. We estimate that 50% of the 4 hours per response (2 hours per response) is prepared by the filer for a total annual reporting burden of 1,200 hours (2 hours per response × 600 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-25007 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87515; File No. SR–CBOE–2019–108]

### Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Operation of Its Flexible Exchange Options (“FLEX Options”) PM Exercise Settlement Pilot Program for FLEX Index Options

November 13, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on November 4, 2019, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) 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 Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder.<sup>4</sup> 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 Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to extend the operation of its Flexible Exchange Options (“FLEX Options”) pilot program regarding permissible exercise settlement values for FLEX Index Options. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

\* \* \* \* \*  
 Rules of Cboe Exchange, Inc.  
 \* \* \* \* \*

#### Rule 4.21. Series of FLEX Options

(a) No change.

(b) *Terms.* When submitting a FLEX Order for a FLEX Option series to the System, the submitting FLEX Trader must include one of each of the following terms in the FLEX Order (all other terms of a FLEX Option series are the same as those that apply to non-FLEX Options), which terms constitute the FLEX Option series:

(1)–(4) No change.

(5) settlement type:

(A) No change.

(B) *FLEX Index Options.* FLEX Index Options are settled in U.S. dollars, and may be:

(i) No change.

(ii) p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities), except for a FLEX Index Option that expires on any business day that falls on or within two business days of a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option) may only be a.m.-settled; however, for a pilot period ending the earlier of [November 4, 2019] *May 4, 2020* or the date on which the pilot program is approved on a permanent basis, a FLEX Index Option with an expiration date on the third-Friday of the month may be p.m.-settled;

(iii)–(iv) No change.

\* \* \* \* \*

The text of the proposed rule change is also available on the Exchange’s website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), 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

On January 28, 2010, the Securities and Exchange Commission (the “Commission”) approved a Cboe Options rule change that, among other things, established a pilot program regarding permissible exercise settlement values for FLEX Index Options.<sup>5</sup> The Exchange has extended

the pilot period numerous times, which is currently set to expire on the earlier of November 4, 2019 or the date on which the pilot program is approved on a permanent basis.<sup>6</sup> The purpose of this rule change filing is to extend the pilot program through the earlier of May 4, 2020 or the date on which the pilot program is approved on a permanent basis. This filing simply seeks to extend the operation of the pilot program and does not propose any substantive changes to the pilot program.

Under Rule 4.21(b), *Series of FLEX Options* (regarding terms of a FLEX Option),<sup>7</sup> a FLEX Option may expire on

(SR–CBOE–2009–087) (“Approval Order”). The initial pilot period was set to expire on March 28, 2011, which date was added to the rules in 2010. See Securities Exchange Act Release No. 61676 (March 9, 2010), 75 FR 13191 (March 18, 2010) (SR–CBOE–2010–026).

<sup>6</sup> See Securities Exchange Act Release Nos. 64110 (March 23, 2011), 76 FR 17463 (March 29, 2011) (SR–CBOE–2011–024) (extending the pilot program through the earlier of March 30, 2012 or the date on which the pilot program is approved on the permanent basis); 66701 (March 30, 2012), 77 FR 20673 (April 5, 2012) (SR–CBOE–2012–027) (extending the pilot through the earlier of November 2, 2012 or the date on which the pilot program is approved on a permanent basis); 68145 (November 2, 2012), 77 FR 67044 (November 8, 2012) (SR–CBOE–2012–102) (extending the pilot program through the earlier of November 2, 2013 or the date on which the pilot program is approved on a permanent basis); 70752 (October 24, 2013), 78 FR 65023 (October 30, 2013) (SR–CBOE–2013–099) (extending the pilot program through the earlier of November 3, 2014 or the date on which the pilot program is approved on a permanent basis); 73460 (October 29, 2014), 79 FR 65464 (November 4, 2014) (SR–CBOE–2014–080) (extending the pilot program through the earlier of May 3, 2016 or the date on which the pilot program is approved on a permanent basis); 77742 (April 29, 2016), 81 FR 26857 (May 4, 2016) (SR–CBOE–2016–032) (extending the pilot program through the earlier of May 3, 2017 or the date on which the pilot program is approved on a permanent basis); 80443 (April 12, 2017), 82 FR 18331 (April 18, 2017) (SR–CBOE–2017–032), 83 FR 21808 (May 10, 2018) (extending the pilot program through the earlier of May 3, 2018 or the date on which the pilot program is approved on a permanent basis); 83175 (May 4, 2018), 83 FR 21808 (May 10, 2018) (SR–CBOE–2018–037); and 84537 (November 5, 2018), 83 FR 56113 (November 9, 2018) (SR–CBOE–2018–071) and 84 FR 18100 (April 29, 2019) (SR–CBOE–2019–021). At the same time the permissible exercise settlement values pilot was established for FLEX Index Options, the Exchange also established a pilot program eliminating the minimum value size requirements for all FLEX Options. See Approval Order, *supra* note 5. The pilot program eliminating the minimum value size requirements was extended twice pursuant to the same rule filings that extended the permissible exercise settlement values (for the same extended periods) and was approved on a permanent basis in a separate rule change filing. See *id.*; and Securities Exchange Act Release No. 67624 (August 8, 2012), 77 FR 48580 (August 14, 2012) (SR–CBOE–2012–040).

<sup>7</sup> On October 7, 2019, the Exchange migrated its trading platform to the same system used by the Cboe Affiliated Exchanges (Cboe C2 Exchange, Inc. (“C2”), Cboe EDGX Exchange, Inc. (“EDGX”), Cboe BZX Exchange, Inc. (“BZX”), Cboe BYX Exchange, Inc. (“BYX”), Cboe EDGA Exchange, Inc.

Continued

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b–4(f)(6).

<sup>5</sup> Securities Exchange Act Release No. 61439 (January 28, 2010), 75 FR 5831 (February 4, 2010)

any business day (specified to day, month and year) no more than 15 years from the date on which a FLEX Trader submits a FLEX Order to the System.<sup>8</sup> FLEX Index Options are settled in U.S. dollars, and may be a.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported opening prices of the component securities) or p.m.-settled (with exercise settlement value determined by reference to the reported level of the index derived from the reported closing prices of the component securities).<sup>9</sup> Specifically, a FLEX Index Option that expires on, or within two business days of, a third Friday-of-the-month expiration day for a non-FLEX Option (other than a QIX option), may only be a.m. settled.<sup>10</sup> However, under the exercise settlement values pilot, this restriction on p.m.-settled FLEX Index Options was eliminated.<sup>11</sup> As stated, the exercise settlement values pilot is currently set to expire on the earlier of November 4, 2019 or the date on which the pilot program is approved on a permanent basis.

Cboe Options is proposing to extend the pilot program through the earlier of May 4, 2020 or the date on which the pilot program is approved on a permanent basis. Cboe Options believes the pilot program has been successful and well received by its Trading Permit Holders and the investing public for the period that it has been in operation as

(“EDGA”). In connection with this migration the Exchange restructured its Rulebook. Prior Rule 24A.4.01, covering the pilot program, was relocated to current Rule 4.21(b)(5). See Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR-CBOE-2019-084).

<sup>8</sup> Except an Asian-settled or Cliquet-settled FLEX Option series, which must have an expiration date that is a business day but may only expire 350 to 371 days (which is approximately 50 to 53 calendar weeks) from the date on which a FLEX Trader submits a FLEX Order to the System.

<sup>9</sup> See Rule 4.21(b)(5)(B); see also Securities Exchange Act Release No. 87235 (October 4, 2019), 84 FR 54671 (October 10, 2019) (SR-CBOE-2019-084). The rule change removed the provision regarding the exercise settlement value of FLEX Index Options on the NYSE Composite Index, as the Exchange no longer lists options on that index for trading, and included the provisions regarding how the exercise settlement value is determined for each settlement type, as how the exercise settlement value is determined is dependent on the settlement type.

<sup>10</sup> For example, notwithstanding the pilot, the exercise settlement value of a FLEX Index Option that expires on the Tuesday before the third Friday-of-the-month could be a.m. or p.m. settled. However, the exercise settlement value of a FLEX Index Option that expires on the Wednesday before the third Friday-of-the-month could only be a.m. settled.

<sup>11</sup> No change was necessary or requested with respect to FLEX Equity Options. Regardless of the expiration date, FLEX Equity Options are settled by physical delivery of the underlying.

a pilot. In support of the proposed extension of the pilot program, and as required by the pilot program’s Approval Order, the Exchange has submitted to the Commission pilot program reports regarding the pilot, which detail the Exchange’s experience with the program. Specifically, the Exchange provided the Commission with annual reports analyzing volume and open interest for each broad-based FLEX Index Options class overlying a third Friday-of-the-month expiration day, p.m.-settled FLEX Index Options series.<sup>12</sup> The annual reports also contained information and analysis of FLEX Index Options trading patterns. The Exchange also provided the Commission, on a periodic basis, interim reports of volume and open interest. In providing the pilot reports to the Commission, the Exchange has previously requested confidential treatment of the pilot reports under the Freedom of Information Act (“FOIA”).<sup>13</sup>

The Exchange believes there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement (as discussed below).

In that regard, based on the Exchange’s experience in trading FLEX Options to date and over the pilot period, Cboe Options continues to believe that the restrictions on exercise settlement values are no longer necessary to insulate Non-FLEX expirations from the potential adverse market impacts of FLEX expirations.<sup>14</sup>

<sup>12</sup> The annual reports also contained certain pilot period and pre-pilot period analyses of volume and open interest for third Friday-of-the-month expiration days, a.m.-settled FLEX Index series and third Friday-of-the-month expiration day Non-FLEX Index series overlying the same index as a third Friday-of-the-month expiration day, p.m.-settled FLEX Index option.

<sup>13</sup> 5 U.S.C. 552.

<sup>14</sup> In further support, the Exchange also notes that the p.m. settlements are already permitted for FLEX Index Options on any other business day except on, or within two business days of, the third Friday-of-the-month. The Exchange is not aware of any market disruptions or problems caused by the use of these settlement methodologies on these expiration dates (or on the expiration dates addressed under the pilot program). The Exchange is also not aware of any market disruptions or

To the contrary, Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants’ ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability.

The Exchange also notes that certain position limit, aggregation and exercise limit requirements continue to apply to FLEX Index Options in accordance with Rules 8.35, *Position Limits for FLEX Options*, 8.42(g) *Exercise Limits* (in connection with FLEX Options) and 8.43(j), *Reports Related to Position Limits* (in connection with FLEX Options). Additionally, all FLEX Options remain subject to the general position reporting requirements in Rule 8.43(a).<sup>15</sup> Moreover, the Exchange and

problems caused by the use of customized options in the over-the-counter (“OTC”) markets that expire on or near the third Friday-of-the-month and are p.m. settled. In addition, the Exchange believes the reasons for limiting expirations to a.m. settlement, which is something the SEC has imposed since the early 1990s for Non-FLEX Options, revolved around a concern about expiration pressure on the New York Stock Exchange (“NYSE”) at the close that are no longer relevant in today’s market. Today, the Exchange believes stock exchanges are able to better handle volume. There are multiple primary listing and unlisted trading privilege (“UTP”) markets, and trading is dispersed among several exchanges and alternative trading systems. In addition, the Exchange believes that surveillance techniques are much more robust and automated. In the early 1990s, it was also thought by some that opening procedures allow more time to attract contra-side interest to reduce imbalances. The Exchange believes, however, that today, order flow is predominantly electronic and the ability to smooth out openings and closes is greatly reduced (e.g., market-on-close procedures work just as well as openings). Also, other markets, such as the NASDAQ Stock Exchange, do not have the same type of pre-opening imbalance disseminations as NYSE, so many stocks are not subject to the same procedures on the third Friday-of-the-month. In addition, the Exchange believes that NYSE has reduced the required time a specialist has to wait after disseminating a pre-opening indication. So, in this respect, the Exchange believes there is less time to react in the opening than in the close. Moreover, to the extent there may be a risk of adverse market effects attributable to p.m. settled options that would otherwise be traded in a non-transparent fashion in the OTC market, the Exchange continues to believe that such risk would be lessened by making these customized options eligible for trading in an exchange environment because of the added transparency, price discovery, liquidity, and financial stability available.

<sup>15</sup> Rule 8.43(a) provides that “[i]n a manner and form prescribed by the Exchange, each Trading Permit Holder shall report to the Exchange, the name, address, and social security or tax identification number of any customer who, acting alone, or in concert with others, on the previous business day maintained aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of option contracts dealt in on the Exchange. The report shall indicate for each such class of options, the number of option contracts comprising each such position

its Trading Permit Holder organizations each have the authority, pursuant to Rule 10.9, *Margin Required is Minimum*, to impose additional margin as deemed advisable. Cboe Options continues to believe these existing safeguards serve sufficiently to help monitor open interest in FLEX Option series and significantly reduce any risk of adverse market effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-FLEX expirations and use a p.m. settlement.

Cboe Options is also cognizant of the OTC market, in which similar restrictions on exercise settlement values do not apply. Cboe Options continues to believe that the pilot program is appropriate and reasonable and provides market participants with additional flexibility in determining whether to execute their customized options in an exchange environment or in the OTC market. Cboe Options continues to believe that market participants benefit from being able to trade these customized options in an exchange environment in several ways, including, but not limited to, enhanced efficiency in initiating and closing out positions, increased market transparency, and heightened counterparty creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor of FLEX Options.

If, in the future, the Exchange proposes an additional extension of the pilot program, or should the Exchange propose to make the pilot program permanent, the Exchange will submit, along with any filing proposing such amendments to the pilot program, an annual report (addressing the same areas referenced above and consistent with the pilot program's Approval Order) to the Commission at least two months prior to the expiration date of the program. The Exchange will also continue, on a periodic basis, to submit interim reports of volume and open interest consistent with the terms of the exercise settlement values pilot program as described in the pilot program's Approval Order. Additionally, the Exchange will provide the Commission with any additional data or analyses the Commission requests because it deems such data or analyses necessary to determine whether the pilot program is

and, in the case of short positions, whether covered or uncovered." For purposes of Rule 8.43, the term "customer" in respect of any Trading Permit Holder includes "the Trading Permit Holder, any general or special partner of the Trading Permit Holder, any officer or director of the Trading Permit Holder, or any participant, as such, in any joint, group or syndicate account with the Trading Permit Holder or with any partner, officer or director thereof." Rule 8.43(d).

consistent with the Exchange Act. The Exchange is in the process of making public on its website data and analyses previously submitted to the Commission under the pilot program, and will make public any data and analyses it submits to the Commission under the pilot program in the future.

As noted in the pilot program's Approval Order, any positions established under the pilot program would not be impacted by the expiration of the pilot program.<sup>16</sup>

## 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.<sup>17</sup> Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)<sup>18</sup> 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)<sup>19</sup> 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 that the proposed extension of the pilot program, which permits an additional exercise settlement value, would provide greater opportunities for investors to manage risk through the use of FLEX Options. Further, the Exchange believes that it has not experienced any adverse effects from the operation of the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in

<sup>16</sup> For example, a position in a p.m.-settled FLEX Index Option series that expires on the third Friday-of-the-month in January 2020 could be established during the exercise settlement values pilot. If the pilot program were not extended (or made permanent), then the position could continue to exist. However, the Exchange notes that any further trading in the series would be restricted to transactions where at least one side of the trade is a closing transaction. See Approval Order at footnote 3, *supra* note 5.

<sup>17</sup> 15 U.S.C. 78f(b).

<sup>18</sup> 15 U.S.C. 78f(b)(5).

<sup>19</sup> *Id.*

FLEX Option series that expire near Non-FLEX expirations and are p.m.-settled. The Exchange also believes that the extension of the exercise settlement values pilot does not raise any unique regulatory concerns. In particular, although p.m. settlements may raise questions with the Commission, the Exchange believes that, based on the Exchange's experience in trading FLEX Options to date and over the pilot period, market impact and investor protection concerns will not be raised by this rule change. The Exchange also believes that the proposed rule change would continue to provide Trading Permit Holders and investors with additional opportunities to trade customized options in an exchange environment (which offers the added benefits of transparency, price discovery, liquidity, and financial stability as compared to the over-the-counter market) and subject to exchange-based rules, and investors would benefit as a result.

## B. Self-Regulatory Organization's Statement on Burden on Competition

Cboe Options 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 there is sufficient investor interest and demand in the pilot program to warrant its extension. The Exchange believes that, for the period that the pilot has been in operation, the program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange believes that it has not experienced any adverse market effects with respect to the pilot program, including any adverse market volatility effects that might occur as a result of large FLEX exercises in FLEX Option series that expire near Non-Flex expirations and use a p.m. settlement. Cboe Options believes that the restriction actually places the Exchange at a competitive disadvantage to its OTC counterparts in the market for customized options, and unnecessarily limits market participants' ability to trade in an exchange environment that offers the added benefits of transparency, price discovery, liquidity, and financial stability. Therefore, the Exchange does not believe that the proposed rule change will impose any burden on competition.

*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 proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>20</sup> and Rule 19b-4(f)(6) thereunder.<sup>21</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>22</sup> normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>23</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow the Exchange to extend the pilot program and maintain the status quo, thereby reducing market disruption.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot program to continue uninterrupted, thereby avoiding investor confusion that could result from a temporary interruption in the pilot program. For this reason, the Commission designates the proposed rule change to be operative upon filing.<sup>24</sup>

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](mailto:rule-comments@sec.gov). Please include File Number SR-CBOE-2019-108 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-CBOE-2019-108. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2019-108 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>25</sup>

**Jill M. Peterson,**  
Assistant Secretary.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-87513; File No. SR-NYSEAMER-2019-46]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.31E To Delete Cross Orders**

November 13, 2019.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on October 30, 2019, NYSE American LLC ("NYSE American" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 7.31E (Orders and Modifiers) to delete Cross Orders from its rules and make other conforming changes. The proposed rule change is available on the Exchange's website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

<sup>25</sup> 17 CFR 200.30-3(a)(12) and (59).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>21</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires the Exchange 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.

<sup>22</sup> 17 CFR 240.19b-4(f)(6).

<sup>23</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>24</sup> For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on

## 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 purpose of the proposed rule change is to amend the Exchange's rules to delete Cross Orders.

As defined in Rule 7.31E(g), a Cross Order is a two-sided order with instructions to match the identified buy-side with the identified sell-side at a specified price (the "cross price"). The Exchange offers one type of Cross Order, the Limit IOC Cross Order. As defined in Rule 7.31E(g)(1), a Limit IOC Cross Order is a Cross Order that must trade in full at its cross price, will not route, and will cancel at the time of order entry if the cross price is not between the BBO or would trade through the PBBO.

Due to a lack of demand for Cross Orders, the Exchange proposes to discontinue supporting Cross Orders. Specifically, in the last three months, the Exchange has not received any Cross Orders. Accordingly, the Exchange proposes to delete the definition of Cross Order from Rule 7.31E(g), as well as the references to Cross Orders in Rules 7.10E(e)(1), 7.11E(a)(5)(E), 7.16E(f)(5)(H), 7.18E(c)(5), 7.34E(c)(1)(B), 7.34E(c)(1)(C), 7.34E(c)(2)(C), and 7.35E(f)(2). The Exchange proposes to designate Rules 7.31E(g), 7.11E(a)(5)(E), and 7.16E(f)(5)(H) as Reserved and proposes to revise Rules 7.10E(e)(1), 7.18E(c)(5), 7.34E(c)(1)(B), 7.34E(c)(1)(C), 7.34E(c)(2)(C), and 7.35E(f)(2) to delete the references to Cross Orders. Subject to effectiveness of this proposed rule change, the Exchange will announce the implementation date of these changes through a Trader Update, which the Exchange anticipates will be in November 2019.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it is designed to remove impediments to and perfect the mechanism of a free and open market, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanisms of a free and open market by eliminating a little-used order type and improving the clarity of the Exchange's rules. The Exchange further believes that deleting an order type rarely used by investors also removes impediments to and perfects the mechanism of a free and open market by facilitating market participants' navigation of the Exchange's rulebook and improving their ability to understand the order types available for trading on the Exchange. Moreover, the Exchange believes that the elimination of Cross Orders will simplify order processing and reduce the burden on system capacity, which the Exchange believes is consistent with promoting just and equitable principles of trade, as well as the protection of investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposed rule change would relieve a burden on competition by making the Exchange's rules easier to navigate and promoting regulatory clarity through the elimination of a seldom-used order type.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>6</sup> and Rule 19b-

4(f)(6) thereunder.<sup>7</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>9</sup> normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>10</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has represented that this order type is rarely used and has not been used in the last three months. The Commission believes that waiver of the 30-day operative delay period is consistent with the protection of investors and the public interest and hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.<sup>11</sup>

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>12</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> In addition, Rule 19b-4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>9</sup> 17 CFR 240.19b-4(f)(6).

<sup>10</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>11</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>12</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(5).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEAMER-2019-46 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-NYSEAMER-2019-46. 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-NYSEAMER-2019-46 and should be submitted on or before December 10, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>13</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-24974 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

##### **Submission for OMB Review; Comment Request**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

##### *Extension:*

Securities Rule 477, SEC File No. 270-493, OMB Control No. 3235-0550.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 477 (17 CFR 230.477) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) sets forth procedures for withdrawing a registration statement, including any amendments or exhibits to the registration statement. The rule provides that if an issuer intends to rely on the safe harbor contained in Securities Act Rule 155 to conduct an unregistered private offering of securities, the issuer must affirmatively state in the withdrawal application that it plans to undertake a subsequent private offering of its securities. Without this statement, the Commission would not be able to monitor a company's reliance on, and compliance with, Securities Act Rule 155(c). All information submitted to the Commission under Securities Act Rule 477 is available to the public for review. Information provided under Securities Act Rule 477 is mandatory. The information is required on occasion. We estimate that approximately 327 issuers will file Securities Act Rule 477 submissions annually at an estimated one hour per response for a total annual burden of approximately 327 hours. We estimate that 100% of the reporting burden is prepared by the issuer.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-25005 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

#### **SECURITIES AND EXCHANGE COMMISSION**

##### **Submission for OMB Review; Comment Request**

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

##### *Extension:*

Schedule 13E-4F, SEC File No. 270-340, OMB Control No. 3235-0375

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995, the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Schedule 13E-4F (17 CFR 240.13e-102) may be used by an issuer that is incorporated or organized under the laws of Canada to make a cash tender or exchange offer for the issuer's own securities if less than 40 percent of the class of such issuer's securities outstanding that are the subject of the tender offer is held by U.S. holders. The information collected must be filed with the Commission and is publicly available. We estimate that it takes approximately 2 hours per response to prepare Schedule 13E-4F and that the information is filed by approximately 3 respondents annually for a total annual

<sup>13</sup> 17 CFR 200.30-3(a)(12).

reporting burden of 6 hours (2 hours per response × 3 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-25002 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

#### Extension:

Notice of Exempt Preliminary Roll-Up Communication, SEC File No. 270-396, OMB Control No. 3235-0452.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 14a-6(n) [17 CFR 240.14a-6(n)] under the Securities Exchange Act of 1934 (“Exchange Act”) (U.S.C. 78a *et seq.*) requires any person that engages in a proxy solicitation is subject to Exchange Act Rule 14a-2(b)(4) [17 CFR 240.14a-2(b)(4)] to file a Notice of Exempt Preliminary Roll-Up Communication (“Notice”) [17 CFR 240.14a-104] with the Commission. The

Notice provides information regarding ownership interest and any potential conflicts of interest to be included in statements submitted by or on behalf of a person engaging in the solicitation. The Notice is filed on occasion and the information required is mandatory. All information is provided to the public upon request. We estimate the Notice takes approximately 0.25 hours per response and is filed by approximately 4 respondents for a total of one annual burden hour (0.25 hours per response × 4 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-25004 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

#### Extension:

Rules 7a-15 through 7a-37, SEC File No. 270-115, OMB Control No. 3235-0132.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously

approved collection of information discussed below.

Rules 7a-15 through 7a-37 (17 CFR 260.7a-15—260.7a-37) under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa *et seq.*) set forth the general requirements as to form and content of applications, statements and reports that must be filed under the Trust Indenture Act. The respondents are persons and entities subject to the requirements of the Trust Indenture Act. Trust Indenture Act Rules 7a-15 through 7a-37 are disclosure guidelines and do not directly result in any collection of information. The rules are assigned only one burden hour for administrative convenience.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following website, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**  
Assistant Secretary.

[FR Doc. 2019-25006 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-30, OMB Control No. 3235-0290]

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

#### Extension:

Rule 17f-1(g)

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (“PRA”), the

Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 17f-1(g) (17 CFR 240.17f-1(g)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17f-1(g) requires that all reporting institutions (*i.e.*, every national securities exchange, member thereof, registered securities association, broker, dealer, municipal securities dealer, registered transfer agent, registered clearing agency, participant therein, member of the Federal Reserve System, and bank insured by the FDIC) maintain and preserve a number of documents related to their participation in the Lost and Stolen Securities Program (“Program”) under Rule 17f-1. The following documents must be kept in an easily accessible place for three years, according to paragraph (g): (1) Copies of all reports of theft or loss (Form X-17F-1A) filed with the Commission’s designee; (2) All agreements between reporting institutions regarding registration in the Program or other aspects of Rule 17f-1; and (3) all confirmations or other information received from the Commission or its designee as a result of inquiry.

Reporting institutions utilize these records and reports (a) to report missing, lost, stolen or counterfeit securities to the database, (b) to confirm inquiry of the database, and (c) to demonstrate compliance with Rule 17f-1. The Commission and the reporting institutions’ examining authorities utilize these records to monitor the incidence of thefts and losses incurred by reporting institutions and to determine compliance with Rule 17f-1. If such records were not retained by reporting institutions, compliance with Rule 17f-1 could not be monitored effectively.

The Commission estimates that there are approximately 10,018 reporting institutions (respondents) and, on average, each respondent would need to retain 33 records annually, with each retention requiring approximately 1 minute (a total of 33 minutes or 0.5511 hours per respondent per year). Thus, the total estimated annual time burden for all respondents is 5,521 hours (10,018 × 0.5511 hours = 5,521).

Assuming an average hourly cost for clerical work of \$50.00, the average total yearly record retention internal cost of compliance for each respondent would be \$27.56 (\$50 × 0.5511 hours). Based on these estimates, the total annual internal compliance cost for the

estimated 10,018 reporting institutions would be approximately \$276,096 (10,018 × \$27.56).

Rule 17f-1(g) does not require periodic collection, but it does require retention of records generated as a result of compliance with Rule 17f-1. Under Section 17(b) and (f) of the Act, the information required by Rule 17f-1(g) is available to the Commission and Federal bank regulators for examinations or collection purposes. Rule 0-4 of the Securities Exchange Act deems such information to be confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: [Lindsay.M.Abate@omb.eop.gov](mailto:Lindsay.M.Abate@omb.eop.gov); and (ii) Charles Riddle, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Candace Kenner, 100 F Street NE, Washington, DC 20549, or by sending an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: November 8, 2019.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2019-25009 Filed 11-18-19; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Disaster Declaration #16181 and #16182; Florida Disaster Number FL-00147]**

**Administrative Declaration of a Disaster for the State of Florida**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Florida dated 11/13/2019.

*Incident:* Tornadoes as a result of Tropical Storm Nestor.

*Incident Period:* 10/18/2019.

**DATES:** Issued on 11/13/2019.

*Physical Loan Application Deadline Date:* 01/13/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 08/13/2020.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the Administrator’s disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

*Primary Counties:* Polk.

*Contiguous Counties:*

Florida: Hardee, Highlands, Hillsborough, Lake, Manatee, Okeechobee, Orange, Osceola, Pasco, Sumter.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners With Credit Available Elsewhere .....	3.000
Homeowners Without Credit Available Elsewhere .....	1.500
Businesses With Credit Available Elsewhere .....	7.750
Businesses Without Credit Available Elsewhere .....	3.875
Non-Profit Organizations With Credit Available Elsewhere	2.750
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	3.875
Non-Profit Organizations Without Credit Available Elsewhere .....	2.750

The number assigned to this disaster for physical damage is 16181 8 and for economic injury is 16182 0.

The States which received an EIDL Declaration # is Florida.

(Catalog of Federal Domestic Assistance Number 59008)

**Christopher Pilkerton,**

*Acting Administrator.*

[FR Doc. 2019-25036 Filed 11-18-19; 8:45 am]

**BILLING CODE 8026-03-P**

**DEPARTMENT OF STATE****[Public Notice: 10947]****Updating the State Department's List of Entities and Subentities Associated With Cuba (Cuba Restricted List)****ACTION:** Updated publication of list of entities and subentities; notice.

**SUMMARY:** The Department of State is publishing an update to its List of Restricted Entities and Subentities Associated with Cuba (Cuba Restricted List) with which direct financial transactions are generally prohibited under the Cuban Assets Control Regulations (CACR). This Cuba Restricted List is also considered during review of license applications submitted to the Department of Commerce's Bureau of Industry and Security (BIS) pursuant to the Export Administration Regulations (EAR).

**DATES:** This list of entities and subentities is effective on November 19, 2019.

**FOR FURTHER INFORMATION CONTACT:** Taylor Ruggles, Office of Economic Sanctions Policy and Implementation, tel.: 202-647-7677; Robert Haas, Office of the Coordinator for Cuban Affairs, tel.: 202-453-8456, Department of State, Washington, DC 20520.

**SUPPLEMENTARY INFORMATION:****Background**

On June 16, 2017, the President signed National Security Presidential Memorandum-5 on Strengthening the Policy of the United States Toward Cuba (NSPM-5). As directed by NSPM-5, on November 9, 2017, the Department of the Treasury's Office of Foreign Assets Control (OFAC) published a final rule in the **Federal Register** amending the CACR, 31 CFR part 515, and the Department of Commerce's Bureau of Industry and Security (BIS) published a final rule in the **Federal Register** amending, among other sections, the section of the Export Administration Regulations (EAR) regarding Cuba, 15 CFR 746.2. The regulatory amendment to the CACR added § 515.209, which generally prohibits direct financial transactions with certain entities and subentities identified on the State Department's Cuba Restricted List. The regulatory amendment to 15 CFR 746.2, notes BIS will generally deny certain applications to export or re-export items for use by entities or subentities identified on the Cuba Restricted List. The State Department is now updating the Cuba Restricted list, as published below and available on the State Department's website ([https://](https://www.state.gov/cuba-sanctions/cuba-restricted-list/)

[www.state.gov/cuba-sanctions/cuba-restricted-list/](https://www.state.gov/cuba-sanctions/cuba-restricted-list/)).

This update includes five additional subentities. This is the fifth update to the Cuba Restricted List since it was published November 9, 2017 (82 FR 52089). Previous updates were published November 15, 2018 (see 83 FR 57523), March 9, 2019 (see 84 FR 8939), April 24, 2019 (see 84 FR 17228), and July 26, 2019 (see 84 FR 36154). The State Department will continue to update the Cuba Restricted List periodically.

The publication of the updated Cuba Restricted List further implements the directive in paragraph 3(a)(i) of NSPM-5 for the Secretary of State to identify the entities or subentities, as appropriate, that are under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel, and publish a list of those identified entities and subentities with which direct financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba.

**Electronic Availability**

This document and additional information concerning the Cuba Restricted List are available from the Department of State's website (<https://www.state.gov/cuba-sanctions/cuba-restricted-list/>).

**List of Restricted Entities and Subentities Associated With Cuba as of November 15**

Below is the U.S. Department of State's list of entities and subentities under the control of, or acting for or on behalf of, the Cuban military, intelligence, or security services or personnel with which direct financial transactions would disproportionately benefit such services or personnel at the expense of the Cuban people or private enterprise in Cuba. For information regarding the prohibition on direct financial transactions with these entities, please see 31 CFR 515.209. All entities and subentities were listed effective November 9, 2017, unless otherwise indicated.

\* \* \* *Entities or subentities owned or controlled by another entity or subentity on this list are not treated as restricted unless also specified by name on the list.* \* \* \*

**Ministries**

MINFAR—Ministerio de las Fuerzas Armadas Revolucionarias  
MININT—Ministerio del Interior

**Holding Companies**

CIMEX—Corporación CIMEX S.A.  
Compañía Turística Habaguanex S.A.  
GAESA—Grupo de Administración Empresarial S.A.  
Gaviota—Grupo de Turismo Gaviota  
UIM—Unión de Industria Militar

**Hotels in Havana and Old Havana**

Aparthotel Montehabana  
Gran Hotel Bristol Kempinski *Effective November 19, 2019*  
Gran Hotel Manzana Kempinski  
H10 Habana Panorama  
Hostal Valencia  
Hotel Ambos Mundos  
Hotel Armadores de Santander  
Hotel Beltrán de Santa Cruz  
Hotel Conde de Villanueva  
Hotel del Tejadillo  
Hotel el Bosque  
Hotel el Comendador  
Hotel el Mesón de la Flota  
Hotel Florida  
Hotel Habana 612  
Hotel Kohly  
Hotel Los Frailes  
Hotel Marqués de Prado Ameno  
Hotel Palacio Cueto *Effective July 26, 2019*  
Hotel Palacio del Marqués de San Felipe y Santiago de Bejucal  
Hotel Palacio O'Farrill  
Hotel Park View  
Hotel Raquel  
Hotel San Miguel  
Hotel Santa Isabel *Effective April 24, 2019*  
Hotel Telégrafo  
Hotel Terral  
Iberostar Grand Packard Hotel *Effective November 15, 2018*  
Memories Miramar Havana  
Memories Miramar Montehabana  
SO/Havana Paseo del Prado *Effective November 15, 2018*

**Hotels in Santiago de Cuba**

Villa Gaviota Santiago

**Hotels in Varadero**

Blau Marina Varadero Resort  
also Fiesta Americana Punta Varadero *Effective November 15, 2018*  
also Fiesta Club Adults Only *Effective March 12, 2019*  
Grand Aston Varadero Resort *Effective November 19, 2019*  
Grand Memories Varadero  
Hotel El Caney Varadero *Effective April 24, 2019*  
Hotel Las Nubes *Effective November 15, 2018*  
Hotel Oasis *Effective November 15, 2018*  
Iberostar Bella Vista *Effective November 15, 2018*  
Iberostar Laguna Azul  
Iberostar Playa Alameda  
Meliá Marina Varadero

- Meliá Marina Varadero Apartamentos  
*Effective April 24, 2019*
- Meliá Peninsula Varadero  
Memories Varadero  
Naviti Varadero  
Ocean Varadero El Patriarca  
Ocean Vista Azul  
Paradisus Princesa del Mar  
Paradisus Varadero  
Sol Sirenas Coral
- Hotels in Pinar del Rio*
- Hotel Villa Cabo de San Antonio  
Hotel Villa Maria La Gorda y Centro  
Internacional de Buceo
- Hotels in Baracoa*
- Hostal 1511  
Hostal La Habanera  
Hostal La Rusa  
Hostal Rio Miel  
Hotel El Castillo  
Hotel Porto Santo  
Villa Maguana
- Hotels in Cayos de Villa Clara*
- Angsana Cayo Santa María *Effective*  
*November 15, 2018*
- Dhawa Cayo Santa María  
Golden Tulip Aguas Claras *Effective*  
*November 15, 2018*
- Hotel Cayo Santa María  
Hotel Playa Cayo Santa María  
Iberostar Ensenachos  
Las Salinas Plana & Spa *Effective*  
*November 15, 2018*
- La Salina Noreste *Effective November*  
*15, 2018*
- La Salina Suroeste *Effective November*  
*15, 2018*
- Meliá Buenavista  
Meliá Cayo Santa María  
Meliá Las Dunas  
Memories Azul  
Memories Flamenco  
Memories Paraíso  
Ocean Casa del Mar  
Paradisus Los Cayos *Effective November*  
*15, 2018*
- Royalton Cayo Santa María  
Sercotel Experience Cayo Santa María  
*Effective November 15, 2018*
- Sol Cayo Santa María  
Starfish Cayo Santa María *Effective*  
*November 15, 2018*
- Valentín Perla Blanca *Effective*  
*November 15, 2018*
- Villa Las Brujas  
Warwick Cayo Santa María  
also Labranda Cayo Santa María Hotel  
*Effective November 15, 2018*
- Hotels in Holguín*
- Blau Costa Verde Beach & Resort  
also Fiesta Americana Holguín Costa  
Verde *Effective November 15, 2018*
- Hotel Playa Costa Verde  
Hotel Playa Pesquero  
Memories Holguín
- Paradisus Río de Oro Resort & Spa  
Playa Costa Verde  
Playa Pesquero Premium Service  
Sol Rio de Luna y Mares  
Villa Cayo Naranja  
Villa Cayo Saetia  
Villa Pinares de Mayari
- Hotels in Jardines del Rey*
- Cayo Guillermo Resort Kempinski  
*Effective July 26, 2019*
- Grand Aston Cayo Las Brujas Beach  
Resort and Spa *Effective November*  
*19, 2019*
- Grand Muthu Cayo Guillermo *Effective*  
*November 15, 2018*
- Gran Muthu Imperial Hotel *Effective*  
*November 19, 2019*
- Gran Muthu Rainbow Hotel *Effective*  
*November 19, 2019*
- Hotel Playa Coco Plus  
Iberostar Playa Pilar  
Meliá Jardines del Rey  
Memories Caribe  
Pestana Cayo Coco
- Hotels in Topes de Collantes*
- Hostal Los Helechos  
Kurhotel Escambray *Effective November*  
*15, 2018*
- Los Helechos  
Villa Caburni
- Tourist Agencies*
- Crucero del Sol  
Gaviota Tours
- Marinas*
- Marina Gaviota Cabo de San Antonio  
(Pinar del Rio)  
Marina Gaviota Cayo Coco (Jardines del  
Rey)  
Marina Gaviota Las Brujas (Cayos de  
Villa Clara)  
Marina Gaviota Puerto Vita (Holguín)  
Marina Gaviota Varadero (Varadero)
- Stores in Old Havana*
- Casa del Abanico  
Colección Habana  
Florería Jardín Wagner  
Joyería Coral Negro—Additional  
locations throughout Cuba  
La Casa del Regalo  
San Ignacio 415  
Soldadito de Plomo  
Tienda El Navegante  
Tienda Muñecos de Leyenda  
Tienda Museo El Reloj Cuervo y  
Sobrinos
- Entities Directly Serving the Defense*  
*and Security Sectors*
- ACERPROT—Agencia de Certificación y  
Consultoría de Seguridad y Protección  
alias Empresa de Certificación de  
Sistemas de Seguridad y Protección  
*Effective November 15, 2018*
- AGROMIN—Grupo Empresarial  
Agropecuario del Ministerio del  
Interior
- APCI—Agencia de Protección Contra  
Incendios
- CAHOMA—Empresa Militar Industrial  
Comandante Ernesto Che Guevara  
Casa Editorial Verde Olivo *Effective July*  
*26, 2019*
- CASEG—Empresa Militar Industrial  
Transporte Occidente
- CID NAV—Centro de Investigación y  
Desarrollo Naval
- CIDAI—Centro de Investigación y  
Desarrollo de Armamento de  
Infantería
- CIDAO—Centro de Investigación y  
Desarrollo del Armamento de  
Artillería e Instrumentos Ópticos y  
Ópticos Electrónicos
- CORCEL—Empresa Militar Industrial  
Emilio Barcenás Pier
- CUBAGRO—Empresa Comercializadora  
y Exportadora de Productos  
Agropecuarios y Agroindustriales
- DATYS—Empresa Para El Desarrollo De  
Aplicaciones, Tecnologías Y Sistemas
- DCM TRANS—Centro de Investigación  
y Desarrollo del Transporte
- DÉGOR—Empresa Militar Industrial  
Desembarco Del Granma
- DSE—Departamento de Seguridad del  
Estado
- Editorial Capitán San Luis *Effective July*  
*26, 2019*
- EMIAT—Empresa Importadora  
Exportadora de Abastecimientos  
Técnicos
- Empresa Militar Industrial Astilleros  
Astimar
- Empresa Militar Industrial Astilleros  
Centro
- Empresa Militar Industrial Yuri Gagarin
- ETASE—Empresa de Transporte y  
Aseguramiento
- Ferretería TRASVAL
- GELCOM—Centro de Investigación y  
Desarrollo Grito de Baire
- Impresos de Seguridad
- MECATRONICS—Centro de  
Investigación y Desarrollo de  
Electrónica y Mecánica
- NAZCA—Empresa Militar Industrial  
Granma
- OIBS—Organización Integración para el  
Bienestar Social
- PLAMEC—Empresa Militar Industrial  
Ignacio Agramonte
- PNR—Policía Nacional Revolucionaria
- PROVARI—Empresa de Producciones  
Varias
- SEPSA—Servicios Especializados de  
Protección
- SERTOD—Servicios de  
Telecomunicaciones a los Órganos de  
la Defensa *Effective November 15,*  
*2018*
- SIMPRO—Centro de Investigación y  
Desarrollo de Simuladores
- TECAL—Empresa de Tecnologías  
Alternativas
- TECNOPRO—Empresa Militar  
Industrial “G.B. Francisco Cruz  
Bourzac”

TECNOTEX—Empresa Cubana Exportadora e Importadora de Servicios, Artículos y Productos Técnicos Especializados  
 TGF—Tropas de Guardafronteras  
 UAM—Unión Agropecuaria Militar  
 ULAEX—Unión Latinoamericana de Explosivos  
 XETID—Empresa de Tecnologías de la Información Para La Defensa  
 YABO—Empresa Militar Industrial Coronel Francisco Aguiar Rodríguez

*Additional Subentities of CIMEX*

ADESA/ASAT—Agencia Servicios Aduanales (Customs Services)  
 Cachito (Beverage Manufacturer)  
 Contex (Fashion)  
 Datacimex  
 ECUSE—Empresa Cubana de Servicios Inmobiliaria CIMEX (Real Estate)  
 Inversiones CIMEX  
 Jupiña (Beverage Manufacturer)  
 La Maison (Fashion)  
 Najita (Beverage Manufacturer)  
 Publicitaria Imagen (Advertising)  
 Residencial Tarara S.A. (Real Estate/Property Rental) *Effective November 15, 2018*  
 Ron Caney (Rum Production)  
 Ron Varadero (Rum Production)  
 Telecable (Satellite Television)  
 Tropicola (Beverage Manufacturer)  
 Zona Especializada de Logística y Comercio (ZELCOM)

*Additional Subentities of GAESA*

Aerogaviota *Effective April 24, 2019*  
 Almacenes Universales (AUSA)  
 ANTEX—Corporación Antillana Exportadora  
 Compañía Inmobiliaria Aurea S.A. *Effective November 15, 2018*  
 Dirección Integrada Proyecto Mariel (DIP)  
 Empresa Inmobiliaria Almest (Real Estate)  
 GRAFOS (Advertising)  
 RAFIN S.A. (Financial Services)  
 Sociedad Mercantín Inmobiliaria Caribe (Real Estate)  
 TECNOIMPORT  
 Terminal de Contenedores de la Habana (TCH)  
 Terminal de Contenedores de Mariel, S.A.  
 UCM—Unión de Construcciones Militares  
 Zona Especial de Desarrollo Mariel (ZEDM)  
 Zona Especial de Desarrollo y Actividades Logísticas (ZEDAL)

*Additional Subentities of Gaviota*

AT Comercial  
 Diving Center—Marina Gaviota *Effective April 24, 2019*  
 Gaviota Hoteles Cuba *Effective March 12, 2019*

Hoteles Habaguanex *Effective March 12, 2019*  
 Hoteles Playa Gaviota *Effective March 12, 2019*  
 Manzana de Gomez  
 Marinas Gaviota Cuba *Effective March 12, 2019*  
 Photo Service  
 Plaza La Estrella *Effective November 15, 2018*  
 Plaza Las Dunas *Effective November 15, 2018*  
 Plaza Las Morlas *Effective November 15, 2018*  
 Plaza Las Salinas *Effective November 15, 2018*  
 Plaza Las Terrazas del Atardecer *Effective November 15, 2018*  
 Plaza Los Flamencos *Effective November 15, 2018*  
 Plaza Pesquero *Effective November 15, 2018*  
 Producciones TRIMAGEN S.A. (Tiendas Trimagen)

*Additional Subentities of Habaguanex*

Sociedad Mercantil Cubana Inmobiliaria Fenix S.A. (Real Estate)

\* \* *Activities in parentheses are intended to aid in identification but are only representative. All activities of listed entities and subentities are subject to the applicable prohibitions.* \* \*

**David Meale,**

*Senior Bureau Official, Bureau of Economic and Business Affairs, Department of State.*

[FR Doc. 2019–25066 Filed 11–18–19; 8:45 am]

**BILLING CODE 4710–AE–P**

**DEPARTMENT OF STATE**

**[Public Notice 10949]**

**Notice of Charter Renewal of the Advisory Committee on International Postal and Delivery Services (IPODS)**

This notice announces the renewal of the charter or the Advisory Committee on International Postal and Delivery Services (IPODS). In accordance with the provisions of the 2006 Postal Accountability and Enhancement Act (Pub. L. 109–435) and the Federal Advisory Committee Act (Pub. L. 92–463), the Committee's charter has been extended until November 14, 2021.

The Department of State uses the IPODS Committee to remain informed of the interests of users and providers of international postal and delivery services. The Assistant Secretary of State for International Organization Affairs appoints members of the committee, including representatives of the Department of Commerce, the Department of Homeland Security, the Office of the United States Trade

Representative, the Postal Regulatory Commission, the Military Postal Service Agency, and the United States Postal Service.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shereece Robinson of the Office of Specialized and Technical Agencies (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 663–2649, by email at [RobinsonSA2@state.gov](mailto:RobinsonSA2@state.gov) or by mail at IO/STA, L409 (SA1); Department of State, 2401 E Street NW; Washington, DC 20037.

**Stephen P. Newhouse,**

*Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Department of State.*

[FR Doc. 2019–25052 Filed 11–18–19; 8:45 am]

**BILLING CODE 4710–19–P**

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**Generalized System of Preferences (GSP): Notice Regarding a Hearing for Country Practice Reviews of Azerbaijan, Ecuador, Georgia, Indonesia, Kazakhstan, Thailand, South Africa, and Uzbekistan, and for the Country Designation Review of Laos**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of public hearing and request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is announcing a hearing for the GSP country practice reviews of Azerbaijan, Ecuador, Georgia, Indonesia, Kazakhstan, Thailand, South Africa, and Uzbekistan, and the country designation review of Laos. These reviews will focus on whether: (1) Azerbaijan, Georgia, Kazakhstan, and Uzbekistan are meeting the GSP eligibility criterion requiring that a GSP beneficiary country afford workers in that country internationally recognized worker rights; (2) Ecuador is meeting the GSP eligibility criterion requiring a GSP beneficiary country to act in good faith in recognizing as binding or in enforcing applicable arbitral awards; (3) Indonesia and South Africa are meeting the GSP eligibility criterion requiring adequate and effective protection of intellectual property rights; (4) Indonesia and Thailand are meeting the GSP eligibility criterion requiring a GSP beneficiary country to provide equitable and reasonable access to its markets and basic commodity resources; and (5) Laos meets all of the GSP eligibility criteria

and should be newly designated as a GSP beneficiary country. This notice includes the schedule for submission of public comments and a public hearing.

**DATES:**

*January 17, 2020 at 11:59 p.m. EST:* Deadline for submission of comments, pre-hearing briefs, and requests to appear at the January 30, 2020, public hearing.

*January 30, 2020:* The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) will convene a public hearing on the GSP country practice reviews of Azerbaijan, Ecuador, Georgia, Indonesia, Kazakhstan, Thailand, South Africa, and Uzbekistan, and the country designation review of Laos, in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, beginning at 10:00 a.m.

*February 28, 2020 at 11:59 p.m. EST:* Deadline for submission of post-hearing briefs.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal Rulemaking Portal: <https://www.regulations.gov>, using the docket number for the appropriate country listed in sections B and C. All submission must be in English. Follow the instructions for submitting comments in sections D through F. For alternatives to on-line submissions, please contact Claudia Chlebek at 202–395–2974, or [gsp@ustr.eop.gov](mailto:gsp@ustr.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Please contact Claudia Chlebek at 202–395–2974, or [gsp@ustr.eop.gov](mailto:gsp@ustr.eop.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

The GSP program provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461–2467), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

**B. Ongoing Country Practice Reviews of Ecuador, Georgia, Indonesia, Kazakhstan, Thailand, and Uzbekistan, and the Ongoing Country Designation Review of Laos**

The GSP Subcommittee of the TPSC will hold a hearing on January 30, 2020, for the following country practice reviews:

Country	Basis for petition	Petitioner	Docket No.
Ecuador .....	Arbitral Awards .....	Chevron Corporation .....	USTR–2013–0013
Georgia .....	Worker Rights .....	AFL–CIO .....	USTR–2013–0009
Indonesia .....	Intellectual Property Rights .....	International Intellectual Property Alliance (IIPA) .....	USTR–2013–0011
Indonesia .....	Market Access .....	USTR .....	USTR–2018–0007
Kazakhstan .....	Worker Rights .....	AFL–CIO .....	USTR–2013–0011
Laos .....	Eligibility .....	Laos .....	USTR–2013–0021
Thailand .....	Market Access .....	National Pork Producers Council .....	USTR–2018–0012
Uzbekistan .....	Worker Rights & Child Labor .....	ILRF .....	USTR–2013–0007

**C. Initiation of Country Practice Reviews of Azerbaijan and South Africa**

USTR will initiate the country practice reviews of Azerbaijan and South Africa. These country practice

reviews are undertaken on the recommendation of the TPSC pursuant to 15 CFR 2007.0(f) to determine if the current laws and practices of Azerbaijan and South Africa meet the GSP eligibility criteria. These reviews are the result of country eligibility petitions

submitted by interested stakeholders and an assessment of GSP beneficiary countries conducted by the GSP Subcommittee. The GSP Subcommittee of the TPSC will hold a hearing on January 30, 2020, for the following country practice reviews:

Country	Basis for petition	Petitioner	Docket No.
Azerbaijan .....	Worker Rights .....	USTR .....	USTR–2019–0021
South Africa .....	Intellectual Property Rights .....	IIPA .....	USTR–2019–0020

**1. Azerbaijan Country Practice Review**

The country practice review of Azerbaijan will focus on whether the country is meeting the GSP criterion requiring a GSP beneficiary country to take steps to afford workers in that country internationally recognized worker rights (19 U.S.C. 2462(c)(7)). The GSP Subcommittee has identified several potential concerns regarding Azerbaijan’s compliance with the GSP worker rights criterion including, but not limited to, restrictions on freedom of association and a lack of effective enforcement mechanisms to protect worker rights. Among other concerns, worker organizations in Azerbaijan reportedly face government interference

and severe restrictions on labor inspections limit the ability of workers to exercise internationally recognized worker rights.

**2. South Africa Country Practice Review**

The country practice review of South Africa will focus on whether the country is meeting the GSP criterion requiring a GSP beneficiary country to provide adequate and effective protection of intellectual property rights (19 U.S.C. 2462(c)(5)). USTR has accepted a petition filed by the International Intellectual Property Alliance (IIPA). The petition alleges that the Government of South Africa does not provide adequate and effective

copyright protection for U.S. copyrighted works.

**D. Notice of Public Hearing**

The GSP Subcommittee will hold a hearing beginning at 10:00 a.m. on January 30, 2020, to receive information regarding the GSP country practice reviews of Azerbaijan, Ecuador, Georgia, Indonesia, Kazakhstan, Thailand, South Africa, and Uzbekistan, and the country designation review of Laos. The hearing will be held in Rooms 1 and 2, 1724 F Street NW, Washington, DC 20508, and will be open to the public and to the press. USTR will make a transcript of the hearing available on [www.regulations.gov](http://www.regulations.gov) approximately two weeks after the hearing date.

USTR must receive your written requests to make an oral presentation at the hearing and pre-hearing briefs, statements, or comments by 11:59 p.m. EST on January 17, 2020. You must make the intent to testify notification in the “type comment” field under the docket number for the appropriate country listed in sections B and C above on the [www.regulations.gov](http://www.regulations.gov) website and you should include the name, address, telephone number and email address, if available, of the person presenting the testimony. You must attach a written brief or summary statement in English by using the “upload file” field. The name of the file also should include who will be presenting the testimony. Remarks at the hearing will be limited to no more than five minutes to allow for questions from the Subcommittee. The GSP Subcommittee will accept post-hearing briefs or statements if they conform to the requirements set out below and are submitted in English, by 11:59 p.m. on February 28, 2020. You should submit all documents in accordance with the instructions in section E below. Parties not wishing to appear at the public hearing may submit pre-hearing and post-hearing briefs or comments by the relevant deadlines.

#### E. Requirements for Submissions

You must submit requests to testify, written comments, and pre-hearing and post-hearing briefs by the applicable deadlines set forth in this notice. You must make all submissions in English via <http://www.regulations.gov>, using the docket number for the appropriate country listed in sections B and C above. USTR will not accept hand-delivered submissions. To make a submission using <http://www.regulations.gov>, enter the appropriate docket number in the ‘search for’ field on the home page and click ‘search.’ The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ‘notice’ under ‘document type’ in the ‘filter results by’ section on the left side of the screen and click on the link entitled ‘comment now.’ The [regulations.gov](http://www.regulations.gov) website offers the option of providing comments by filling in a ‘type comment’ field or by attaching a document using the ‘upload file(s)’ field. The Subcommittee prefers that you provide submissions in an attached document and note ‘see attached’ in the ‘type comment’ field on the online submission form.

At the beginning of the submission, or on the first page (if an attachment) include the following text (in **BOLD** and underlined) (1) “[Insert Country]

Country Practice Review”; (2) the subject matter; and (3) whether the document is a ‘written comment,’ ‘notice of intent to testify,’ ‘pre-hearing brief,’ or ‘post-hearing brief.’ Submissions should not exceed thirty single-spaced, standard letter-size pages in twelve-point type, including attachments. Include any data attachments to the submission in the same file as the submission itself, and not as separate files.

You will receive a tracking number upon completion of the submission procedure at <http://www.regulations.gov>. The tracking number is confirmation that [www.regulations.gov](http://www.regulations.gov) received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for the website. USTR may not consider documents you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Claudia Chlebek at 202-395-2974, or [gsp@ustr.eop.gov](mailto:gsp@ustr.eop.gov) to arrange for an alternative method of transmission. General information concerning USTR is available at [www.ustr.gov](http://www.ustr.gov).

#### F. Business Confidential Submissions

If you ask USTR to treat information you submitted as business confidential information (BCI), you must certify that the information is business confidential and that you would not customarily release it to the public. You must clearly designate BCI by marking the submission “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must include ‘Business Confidential’ in the ‘type comment’ field. For any submission containing BCI, you must separately submit a non-confidential version, *i.e.*, not as part of the same submission with the confidential version, indicating where BCI has been redacted. USTR will post the non-confidential version in the docket and it will be open to public inspection.

#### G. Public Viewing of Review Submissions

USTR will make public versions of all documents relating to these reviews available for public viewing pursuant to 15 CFR 2017.4, in the appropriate docket at <http://www.regulations.gov> upon completion of processing, usually

within two weeks of the relevant due date or date of the submission.

#### Erland Herfindahl,

*Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences, Office of the United States Trade Representative.*

[FR Doc. 2019-24947 Filed 11-18-19; 8:45 am]

BILLING CODE 3290-F0-P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Notice of Final Federal Agency Actions on Proposed Highway in City of Salem, Marion County, Oregon

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of limitation on claims for judicial review of actions by FHWA.

**SUMMARY:** This notice announces actions taken by the FHWA that are final. The actions relate to a proposed highway project, Salem River Crossing Project, over the Willamette River, in City of Salem, Marion County, Oregon. Those actions grant approvals for the project.

**DATES:** By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before April 17, 2020. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

**FOR FURTHER INFORMATION CONTACT:** Emily Cline, Environmental Program Manager, FHWA Oregon Division Office, 530 Center St. NE, Salem, OR 97301, Office Hours: 7:30 a.m. to 4:00 p.m., Office Phone: 503-316-2547, Email: [Emily.cline@dot.gov](mailto:Emily.cline@dot.gov). You may also contact Anna Henson, Senior Project Leader, ODOT Region 2, 455 Airport Road SE, Building B, Salem, OR 97301, Office Phone: 503-986-2639, Office Hours: 8:00 a.m. to 5:00 p.m., Email: [Anna.Henson@odot.state.or.us](mailto:Anna.Henson@odot.state.or.us).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that FHWA has taken final agency action subject to 23 U.S.C. 139(l)(1) by issuing approvals for the following highway project in the State of Oregon. The Salem River Crossing Project proposed to construct a proposed new third bridge crossing of the Willamette River in Salem, Oregon, along with associated surface street improvements. The purpose of the project is to improve mobility and safety

for people and freight for local, regional, and through travel across the Willamette River in the Salem-Keizer metropolitan area while alleviating congestion on the existing bridges and connecting highway and arterial street systems. [Federal ID No. S000(287) & S000(288)]. The actions by the agencies, and the laws under which such actions were taken, are described in the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) for the project, approved on September 5, 2019. The Salem River Crossing FEIS/ROD and other project records are available by contacting FHWA or Oregon DOT at the addresses provided above. The FEIS and can be viewed and downloaded from the project website at: <https://www.oregon.gov/odot/projects/pages/project-details.aspx?project=17317> or obtained from any contact listed above. This notice applies to all Federal agency decisions that are final as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General*: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].
2. *Air*: Clean Air Act [42 U.S.C. 7401–7671q].
3. *Land*: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
4. *Wildlife*: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361–1423h]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667d]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108]; Archeological Resources Protection Act of 1977 [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. *Historic and Cultural Resources*: Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108]; Archeological Resources Protection Act of 1977 [54 U.S.C. 312501–312508]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
7. *Social and Economic*: American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
8. *Wetlands and Water Resources*: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1387]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300f–300j–26]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act, [16 U.S.C. 3901, 3921]; Wetlands Mitigation [23 U.S.C. 119(g) and 133(b)(14)]; Flood Disaster Protection Act, 42 U.S.C. 4012a, 4106].

9. *Executive Orders*: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 139(I)(1).

Issued on: November 4, 2019.

**Phillip A. Ditzler,**

*Division Administrator, Salem, Oregon.*

[FR Doc. 2019–24892 Filed 11–18–19; 8:45 am]

**BILLING CODE 4910-RY-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA–2019–0092]

#### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this provides the public notice that by a document dated October 29, 2019, Union Pacific Railroad Company (UPRR) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2019–0092.

**Applicant:** UPRR, Mr. Neal E. Hathaway, AVP—Signal Maintenance & Construction, 1400 Douglas Street, MS/RM 0910, Omaha, NE 68179.

Specifically, UPRR requests permission to retire the signals at Bell Interlocker, as well as the D-signals leading into Bell Interlocker, including signals, track wire, insulated joints, cabins, and pole line associated with the signals for these locations. The signals are located in or near Bell, California, on the La Habra Subdivision, between milepost (MP) 6.02 and MP 7.92, and on the San Pedro Subdivision, between MP 4.56 and MP 5.90.

UPRR states the reason for the removal of the signal equipment is that the track is no longer being utilized for through train traffic.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at

<http://www.regulations.gov> and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202–493–2251.
- **Mail:** Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- **Hand Delivery:** 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by January 3, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](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>. See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

[FR Doc. 2019-25023 Filed 11-18-19; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### Pipeline Safety: Request for Special Permits

[Docket No. PHMSA-2019-0080] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0081] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0082] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0083] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0084] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0085] Williams—  
Transcontinental Gas Pipeline Company  
[Docket No. PHMSA-2019-0142] Williams—  
Northwest Pipeline Company

**AGENCY:** Pipeline and Hazardous  
Materials Safety Administration  
(PHMSA); DOT.

**ACTION:** Notice.

**SUMMARY:** PHMSA is publishing this notice to solicit public comment on several requests for special permit from Williams—Transcontinental Gas Pipeline Company (Transco) and Williams—Northwest Pipeline Company (Northwest), seeking relief from compliance with certain requirements in the Federal Pipeline Safety Regulations. After the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit requests.

**DATES:** Submit any comments regarding these special permit requests by December 19, 2019.

**ADDRESSES:** Comments should reference the docket number for the specific special permit request and may be submitted in the following ways:

- *E-Gov Website:* <http://www.Regulations.gov>. This site allows the public to enter comments on any

**Federal Register** notice issued by any agency.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management System: 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:* Docket Management System: 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 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

*Instructions:* You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at <http://www.Regulations.gov>.

*Privacy Act:* There is a privacy statement published on <http://www.Regulations.gov>. Comments, including any personal information provided, are posted without changes or edits to <http://www.Regulations.gov>.

*Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as “PROPIN” or “Confidential”; (2) send PHMSA, along with the original document, a second copy of the original

document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Ms. Kay McIver at 1200 New Jersey Avenue SE, E24-443, Washington, DC 20590, or emailed to her at [kay.mciver@dot.gov](mailto:kay.mciver@dot.gov). Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

#### FOR FURTHER INFORMATION CONTACT:

*General:* Ms. Kay McIver by telephone at 202-366-0113, or email at [kay.mciver@dot.gov](mailto:kay.mciver@dot.gov).

*Technical:* Mr. Steve Nanney by telephone at 713-272-2855, or by email at [steve.nanney@dot.gov](mailto:steve.nanney@dot.gov).

**SUPPLEMENTARY INFORMATION:** PHMSA received six (6) special permit requests from the Transcontinental Gas Pipeline Transco, and one (1) special permit request from Northwest. Transco and Northwest are subsidiaries of the Williams Company. Transco and Northwest operate interstate gas transmission pipelines and both are seeking waivers from 49 CFR 192.611 for segments where the class location has changed from a Class 1 to a Class 3 location.

The requests, proposed special permits with conditions, and Draft Environmental Assessments (DEAs) for the Transco and Northwest pipelines are available for public view and comments in the respective dockets at <http://www.Regulations.gov>. We invite interested persons to participate by reviewing the special permit requests and DEAs at <https://www.Regulations.gov>, and by submitting written comments, data, or other views. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted.

Details of the six (6) Transco and one (1) Northwest requested special permits are as follows:

Docket No.	Requester	Regulation(s)	Nature of special permit
PHMSA–2019–0080 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	<p>To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for three (3) special permit segments of 0.19 miles of 30-inch diameter pipeline located on Mainline “A” in Guilford County, North Carolina, where the class location has changed from Class 1 to Class 3 location in 2017. Mainline “A” is a 1,750-mile interstate pipeline in the 10,500-mile Transco system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to the New York City metropolitan area. Mainline “A” was installed in 1950 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers, and other pipelines.</p> <p>Transco operates the Mainline “A” proposed special permit segments in the Guilford County, North Carolina area at a maximum allowable operating pressure (MAOP) of 780 pounds per square inch gauge (psig).</p>
PHMSA–2019–0081 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	<p>To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment of 0.36 miles of 30-inch diameter pipeline located on Mainline “A” in Hartford County, Maryland, where the class location has changed from Class 1 to Class 3 location in 2017. Mainline “A” is a 1,750-mile interstate pipeline in the 10,500-mile Transco system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to New York City metropolitan area. Mainline “A” was installed in 1950 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers and other pipelines.</p> <p>The MAOP for Mainline “A” in the special permit segment is 780 psig.</p>
PHMSA–2019–0082 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	<p>To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment of 0.35 miles of 30-inch diameter pipeline located on Mainline “B” in Hartford County, Maryland, where the class location has changed from Class 1 to Class 3 location in 2017. Mainline “B” is a 1,525-mile interstate pipeline in the 10,500-mile Transco system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to New York City metropolitan area. Mainline “B” was installed in 1955 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers and other pipelines.</p> <p>The MAOP for Mainline “B” in the special permit segment is 780 psig.</p>
PHMSA–2019–0083 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	<p>To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment where the class location has changed from Class 1 to Class 3 location in 2017, and eleven (11) additional special permit segments that experienced class changes in 2008 and 2015. The total mileage of all special permit segments is 2.36 miles of 30-inch diameter pipeline. These changes are on the pipeline segments located on Mainline “A” in Greenville County, South Carolina. Mainline “A” is a 1,750-mile interstate pipeline in the 10,500-mile Transco system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to New York City metropolitan area. Mainline “A” was installed in 1950 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers, and other pipelines.</p> <p>The MAOP for Mainline “A” special permit segments are either 780 psig or 650 psig. Transco is proposing to uprate the MAOPs of eleven (11) special permit segments that operate at 650 psig to 780 psig.</p>
PHMSA–2019–0084 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	<p>To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment of pipeline located on Mainline “B” in Greenville County, South Carolina where the class location has changed from Class 1 to Class 3 location in 2017, and twelve (12) additional segments that experienced class changes in 2008 and 2015. The total mileage of all special permit segments is 2.18 miles of 36-inch diameter pipeline. Mainline “B” is a 1,525-mile interstate pipeline in the 10,500-mile Transco natural gas system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to New York City metropolitan area. Mainline “B” was installed in 1957 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers, and other pipelines.</p> <p>The MAOPs for Mainline “B” in the special permit segments are either 780 psig or 704 psig. Transco is proposing to uprate the MAOPs for twelve (12) special permit segments that operate at 704 psig to 780 psig.</p>

Docket No.	Requester	Regulation(s)	Nature of special permit
PHMSA–2019–0085 .....	Transcontinental Gas Pipe Line Company, LLC (Transco).	49 CFR 192.611 .....	To authorize Transco a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for two (2) special permit segment of 0.26 miles of 36-inch diameter pipeline located on Mainline “C” in Greenville County, South Carolina, where the class location has changed from Class 1 to Class 3 location in 2017 and 2018. Mainline “C” is a 1,345-mile interstate pipeline in the 10,500-mile Transco system that begins in Texas and runs northeast along the eastern side of the Appalachian Mountains to New York City metropolitan area. Mainline “C” was installed in 1961 and transports natural gas from the Gulf of Mexico and the Marcellus region of Pennsylvania to population centers, industrial customers, and other pipelines. The MAOP for Mainline “C” in the special permit segment is 780 psig.
PHMSA–2019–0142 .....	Northwest Pipeline Company, LLC (Northwest).	49 CFR 192.611 .....	To authorize Northwest a special permit to waive compliance with the requirements of 49 CFR 192.611 “Change in Class Location: Confirmation or Revision of Maximum Allowable Operating Pressure”. This special permit is being requested in lieu of pipe replacement or pressure reduction for one (1) special permit segment of 0.13 miles of 20-inch diameter pipeline located on the Spokane Lateral in Franklin County, Washington, where the class location has changed from Class 1 to Class 3 location in 2018. The Spokane Lateral is a 165-mile interstate transmission pipeline and transports natural gas from Plymouth, Washington to the Spokane, Washington area. The MAOP for the Spokane Lateral in the special permit segment is 811 psig.

Before issuing a decision on the special permit requests, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment we receive in making our decision to grant or deny a request.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

**Alan K. Mayberry,**

*Associate Administrator for Pipeline Safety.*

[FR Doc. 2019–25045 Filed 11–18–19; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request for the IRS Taxpayer Burden Surveys

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the 2019, 2020, and 2021 IRS Taxpayer Burden Surveys.

**DATES:** Written comments should be received on or before January 21, 2020 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Philippe Thomas, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* IRS Taxpayer Burden Surveys.

*OMB Number:* 1545–2212.

*Regulatory Number:* N/A.

*Abstract:* Each year, individual taxpayers in the United States submit more than 140 million tax returns to the Internal Revenue Service (IRS). The IRS uses the information in these returns, recorded on roughly one hundred distinct forms and supporting schedules, to administer a tax system whose rules span thousands of pages. Managing such a complex and broad-based tax system is costly but represents only a fraction of the total burden of the tax system. Equally, if not more burdensome, is the time and out-of-pocket expenses that taxpayers spend in order to comply with tax laws and regulations.

Changes in tax regulations, tax administration, tax preparation methods, and taxpayer behavior continue to alter the amount and distribution of taxpayer burden. Data from updated surveys will better reflect the current tax rules and regulations, the increased usage of tax preparation software, increased efficiency of such

software, changes in tax preparation regulations, the increased use of electronic filing, the behavioral response of taxpayers to the tax system, the changing use of services, both IRS and external, and related information collection needs.

*Current Actions:* The IRS will be revising and replacing various surveys. The survey scope is expanded to include burden for surveys associated with all taxpayer segments. This effort represents a continuation of the IRS’s strategy to gather taxpayer burden data for all types of tax returns and information reporting documents in order to support Wage and Investment’s OMB Improvement Strategy to transition burden estimates for all taxpayers to the preferred RAAS burden estimation methodology. These surveys will allow RAAS to update and validate the IRS Taxpayer Burden Model which will be used to provide estimates for consolidated taxpayer segments, like what is currently done for OMB numbers 1545–0074, 1545–0123, and 1545–0047. This form is being submitted for revision purposes.

#### Data Collections Covered Under This Clearance Request

##### *Individual Taxpayers*

- 2019 Individual Taxpayer Burden Survey (Data collection 6/1/2020–5/31/2021)
- 2019 Individual Taxpayer Compliance (Post-Filing) Burden Survey (Data collection 3/1/2020–5/31/2021)
- 2020 Individual Taxpayer Special Study (Data collection 1/1/2020–9/31/2020)
- 2020 Individual Taxpayer Special Survey (Data collection 10/1/2020–12/31/2020)
- 2020 Individual Taxpayer Burden Survey (Data collection 6/1/2021–5/31/2022)

- 2021 Individual Taxpayer Burden Survey (Data collection 5/1/2022–6/31/2023)  
 2021 Nonfiler/Late-filer Burden Survey (Data collection 2/1/2022–12/31/2022)

#### Entity Taxpayers

- 2019 Business Compliance (Post-Filing) Burden Survey (Data collection 3/1/2020–12/31/2020)  
 2019 Business Taxpayer Burden Survey (Data collection 6/1/2020–12/31/2021)  
 2021 Business Entity Special Survey (Data collection 3/31/2022–5/31/2023)  
 2021 Tax-Exempt Organization Special Survey (Data collection 5/31/2022–5/31/2023)

#### Other

- 2019 Employment Tax Burden Survey (Data Collection 5/15/2020–12/31/2020)  
 2019 Information Return Burden Survey (Data Collection 10/15/2020–03/31/21)  
 2020 Trust and Estate Income Tax Burden Survey (Data collection 6/1/2021–5/31/2022)  
 2020 Estate Tax Burden Survey (Data collection 10/1/2021–5/31/2022)  
 2020 Gift Tax Burden Survey (Data collection 10/1/2021–5/31/2021)  
 2021 Pension Plan Burden Survey (Data collection 12/1/2021–5/31/2022)  
 2021 Excise Tax Burden Survey (Data collection 2/1/2022–12/31/2022)  
 2021 Other Taxpayer Segment Special Survey (Data collection 3/31/2022–5/31/2023)

*Type of Review:* Revision of a currently approved collection.

*Affected Public:* Individual, Business or other for-profit organizations.

*Estimated Number of Annual Respondents:* 75,000.

*Estimated Time per Respondent:* 28 hrs.

*Estimated Total Annual Burden Hours:* 35,000.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: November 12, 2019.

**R. Joseph Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2019–25008 Filed 11–18–19; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Open Meeting of the Federal Advisory Committee on Insurance

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance ("Committee") will convene a meeting on Thursday, December 5, 2019, in the Cash Room, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220, from 1:30 p.m.–4:30 p.m. Eastern Time. The meeting is open to the public, and the site is accessible to individuals with disabilities.

**DATES:** The meeting will be held on Thursday, December 5, 2019, from 1:30 p.m.–4:30 p.m. Eastern Time.

**ADDRESSES:** The Committee meeting will be held in the Cash Room, Department of the Treasury, 1500 Pennsylvania Ave. NW, Washington, DC 20220. The meeting will be open to the public. Because the meeting will be held in a secured facility, members of the public who plan to attend the meeting must either:

1. Register online. Attendees may visit <http://www.cvent.com/d/6hq2n5> and fill out a secure online registration form. A valid email address will be required to complete online registration.

(Note: Online registration will close at 5:00 p.m. Eastern Time on Wednesday, November 27, 2019.)

2. Contact the Federal Insurance Office at (202) 622–3220, by 5:00 p.m. Eastern Time on Wednesday, November 27, 2019, and provide registration information.

Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Mariam G. Harvey, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622–0316, or [mariam.harvey@do.treas.gov](mailto:mariam.harvey@do.treas.gov).

#### FOR FURTHER INFORMATION CONTACT:

Lindsey Baldwin, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622–3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102–3.150.

*Public Comment:* Members of the public wishing to comment on the business of the Federal Advisory Committee on Insurance are invited to submit written statements by any of the following methods:

#### Electronic Statements

- Send electronic comments to [faci@treasury.gov](mailto:faci@treasury.gov).

#### Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will post all statements on its website <https://www.treasury.gov/initiatives/fio/Pages/faci.aspx> without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received,

including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

*Tentative Agenda/Topics for Discussion:* This is the fourth periodic meeting of the Committee in 2019. In this meeting, the Committee will receive updates from the Committee's three subcommittees: The Availability of Insurance Products, the Federal Insurance Office's International Work, and Addressing the Protection Gap Through Public-Private Partnerships and Other Mechanisms. The Committee will also receive an update from the Federal Insurance Office on its activities.

Dated: November 12, 2019.

**J. Tyler Williams,**

*Deputy Assistant Secretary, Financial Institutions, Policy.*

[FR Doc. 2019-25038 Filed 11-18-19; 8:45 am]

**BILLING CODE 4810-25-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Advisory Committee on Rehabilitation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR) will be held on Thursday, December 5 and Friday, December 6, 2019, at 1800 G Street NW, Room 501K, Washington, DC 20006.

The meeting sessions are open to the public and are as follows:

- December 5, 2019 10:30 a.m. to 4:00 p.m.
- December 6, 2019 8:30 a.m. to 2:00 p.m.

The purpose of the Committee is to provide advice to the Secretary of VA on the rehabilitation needs of Veterans with disabilities and on the administration of VA's rehabilitation programs.

On December 5, 2019, Committee members will welcome new members to the Committee and provide them with briefings on programs designed to enhance the rehabilitative potential of Veterans with disabilities to include a presentation on Vocational Rehabilitation and Employment's modernization initiatives.

On December 6, 2019, Committee members will discuss previous

recommendations that were included in the Committee's annual reports and the development of a cross-collaborative subcommittee with the Homeless Veterans Advisory Committee.

Although no time will be allocated for receiving oral comments from the public, members of the public may submit written statements for review by the Committee to Latrese Arnold, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or via email at [Latrese.Arnold@va.gov](mailto:Latrese.Arnold@va.gov). In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as part of the clearance process. Due to an increase in security protocols, and in order to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins. Any member of the public who wishes to attend the meeting should RSVP to Latrese Arnold at (202) 461-9773 no later than close of business, December 2, 2019, at the above phone number or email address.

Dated: November 13, 2019.

**LaTonya L. Small,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2019-24970 Filed 11-18-19; 8:45 am]

**BILLING CODE 8320-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-XXXX]

### Agency Information Collection Activity Under OMB Review: Edith Nourse Rogers STEM Scholarship Application

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before December 19, 2019.

**ADDRESSES:** Submit written comments on the collection of information through [www.Regulations.gov](http://www.Regulations.gov), or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov). Please refer to "OMB Control No. 2900-XXXX" in any correspondence.

#### FOR FURTHER INFORMATION CONTACT:

Danny S. Green, Enterprise Records Service (005R1B), Department of Veterans Affairs, 811 Vermont Avenue NW, Washington, DC 20420, (202) 421-1354 or email [Danny.Green2@va.gov](mailto:Danny.Green2@va.gov). Please refer to "OMB Control No. 2900-XXXX" in any correspondence.

#### SUPPLEMENTARY INFORMATION:

*Authority:* Public Law 115-48, section 111; 44 U.S.C. 3501-21.

*Title:* Edith Nourse Rogers STEM Scholarship Application (VA Form 22-10203).

*OMB Control Number:* 2900-XXXX.

*Type of Review:* New collection.

*Abstract:* VA Form 22-10203 will allow students to apply for the Edith Nourse Rogers STEM Scholarship Program. Under the program, VA shall provide up to 9 months of Post-9/11 GI Bill benefits to certain eligible individuals selected by the Secretary of the Department of Veterans Affairs (VA).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 84 FR 170 on September 3, 2019, pages 46097 and 46098.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 36,000 hours.

*Estimated Average Burden per Respondent:* 5 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 750.

By direction of the Secretary.

**Danny S. Green,**

*VA Interim Clearance Officer, Office of Quality Performance and Risk, Department of Veterans Affairs.*

[FR Doc. 2019-24954 Filed 11-18-19; 8:45 am]

**BILLING CODE 8320-01-P**



# FEDERAL REGISTER

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Part II

## Department of Commerce

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National Oceanic and Atmospheric Administration

50 CFR Part 660

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Fishery Management Plan; Amendment 28; Final Rule

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 191106–0077]

RIN 0648–BI89

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Fishery Management Plan; Amendment 28**

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

**ACTION:** Final rule.

**SUMMARY:** In this rule NMFS implements Amendment 28 to the Pacific Coast Groundfish Fishery Management Plan, changing closed areas that affect commercial vessels fishing with bottom contacting gear in Federal waters off of Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan. The final rule establishes new and revised areas closed to bottom trawling to conserve and protect Pacific coast groundfish essential fish habitat, and re-open areas that were closed to bottom trawling to rebuild previously-overfished groundfish stocks. Combined, these two changes increase protections for groundfish essential fish habitat and provide additional flexibility to participants fishing with bottom trawl gear in the groundfish trawl rationalization program. Amendment 28 also closes deep-water areas off the coast of California to bottom contacting gear to protect deep-water habitats, including deep-sea corals, under fishery management plan discretionary provisions in the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** This final rule is effective on January 1, 2020.

**ADDRESSES:** Information relevant to Amendment 28, which includes a Final Environmental Impact Statement, a regulatory impact review, a Regulatory Flexibility Act certification, and a Record of Decision are available for public review during business hours at the NMFS West Coast Regional Office at 7600 Sand Point Way NE, Seattle, WA 98115, or by requesting them via phone or the email address listed in the **FOR FURTHER INFORMATION CONTACT.** Copies of additional reports referred to in this document may also be obtained from the Pacific Fishery Management

Council. These documents are also available at the Council's website at <http://www.pcouncil.org/groundfish/fishery-management-plan/groundfish-amendments-in-development/>. Additional background documents are available at the NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>.

**FOR FURTHER INFORMATION CONTACT:** Gretchen Hanshew, phone: 206–526–6147, or email: [Gretchen.Hanshew@noaa.gov](mailto:Gretchen.Hanshew@noaa.gov).

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**Executive Summary**

This final rule implements management measures from Amendment 28 to the Pacific Coast Groundfish Fishery Management Plan (FMP) that would augment existing essential fish habitat (EFH) protection measures, reopen historically important fishing grounds, and protect deep-water habitats, including deep-sea corals. This final rule implements all of the Council's recommendations. NMFS published the proposed rule to implement Amendment 28 on August 15, 2019 (84 FR 41818). The Secretary of Commerce approved Amendment 28 on September 9, 2019. The comment period on the proposed rule ended on September 16, 2019. NMFS received 22 comments on the proposed rule. A summary of those comments and responses from NMFS are provided in the Comments and Responses section of this preamble.

**Purpose of This Regulatory Action**

This final rule establishes measures that conserve and protect EFH from the impacts of fishing, to achieve optimum yield, and ensure that these measures are based on the best scientific information available. This final rule includes changes to areas closed to bottom trawl fishing to protect EFH, called EFH conservation areas. When combined with existing EFH

conservation areas, these measures are anticipated to minimize, to the extent practicable, the adverse effects of fishing on EFH. This final rule also revises management measures put in place to rebuild overfished groundfish stocks to meet the utilization goal in the FMP. The FMP utilization goal directly relates to National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), stating that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry. This final rule also closes deep water off California to certain gear types using Magnuson-Stevens Act discretionary authority to protect deep-water habitats, including deep-sea corals. Additional details about the goals and objectives of this final rule can be found in the preamble to the proposed rule (84 FR 41818; August 15, 2019). This final rule also makes one substantive change and minor, non-substantive technical corrections and clarifications to the regulations presented in the proposed rule.

**Major Provisions**

This final rule contains three categories of major provisions. The first are new and revised EFH conservation areas, which are defined with latitude and longitude coordinates and restrict groundfish and non-groundfish (*e.g.*, ridgeback prawn, California halibut, sea cucumber) bottom trawl fishing. The second are changes relating to fishery management measures, specifically depth-based area closures, for groundfish bottom trawl gear off Oregon and California. The third is a new deep-water area closed to all bottom contacting fishing gear to protect deep-water habitats.

*Revisions to EFH Conservation Areas*

The Council undertook an extensive, formal public process to develop alternatives and conduct environmental impacts analysis of changes to habitat management, between 2013 and 2018, described in the proposed rule preamble. The Council requested public input and received several proposals for habitat management changes in response. After initial screening and public comment, the Council selected all or part of several proposals and developed suites of potential EFH conservation area changes, which formed the preliminary range of alternatives. From these alternatives, the Council, in April 2018, adopted a final preferred alternative.

This final rule closes over 12,000 square miles (31,000 square km) of the exclusive economic zone (EEZ) and re-opens over 200 square miles (518 square km) of the EEZ to bottom trawl gear, which adversely affects groundfish EFH. The new closures protect a variety of ocean floor types (substrates) designated as groundfish EFH, and include areas designated as habitat areas of particular concern. In particular, these closed areas protect submarine canyons, seamounts, methane seeps, deep-sea corals as well as stationary three-dimensional invertebrates like sponges and corals. Revisions to existing EFH conservation areas expand closures to protect important habitat features, but reopen habitats with lower sensitivity and faster recovery to disturbance. Impacts to fishing communities are anticipated to be minimal, because very little fishing effort occurred in the closed areas (less than 2 percent of the total groundfish landings and revenues on either a coastwide or port-group level). Overall, this final rule, in combination with existing habitat management measures that remain unchanged, minimizes the adverse effects of fishing on groundfish EFH while mitigating negative socioeconomic effects to fishing communities.

#### *Changes to Fishery Management Measures*

This final rule balances the conflicting need to restrict fishing to protect the resource with providing sufficient allowable catch to sustain the fleet and coastal communities.

#### *Bottom Trawl Rockfish Conservation Area*

This final rule re-opens a depth-based bottom trawl closure that has been in place coastwide since 2002. This closure, referred to as the groundfish trawl Rockfish Conservation Area (trawl RCA), prohibited fishing with limited entry groundfish trawl gear to reduce

impacts to species that were overfished at that time (Pacific Ocean perch and darkblotched rockfish). This final rule re-opens the trawl RCA to bottom trawling in the Shorebased Individual Fishing Quota Program off of Oregon and California, an area of over 2,000 square miles (5,180 square km). Areas closed to bottom trawling that overlap with the trawl RCA, such as EFH conservation areas and California state waters, remain closed to bottom trawling. NMFS is making this change because of the success of the trawl rationalization program and other commercial and recreational fishing innovations that have reduced bycatch. Improvements to scientific information regarding biology of stocks and their population dynamics have led to revised methods and modeling parameters that are more accurate than in the past. Since 2011, six of the seven previously overfished stocks are now rebuilt. The areas this rule reopens were historically important fishing grounds, and it is anticipated that groundfish fishermen will have more flexibility and opportunities to improve the efficiency of their operations, which will benefit coastal communities. Additionally, the areas this rule reopens are predominantly substrates that are the most resilient to disturbance and, when combined with the protections to EFH in this rule, adverse effects to designated groundfish EFH are minimized to the extent practicable. When considered together (EFH conservation areas and the trawl RCA overlap in places), changes to the coastwide network of EFH conservation areas and the reopening of the trawl RCA off Oregon and California result in new bottom trawl closures totaling 13,151 square miles (34,061 square km) and reopening of 2,958 square miles (7,661 square km).

The existing trawl RCA will remain in effect off Washington, which means that fishing with bottom trawl gear and transiting without bottom trawl gear

stowed is prohibited within the boundaries of the trawl RCA. The changes from this rule to the trawl RCA have no effect on vessels fishing with midwater trawl gear and depth-based restrictions on midwater trawl fishing off California remain in place.

#### *Bottom Trawl Block Area Closures*

Reopening an area that has not been fished with bottom trawl gear for over 15 years is not without risk. This final rule implements a new discrete spatial management tool that is more flexible and responsive than the trawl RCA. Block Area Closures (BACs) could be used to restrict groundfish bottom trawling within any portion of the EEZ and state waters off Oregon and California. No BACs are implemented in this final rule, but as a future action the Council may recommend that NMFS close one or more BACs via routine inseason action and the size of the BACs can vary. A **Federal Register** notice will announce boundaries of one or more BACs, within which groundfish bottom trawling would be prohibited for a period of time. With the deep-water closure enacted by this rule, bottom trawling is now closed within the entire EEZ seaward (west) of a boundary line approximating the 700 fm (1,280 m) depth contour. BACs could be defined on the east and west by two boundary lines approximating depth contours, or by language describing the BACs as “seaward of” or “shoreward of” any of the depth contours described in Table 1 below. So BACs could, if implemented to the maximum extent, close the entire area between the shore and outer boundary of the EEZ (acknowledging that seaward of the 700 fm (1,290 m) depth contour is already closed and a BAC there has no on-the-water effect). BACs, when implemented would be bounded by specific latitudes and depths, as shown in Table 1 below, and described with coordinates in regulations.

TABLE 1—GEOGRAPHIC COORDINATES (LATITUDES) AND DEPTH-BASED BOUNDARY LINES THAT MAY BE USED TO DEFINE THE BOUNDARIES OF BACs OFF OREGON AND WASHINGTON

State	Commonly used geographic coordinates (50 CFR 660.11) (North-South)	Boundary lines approximating depth contours (50 CFR 660.71–74) (East-West)
Oregon (OR) .....	Columbia River—46°16.00' N lat., Cape Falcon, OR—45°46.00' N lat., Cape Lookout, OR—45°20.25' N lat., Cascade Head, OR—45°03.83' N lat., Heceta Head, OR—44°08.30' N lat., Cape Arago, OR—43°20.83' N lat., Cape Blanco, OR—42°50.00' N lat., Humbug Mountain—42°40.50' N lat., Marck Arch, OR—42°13.67' N lat.	20 fm (37 m), 25 fm (46 m), 25 fm (46 m) modified, 30 fm (55 m), 40 fm (73 m), 50 fm (91 m), 60 fm (110 m), 75 fm (137 m), 100 fm (183 m), 125 fm (229 m), 150 fm (274 m), 150 fm (274 m) modified, 180 fm (329 m) coastwide, 200 fm (366 m), 200 fm (366 m) modified, 250 fm (457 m), 250 fm (457 m) modified.
California (CA) .....	Oregon/California border—42°00.00' N lat., Cape Mendocino, CA—40°30.00' N lat., North/South management line—40°10.00' N lat., Cape Vizcaino, CA—39°44.00' N lat., Point Arena, CA—38°57.50' N lat., Point San Pedro, CA—37°35.67' N lat., Pigeon Point, CA—37°11.00' N lat., Ano Nuevo, CA—37°07.00' N lat., Point Lopez, CA—36°00.00' N lat., Point Conception, CA—34°27.00' N lat., U.S./Mexico Border, southern bound of EEZ.	30 fm (55 m), 40 fm (73 m), 50 fm (91 m), 60 fm (110 m), 75 fm (137 m), 100 fm (183 m), 125 fm (229 m), 150 fm (274 m), 150 fm (274 m) modified (northern CA only), 180 fm (329 m) coastwide, 180 fm (329 m) modified, 200 fm (366 m), 200 fm (366 m) modified, 250 fm (457 m), 250 fm (457 m) modified.

**Note:** East-west boundaries of BACs may also include the seaward boundary of the EEZ or the shoreline, though they are not defined with coordinates in regulation.

BACs may be closed to vessels fishing for groundfish with bottom trawl gear in the Shorebased Individual Fishing Quota Program to meet various fishery management goals. These goals include, but are not limited to, reducing bycatch of protected species and preventing overfishing. BACs cannot be used to close an area to any type of fishing other than groundfish bottom trawling.

The following examples are hypothetical and illustrate possible uses of BACs, and are not limiting. BACs may be used in scenarios not discussed in these examples. Example 1: Best estimates indicate catches of an individual fishing quota (IFQ) species have exceeded the annual trawl allocation for that species. The Council could consider using BACs to close areas (bounded by depth and latitude, off Oregon and California) where that species has been caught with bottom trawl gear in recent years. Example 2: Best estimates indicate that incidental salmon catch with bottom trawl gear is projected to exceed the thresholds in the incidental take statement. The Council could consider using BACs to close areas where salmon have been caught with limited entry bottom trawl gear in recent years.

This rule allows NMFS to close or reopen BACs pre-season or in-season, consistent with Council recommendations. The approach would be consistent with existing “routine inseason” frameworks already in the FMP and regulations. NMFS would implement changes to BACs through inseason action via a single **Federal Register** notice, if good cause exists under the Administrative Procedure Act to waive notice and comment. When deciding whether to use BACs, the

Council will consider environmental impacts, including economic impacts, and public comment via the Council process. Depending on the circumstances, the Council may close areas for a short period of time, such as the remainder of the fishing year, or leave it closed for a longer period of time, such as until reopened by a subsequent action. The period of time that BACs would be in effect, as well as the Council’s purpose and rationale, will be described in the **Federal Register** notice. NMFS would also announce the boundaries and duration of the BACs through public notices and on the West Coast Region website (see **ADDRESSES**). If NMFS also revises its codified regulations to describe the BACs, such information will appear in Table 1 (North) and Table 1 (South) to subpart D. See the Changes from the Proposed Rule section for additional details.

*Discretionary Management Measures To Protect Deep-Water Habitats, Including Deep-Sea Corals*

The 2007 reauthorization of the Magnuson-Stevens Act added discretionary authority for Councils to restrict fishing activities, protect deep-sea corals, and recommend measures to meet other ecological goals and objectives.

This final rule creates a new deep-water closure to prohibit prospective fishing with certain gears to protect deep-water habitats, including deep sea corals, consistent with Council recommendations. Deep-sea habitats are sensitive to disturbance and slow to recover. Therefore, the closure would apply to any vessel fishing any gear designed to make contact with the

bottom. The definition of bottom contact gear is not being revised in this rule and includes, but is not limited to, bottom trawl, dredge, long-leader hook and line gear, and fixed gears like longline, trap or pot, set net, and stationary hook-and-line gears. This closure covers over 123,000 square miles (318,569 square km), and includes the entire EEZ south of Mendocino Ridge seaward (west) of approximately 1,900 fathoms (3,500 m).

**Response to Comments**

During the public comment periods for the Notice of Availability (NOA) and the proposed rule for this amendment, we received 37 distinct comments from over 15,000 individuals and 24 entities, two of which were not responsive to the action. NMFS received 22 unique comment letters from individuals. Those comments ranged from supporting the proposed rule to asking for an end to commercial fishing. NMFS received 15 unique comment letters submitted by 24 entities, one of which was signed by 16 businesses or non-governmental organizations. Five entities, including Washington Department of Fish and Wildlife, Quinault Indian Nation, Oceana, PEW Charitable Trusts, and Earth Justice, requested minor changes to the regulations in the proposed rule.

*Comment 1:* Six private citizens advocated for an end to all commercial fishing or commercial bottom trawling to protect natural resources. One commenter opposed bottom trawl fishing but expressed support for Amendment 28 until such time as all bottom trawling is ceased.

*Response:* Reducing commercial or commercial bottom trawl fishing opportunity was not one of the goals

and objectives of Amendment 28, and was therefore not considered in this action. This action sought to review best available scientific information to minimize the effects of fishing on EFH, while balancing economic impacts on fishing communities by allowing access to productive fishing grounds. This was achieved through changes in EFH conservation areas, adding over 12,000 square miles (31,000 square km) of closures and reopening over 200 square miles (518 square km) to commercial bottom trawl fishing. This action also sought to relieve area restrictions, specifically the trawl RCA, to provide groundfish bottom trawl vessels with increased flexibility to achieve optimum yield and economic efficiency, while balancing risks to protected and overfished species. This was achieved through re-opening the trawl RCA off Oregon and California, over 2,000 square miles (5,180 square km) of historically important fishing grounds, and establishing a new, more responsive and flexible management tool called BACs. This action also sought to protect deep-water habitats, including deep-sea corals, from damage of prospective fishing with bottom-contacting gears. This was achieved through a closure of over 123,000 square miles (318,569 square km) to fishing with bottom-contacting gears, protecting sensitive habitats that are slow to recover from damage.

*Comment 2:* Eleven private citizens were opposed to reopening areas that are currently closed to bottom trawl fishing because this type of fishing can damage the ocean floor. Commenters advocated that some areas of the ocean should remain closed to bottom trawling and cautioned against relieving restrictions for non-selective fishing gears like bottom trawl gear. Two commenters specifically requested that nearshore trawling should be limited to reduce disruption of recreational fisheries. The commenters asserted that re-opening areas to commercial trawling would cause overharvest and negatively affect recreational fisheries, would cause damage to the environment, and is not supported by science.

*Response:* NMFS acknowledges that bottom trawl fishing can damage the ocean floor, and this final rule was designed to close new areas to protect sensitive ocean floor habitats from the negative effects of bottom trawling. With the area closure changes in this rule are combined with existing restrictions, approximately 70 percent of the U.S. West Coast EEZ (between 3 nautical miles (5.6 km) and 200 nautical miles (370.4 km) off Washington, Oregon and California) is closed to commercial

bottom trawl fishing. Trawl gear is less selective than other gears like longline or fish pot gear, but this action is not intended to reduce harvest opportunities for vessels fishing with bottom trawl gear (see Comment 1). Existing rules govern the bottom trawl fishery to manage and monitor harvest, and gear specifications to reduce bycatch and mitigate the environmental impacts of fishing and are not revised with this rule. The individual accountability in the Shorebased IFQ Program in which these vessels fish for groundfish with bottom trawl gear has increased incentives for fishermen to reduce waste and prevents overharvest with close catch monitoring. If a vessel exceeds the quota available to it, it cannot fish again until the quota deficit is resolved.

Amendment 28 does not change harvest specifications or increase the amount of quota available to bottom trawl fishermen, nor does it decrease the amount of quota available to recreational fishermen. Re-opening historically important fishing grounds does not mean that harvest will increase to historic levels due to various catch controls that prevent overfishing and ensure a sustainable commercial bottom trawl fishery. The results of our analysis indicate that re-opening areas to bottom trawl fishing will not appreciably increase the risk of overfishing because of these catch controls.

Amendment 28 is unlikely to negatively affect recreational fishermen or disrupt recreational fisheries. Recreational fishermen often fish in waters above underwater structures such as rocky reefs. Underwater structures and rocky reefs, if not closed to bottom trawling by EFH conservation areas, are generally not fished with bottom trawl gear because these structures damage bottom trawl gear and the repairs can be costly. Coastwide, this rule re-opens less than 200 square miles (518 square km) of area shoreward of 100 fm (183 m) and no area shoreward of 30 fm (55 m), which is the deepest depth that recreational fisheries are commonly allowed to fish. Because this action does not change trawling activity in nearshore regions, or around natural and artificial ocean habitats commonly targeted by recreational fishermen, no disruption of recreational fisheries is anticipated.

The results of our analysis indicate that Amendment 28 will benefit habitat and fish resources. Amendment 28 would increase the number of square miles that are closed to bottom trawl fishing off the coasts of Washington, Oregon, and California. Bottom trawl closures would increase by over 10,000

square miles (25,900 square km), an increase of approximately 69 percent compared to the status quo. These EFH closures were designed to close sensitive benthic habitats while keeping negative socioeconomic impacts low. The areas that would be re-opened (over 2,000 square miles, or 5,180 square km) to bottom trawl fishing are estimated to be predominately soft substrate, which is the type of habitat most resilient to the negative effects of bottom trawl fishing. We have determined that Amendment 28 balances requirements to protect EFH with the requirements of the Magnuson-Stevens Act's National Standards 1 and 8 for achieving optimum yield and supporting fishing communities.

The changes to EFH conservation areas, changes to the trawl RCAs, and deep sea habitat protections in Amendment 28 are based on analyses that use the best scientific information available, consistent with National Standard 2 of the Magnuson-Stevens Act. The best scientific information available regarding benthic habitats is primarily seafloor mapping. High resolution mapping, where available, was used to inform the analysis. For areas where high resolution mapping was unavailable, inferences regarding habitat types were made based on available data. The analysis also used available data from research surveys and the scientific literature to infer habitat suitability. The best scientific information available to assess impacts to fish resources, the socioeconomic environment, and protected resources included the most recently available fishery information.

*Comment 3:* Four private citizens urged NMFS to adopt only the conservation aspects of the proposed rule.

*Response:* NMFS agrees that the new closed areas to protect groundfish EFH are necessary and is implementing those provisions with this final rule. One of the goals of this action was to maintain fishing opportunities and to increase flexibility and efficiency (see Comment 1). Implementing conservation provisions alone would not have met the goals relating to sustainable seafood production and supporting coastal economies. The final rule appropriately balances NMFS's duties under the Magnuson-Stevens Act to conserve marine resources while simultaneously creating opportunities to achieve optimum yield.

*Comment 4:* Sixteen of the unique comment letters expressed general support for the proposed rule, including a comment letter signed by 16 non-governmental organizations. In addition

to their own letter, Oceana also submitted a letter of support with 15,842 signatures of residents of the United States and its territories. Commenters support the protections to the living seafloor and the restoration of commercial fishing opportunities, and appreciate how Amendment 28 supports both habitat conservation and sustainable fisheries. One comment letter supported the proposed rule with the caveat that it is an appropriate measure until future actions consider ceasing all bottom trawling (see Comment 1). Overall, these sixteen letters, endorsed by over 15,000 people and 20 entities, support all major aspects of the proposed rule and recognize that it was widely supported by stakeholders and the public during the Council process.

*Response:* NMFS agrees that this final rule appropriately balances NMFS's duties under the Magnuson-Stevens Act to conserve marine resources while simultaneously creating opportunities to achieve optimum yield and extends gratitude for the engagement and contributions of stakeholders, non-governmental organizations, scientists, and the public during this long process.

*Comment 5:* Washington Department of Fish and Wildlife and the Quinault Indian Nation both submitted comment letters with identical, revised latitude and longitude coordinates for the Grays Canyon northern modification. They ask NMFS to revise the coordinates from the proposed rule to better meet the Council's intent by expanding the closed area approximately 2 miles (3.2 km) east to better align with the 2018 adjudicated seaward boundary of the Quinault Indian Nation's usual and accustomed fishing area (U&A). Three other commenters, including Oceana, PEW Charitable Trusts, and Earth Justice, also suggested that the Grays Canyon northern modification should be expanded to better meet the Council's intent, protecting glass sponges in the area seaward of the U&A.

*Response:* NMFS evaluated additional information submitted during the public comment period and determined that the Grays Canyon EFH conservation area northern modification should expand approximately 2 miles (3.2 km) east to better align with the 2018 adjudicated seaward boundary of the Quinault Indian Nation's U&A, consistent with the Council's recommendation. See the Changes from the Proposed Rule section for additional discussion.

*Comment 6:* Oceana and Earth Justice requested that NMFS change the name of the "Discretionary Conservation Area" so that it would not be mistaken

for a voluntary closure when it is intended to be a mandatory closure to fishing with bottom contacting gears. Both suggested calling it the "Deep-sea Ecosystem Conservation Area" as it would more accurately reflect the reason for the closure and its mandatory nature.

*Response:* NMFS determined that having "discretionary" in the name of the deep-water closed area could be misleading to the regulated public given that the closure is mandatory. See the Changes from the Proposed Rule section for additional discussion.

*Comment 7:* Oceana suggested NMFS add an additional point, at 33°34.71' N lat., 118°11.40' W long., in the line that defines the portion of the Southern California Bight EFH conservation off San Pedro Bay, California. The Southern California Bight EFH conservation area is defined as the areas of the EEZ seaward of these line segments. One of the line segments overlaps with the existing Catalina Island EFH conservation area, so a corner of the Catalina Island EFH conservation area is shoreward of the line segment. The suggested coordinate is the same as the corner of the Catalina Island EFH conservation area and would clarify that the northern corner of the Catalina Island EFH conservation area, would not be mistaken as open to bottom trawling.

*Response:* NMFS acknowledges that the line segment off San Pedro Bay, California, could be misunderstood. The northern tip of the Catalina Island EFH conservation area, which is not revised in this final rule, remains closed. NMFS is including the added point in this final rule to make it clear that areas not proposed to be reopened remain closed. See the Changes from the Proposed Rule section for additional discussion.

*Comment 8:* Oceana expressed that it is their understanding that EFH conservation areas that have a portion of their boundaries adjoining and defined by the state water line (three nautical miles offshore) are not difficult for fishing vessels to comply with because it is a boundary well established in law, on nautical charts and is generally well understood by commercial fishermen. Fishermen have the knowledge and technology on their fishing vessels to know where this boundary is located. Oceana suggests that if NMFS is concerned about compliance, it could consider defining the EFH conservation areas with latitude and longitude coordinates that closely match the state water line.

*Response:* NMFS is satisfied that the state water boundary is commonly known, appears on most nautical charts,

and can be navigated using common commercial fishing technologies. If, after implementation, NMFS identifies compliance or enforcement issues with EFH conservation areas with boundaries not exclusively defined with latitude and longitude coordinates, NMFS may alert the Council and request consideration of alternatives to more clearly define these areas with latitude and longitude coordinates in regulations.

*Comment 9:* Oceana requests that the next time NMFS analyzes the effects of changes to conservation areas (e.g., EFH conservation area or RCA changes) the combined habitat net effects should also be considered at the scale of biogeographic regions (e.g., northern slope, etc.) and depth zones, and not just coastwide.

*Response:* The Council developed Amendment 28 based on various goals and objectives (described in detail in the proposed rule). One of the objectives for habitat protection was to protect a diversity and range of habitats. NMFS notes that this objective is not a mandate or requirement of the Magnuson-Stevens Act or the FMP. NMFS agrees that considering effects at a finer spatial scale could be informative to ensure adequate protections are in place across a diverse range of habitat types, if this objective remains among the Council's objectives of future conservation area changes. The Council has stated its intent to incorporate lessons learned from the Amendment 28 process into the next 5-year review, which is expected to commence in 2024 or 2025. The Council may consider changes to habitat management as a result of the next 5-year review. If that should occur, the Council would likely consider a variety of objectives to guide future changes.

*Comment 10:* Oceana requests that NMFS implement measures to improve the level of precision that vessel monitoring systems monitor for compliance with closed areas, including the new closed areas in this final rule.

*Response:* It is for this reason that the Council recommended and NMFS is implementing an increase to the rate that vessel monitoring systems report the position of the fishing vessel. NMFS published a proposed rule that will increase the rate from once every hour to once every 15 minutes on October 10, 2019 (84 FR 54579).

*Comment 11:* One private citizen commented that NMFS should, in addition to supporting recreational anglers and commercial fishermen, support indigenous people's fishing heritage.

*Response 11:* NMFS supports the exercise of tribal treaty fishing rights and this action was developed with input from the treaty tribes with fishing rights on the coast. To that end, this final rule includes no changes to fishing regulations (tribal or non-tribal) within the tribal U&A fishing areas off the northern and central coast of Washington.

### Changes From the Proposed Rule

Regulations implemented in this final rule are unchanged from those in the proposed rule, except as described below. There is one substantive change, to the shape and extent of the Grays Canyon North EFH conservation area. NMFS discussed this issue with the Council at the September 11–18, 2019 Council meeting. The rest of the changes described below are not substantive and do not impact the intent or implementation of the provisions in this rule. NMFS consulted with the Council on all regulation changes, as required by section 304(b)(3) of the MSA, through an exchange of letters dated October 9, 2019 and October 17, 2019. The locations and descriptions of regulations implemented in this final rule are described in greater detail the proposed rule.

#### *Grays Canyon EFH Conservation Area*

In the proposed rule, NMFS specifically sought comment on the latitude and longitude coordinates used to define the Grays Canyon EFH conservation area, which incorporated a “northern modification” and a “southern modification.” The Council motion included latitude and longitude coordinates, a description of the northern modification as extending to meet the seaward boundary of the Quinault Indian Nation’s tribal U&A, and a discussion that the area in the motion was based on an early alternative for the northern modification. The coordinates, description, and discussion, all unanimously recommended by the Council, each resulted in a slightly differently shaped closed area. To create clearly defined regulatory boundaries, NMFS used only the latitude and longitude coordinates from the motion to incorporate the definition of the northern modification into the Grays Canyon EFH conservation area. This resulted in a slightly smaller closed area that did not incorporate coordinates from the early alternative for the northern expansion, and was also not immediately adjacent to the U&A.

WDFW, the Quinault Indian Nation, Oceana, PEW Charitable Trusts, and Earth Justice recommended in their

comment letters on the proposed rule that the Grays Canyon EFH conservation area be expanded to meet the U&A boundary and align with the early alternative while not closing areas within the U&A (see Comment 5 in Response to Comments). WDFW and the Quinault Indian Nation recommended identical coordinates to define the Grays Canyon northern expansion such that it expands to the east to meet coordinates that approximate the western boundary of the U&A. Commenters noted that it was the intent of the motion to protect a glass sponge reef in the area seaward of the U&A by including that area in the EFH conservation area.

NMFS agrees that it was the Council’s intent to close this area seaward of the U&A to protect a glass sponge reef, and appreciates the specific latitude and longitude coordinates submitted by WDFW and the Quinault Indian Nation (see Comment 5 in Response to Comments). Regulations that include latitude and longitude coordinates, connected by straight lines, will create a clearly defined closed area and addresses NMFS’ concerns with compliance and enforcement. For maximum transparency, the Grays Canyon EFH conservation area will be described with two adjacent polygons that are defined in their own subparagraphs, so it is clear which part of the EFH conservation area had a substantive change from the proposed rule. NMFS is implementing the coordinates submitted by WDFW and the Quinault Indian Nation to define the Grays Canyon northern expansion in regulations at § 660.77(f)(1).

NMFS is also adding a single point to the south-central portion of the Grays Canyon EFH conservation area where the revised northern expansion meets up with it, to make it clear that the two polygons (north and south-central) are adjacent. This added point at § 660.77(f)(1)(iii) does not appreciably change the shape or extent of the south-central Grays Canyon EFH conservation area that was in the proposed rule.

#### *Clarifications and Non-Substantive Changes*

The following changes to regulations were made from the proposed rule to improve clarity, and to be consistent with current regulations that were not intended to be revised.

Oceana and Earth Justice, in their comment letters on the proposed rule, requested that the new deep-water closure off California be re-named to make it clear that the closure itself is not discretionary (see Comment 6 in Response to Comments). NMFS is implementing the name change from

“Discretionary Conservation Area, or DCA” to “Deep-sea Ecosystem Conservation Area, or DECA” in the regulatory definition at § 660.11 and replaced “DCA” with “DECA” in every instance. This change from the proposed rule is not substantive, has no on-the-water effects, and will reduce potential confusion regarding the nature of the closure.

Oceana requested that NMFS add a point to one of the line segments that defines, in part, the Southern California Bight EFH conservation area (see Comment 7 in Response to Comments). NMFS acknowledges that the line segment off San Pedro Bay, California, could be misunderstood, implying that the corner of another overlapping EFH conservation is re-opened. NMFS has added this new point in regulations at § 660.79(bbb)(4), which is coincident with the northern tip of the Catalina Island EFH conservation area. This will make it clear that the northern tip of the Catalina Island EFH conservation area, which is not revised in this final rule, remains closed. This change from the proposed rule will reduce potential confusion regarding the shape of EFH conservation areas in that area.

At § 660.11, the definition of “groundfish conservation area” is clarified so it does not imply that Bycatch Reduction Areas (BRAs) can vary by latitude, because they are coastwide closures and it was not the intent of the proposed definition to imply that the BRAs could vary or be defined with latitudes. This change from the proposed rule will reduce potential confusion regarding the spatial extent of BRAs. Also in paragraph (2) of this definition the word “prohibitions” is added to read thus, “Fishing prohibitions associated with EFHCAs, which are found at §§ 660.12, 660.112, 660.212, and 660.312, are in addition to those prohibitions associated with other conservation areas.” The second “prohibitions” is added to clarify that the additional applicable regulations are prohibitions.

At § 660.130(c)(2)(ii), the footrope size restrictions to mitigate salmon bycatch in the area between 42° N lat. and 40°10' N lat. were inadvertently omitted in the proposed rule when paragraph (c)(2) was re-published. This final rule includes paragraph (ii), maintaining existing gear restrictions in that area to mitigate salmon bycatch. The subsequent sub-paragraph is renumbered as (iii) and is not otherwise changed from the proposed rule. This change from the proposed rule will make it clear that gear restrictions to mitigate salmon bycatch in this area remain unchanged.

BACs may be implemented in regulations inseason through a single **Federal Register** notice if good cause exists to waive notice and comment under the Administrative Procedures Act, as described in the proposed rule. BACs that are not temporary, or will be in place for more than one year, will appear in Table 1 (North) and Table 1 (South) to subpart D. Table 1 (North) and Table 1 (South) to subpart D in 50 CFR part 660 in the proposed rule did not mention BACs may appear in those tables. A placeholder noting that BACs may be described in Table 1 (North) and Table 1 (South), is added in this final rule. This change from the proposed rule will make it clear that BACs may be described in this location and does not change how BACs will be implemented.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, Amendment 28 to the FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866. This final rule is considered an Executive Order 13771 deregulatory action.

NMFS prepared an FEIS for this action, which addresses the requirements of the National Environmental Policy Act. The full suite of alternatives considered by NMFS can be found on the NMFS website at [www.fisheries.noaa.gov](http://www.fisheries.noaa.gov). The FEIS examined the environmental impacts of EFH conservation area changes, re-opening of the trawl RCA, and deep-water fishing restrictions separately and cumulatively. Considering each of the three types of changes separately was warranted based on differing goals and objectives. Considering these changes cumulatively was necessary because of spatial overlap of different alternatives. The Record of Decision (ROD) was signed by NMFS on September 9, 2019. A copy of the FEIS or ROD is available from NMFS (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) at the proposed stage that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on that certification nor do any of the changes to the proposed rule necessitate a need to reconsider the certification.

Pursuant to Executive Order 13175, this final rule was developed after

meaningful consultation and collaboration with the tribal representative on the Council who has agreed with the final rule. None of the provisions in this final rule apply to tribal vessels operating in tribal usual and accustomed fishing areas.

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

#### List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 7, 2019.

#### Samuel D. Rauch III,

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

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

#### PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. In § 660.11, revise the definition of “Conservation area(s),” and add a definition for “Exclusive Economic Zone or EEZ” in alphabetical order to read as follows.

#### § 660.11 General definitions.

\* \* \* \* \*

*Conservation area(s)* means an enclosed geographic area defined by coordinates expressed in degrees latitude and longitude where NMFS may prohibit fishing with particular gear types. Conservation areas include Groundfish Conservation Areas (GCA), Essential Fish Habitat Conservation Areas (EFHCA) and Deep-sea Ecosystem Conservation Areas (DECA).

(1) *Groundfish Conservation Area* or *GCA* means a conservation area created or modified and enforced to control catch of groundfish or protected species. Regulations at § 660.60(c)(3) describe the various purposes for which NMFS may implement certain types of GCAs through routine management measures. Regulations at § 660.70 further describe and define coordinates for certain GCAs, including: Yelloweye Rockfish Conservation Areas; Cowcod Conservation Areas; waters encircling the Farallon Islands; and waters encircling the Cordell Banks. GCAs also include depth-based closures bounded by lines approximating depth contours, including Bycatch Reduction Areas or

BRAs, or bounded by depth contours and lines of latitude, including, Block Area Closures or BACs, and Rockfish Conservation Areas or RCAs, which may be closed to fishing with particular gear types. BRA, BAC, and RCA boundaries may change seasonally according to conservation needs. Regulations at §§ 660.71 through 660.74 define depth-based closure boundary lines with latitude/longitude coordinates. Regulations at § 660.11 describe commonly used geographic coordinates that define lines of latitude. Fishing prohibitions associated with GCAs are in addition to those associated with other conservation areas.

(i) *Block Area Closures* or *BACs* are defined at § 660.111.

(ii) *Bycatch Reduction Areas* or *BRAs* are conservation areas that apply to vessels using midwater groundfish trawl gear during the Pacific whiting primary season, as described at §§ 660.60(d) and 660.131(c).

(iii) *Cordell Banks* is defined at § 660.70.

(iv) *Cowcod Conservation Areas* are defined at § 660.70.

(v) *Farallon Islands* is defined at § 660.70.

(vi) *Rockfish Conservation Areas* or *RCAs*. RCA restrictions are detailed in subparts D through G of this part. RCAs may apply to a single gear type or to a group of gear types such as “trawl RCAs” or “non-trawl RCAs.” Specific latitude and longitude coordinates for RCA boundaries that approximate the depth contours selected for trawl, non-trawl, and recreational RCAs are provided in §§ 660.71 through 660.74. Also provided in §§ 660.71 through 660.74, are references to islands and rocks that serve as reference points for the RCAs.

(A) *Trawl (Limited Entry and Open Access Non-groundfish Trawl Gears) RCAs*. The trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates approximating depth contours. Boundaries for the limited entry trawl RCA throughout the year are provided in Table 1 (North) subpart D of this part. Boundaries for the open access non-groundfish trawl RCA throughout the year are provided in Table 3 (South) subpart F of this part. Boundaries of the trawl RCAs may be modified by NMFS inseason pursuant to § 660.60(c).

(B) *Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) RCAs*. Non-trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific

latitude and longitude coordinates approximating depth contours. Boundaries for the non-trawl RCA throughout the year are provided in Table 2 (North) and Table 2 (South) of subpart E of this part, and Table 3 (North) and Table 3 (South) of subpart F of this part, and may be modified by NMFS inseason pursuant to § 660.60(c).

(C) *Recreational RCAs*. Recreational RCAs are closed areas intended to protect overfished rockfish species. Recreational RCAs may either have boundaries defined by general depth contours or boundaries defined by specific latitude and longitude coordinates approximating depth contours. Boundaries for the recreational RCAs throughout the year are provided in the text in subpart G of this part under each state (Washington, Oregon and California) and may be modified by NMFS inseason pursuant to § 660.60(c).

(vii) *Yelloweye Rockfish Conservation Areas* or *YRCAs* are defined at § 660.70.

(2) *Essential Fish Habitat Conservation Area* or *EFHCA* means an area created and enforced to contribute to the protection of groundfish essential fish habitat. Regulations at §§ 660.75 through 660.79 define EFHCA boundaries. Fishing prohibitions associated with EFHCAs, which are found at §§ 660.12, 660.112, 660.212, and 660.312, are in addition to those prohibitions associated with other conservation areas.

(3) *Deep-sea Ecosystem Conservation Area* or *DECA* is the area within the EEZ deeper than 3,500 m (1,914 fm) that is not designated as EFH, defined at § 660.75 with latitude and longitude coordinates. The DECA is closed to bottom contact gear for the reasons described under MSA Section 303(b), and contributes to the protection of deep-water habitats including deep-sea corals. Fishing prohibitions associated with DECAs, at § 660.12, are in addition to those associated with other conservation areas.

\* \* \* \* \*

*Exclusive Economic Zone* or *EEZ* is defined at § 600.10. See also *Fishery management area* of this section.

\* \* \* \* \*

■ 3. In § 660.12, add paragraphs (a)(16) through (18) to read as follows:

**§ 660.12 General groundfish prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(16) Fish with bottom contact gear (defined at § 660.11) within the EEZ in the following EFHCAs (defined at §§ 660.78 and 660.79): Thompson Seamount, President Jackson Seamount,

Cordell Bank (50-fm (91-m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara.

(17) Fish with bottom contact gear (defined at § 660.11), or any other gear that is deployed deeper than 500-fm (914-m), within the Davidson Seamount EFHCA (defined at § 660.79).

(18) Fish with bottom contact gear, defined at § 660.11, in the DECA, defined at § 660.11.

\* \* \* \* \*

■ 4. In § 660.60, revise paragraphs (c) introductory text and (c)(3)(i) to read as follows:

**§ 660.60 Specifications and management measures.**

\* \* \* \* \*

(c) *Routine management measures*. Catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if good cause exists under the Administrative Procedure Act (APA) to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year, via this process, are implemented in paragraph (h) of this section, and in subparts C through G of this part, including Tables 1a through 1c, and 2a through 2c to subpart C of this part, Tables 1 (North) and 1 (South) of subpart D of this part, Tables 2 (North) and 2 (South) of subpart E of this part, and Tables 3 (North) and 3 (South) of subpart F of this part. Most trip, bag, and size limits, and some Groundfish Conservation Area closures in the groundfish fishery have been designated “routine,” which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November.

Inseason changes to routine management measures are announced in the **Federal Register** pursuant to the requirements of the APA. Changes to trip limits are effective at the times stated in the **Federal Register**. Once a trip limit change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect. The following catch

restrictions have been designated as routine:

\* \* \* \* \*

(3) \* \* \*

(i) *Depth-based management measures*. Depth-based management measures, particularly closed areas known as Groundfish Conservation Areas, defined in § 660.11, include RCAs, BRAs, and BACs, and may be implemented in any fishery sector that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at §§ 660.70 through 660.74. Depth-based management measures and closed areas may be used for the following conservation objectives: To protect and rebuild overfished stocks; to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species; or to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery. Depth-based management measures and closed areas may be used for the following economic objectives: To extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

(A) *Rockfish Conservation Areas*. RCAs, as defined at § 660.11, may be modified as routine action for vessels using trawl gear (off Washington), non-trawl gear (coastwide), or recreational gear (coastwide) consistent with the purposes described in this paragraph (c)(3)(i).

(B) *Bycatch Reduction Areas*. BRAs may be implemented through automatic action in the Pacific whiting fishery consistent with paragraph (d)(1) of this section. BRAs may be implemented as routine management measures for vessels using midwater groundfish trawl gear consistent with the purposes described in this paragraph (c)(3)(i).

(C) *Block Area Closures*. BACs, as defined at § 660.111, may be closed or reopened, off Oregon and California, for vessels using limited entry bottom trawl gear, consistent with the purposes described in this paragraph (c)(3)(i).

\* \* \* \* \*

■ 5. Amend § 660.70 by:

■ a. Removing the introductory text and paragraphs (n), (o), and (r);

- b. Redesignating paragraphs (a) through (m) as (b) through (n); and
- c. Adding new paragraphs (a) and (o).  
The additions read as follows:

**§ 660.70 Groundfish conservation areas.**

(a) *General.* Groundfish conservation area (GCA) is defined in § 660.11. This section defines GCAs whose shapes are not exclusively defined by boundary lines approximating depth contours found in §§ 660.71 through 660.74 or commonly used geographic coordinates at § 660.11. Fishing activity that is prohibited or permitted within a particular GCA is detailed at subparts C through G of part 660.

\* \* \* \* \*

(o) *Cowcod Conservation Areas.* The Cowcod Conservation Areas (CCAs) are two areas off the southern California coast intended to protect cowcod.

(1) *Western CCA.* The Western CCA is an area south of Point Conception defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 33°50.00' N lat., 119°30.00' W long.:

- (i) 33°50.00' N lat., 119°30.00' W long.;
- (ii) 33°50.00' N lat., 118°50.00' W long.;
- (iii) 32°20.00' N lat., 118°50.00' W long.;
- (iv) 32°20.00' N lat., 119°37.00' W long.;
- (v) 33°00.00' N lat., 119°37.00' W long.;
- (vi) 33°00.00' N lat., 119°53.00' W long.;
- (vii) 33°33.00' N lat., 119°53.00' W long.; and
- (viii) 33°33.00' N lat., 119°30.00' W long.

(2) *Transit corridor.* The Western CCA transit corridor is bounded on the north by the latitude line at 33°00.50' N lat., and bounded on the south by the latitude line at 32°59.50' N lat.

(3) *Eastern CCA.* The Eastern CCA is an area west of San Diego defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed and connecting back to 32°42.00' N lat., 118°02.00' W long.:

- (i) 32°42.00' N lat., 118°02.00' W long.;
- (ii) 32°42.00' N lat., 117°50.00' W long.;
- (iii) 32°36.70' N lat., 117°50.00' W long.;
- (iv) 32°30.00' N lat., 117°53.50' W long.; and
- (v) 32°30.00' N lat., 118°02.00' W long.

\* \* \* \* \*

- 6. In § 660.71, revise the introductory text to read as follows:

**§ 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours.**

Boundaries for some GCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 10-fm (18-m) through 40-fm (73-m) depth contours.

\* \* \* \* \*

- 7. In § 660.72, revise the introductory text to read as follows:

**§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.**

Boundaries for some GCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 50 fm (91 m) through 75 fm (137 m) depth contours.

\* \* \* \* \*

- 8. In § 660.73, revise the introductory text to read as follows:

**§ 660.73 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.**

Boundaries for some GCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 100 fm (183 m) through 150 fm (274 m) depth contours.

\* \* \* \* \*

- 9. In § 660.74, revise the introductory text and paragraphs (l)(209) and (210) to read as follows:

**§ 660.74 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.**

Boundaries for some GCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 180 fm (329 m) through 250 fm (457 m) depth contours.

\* \* \* \* \*

- (l) \* \* \*
- (209) 34°27.00' N lat., 120°42.61' W long.;
- (210) 34°19.08' N lat., 120°31.21' W long.;

\* \* \* \* \*

- 10. Revise § 660.76 to read as follows:

**§ 660.76 Coastwide EFHCAs.**

(a) *General.* EFHCAs are defined at § 660.11. The boundaries of areas designated as EFHCAs are defined by straight lines connecting a series of latitude and longitude coordinates and other regulatory boundaries. This paragraph provides coordinates

outlining the boundaries of the coastwide EFHCA. Coordinates outlining the boundaries of EFHCAs off the coasts of Washington, Oregon, and California are provided in §§ 660.77, 660.78, and 660.79, respectively. Fishing activity that is prohibited or permitted within a particular EFHCA is detailed at subparts C through G of this part.

(b) *Seaward of the 700-fm (1280-m) contour.* This area includes all waters designated as EFH within the West Coast EEZ west of a line approximating the 700-fm (1280-m) depth contour which is defined by straight lines connecting all of the following points in the order stated:

- (1) 48°06.97' N lat., 126°02.96' W long.;
- (2) 48°00.44' N lat., 125°54.96' W long.;
- (3) 47°55.96' N lat., 125°46.51' W long.;
- (4) 47°47.21' N lat., 125°43.73' W long.;
- (5) 47°42.89' N lat., 125°49.58' W long.;
- (6) 47°38.18' N lat., 125°37.26' W long.;
- (7) 47°32.36' N lat., 125°32.87' W long.;
- (8) 47°29.77' N lat., 125°26.27' W long.;
- (9) 47°28.54' N lat., 125°18.82' W long.;
- (10) 47°19.25' N lat., 125°17.18' W long.;
- (11) 47°08.82' N lat., 125°10.01' W long.;
- (12) 47°04.69' N lat., 125°03.77' W long.;
- (13) 46°48.38' N lat., 125°18.43' W long.;
- (14) 46°41.92' N lat., 125°17.29' W long.;
- (15) 46°27.49' N lat., 124°54.36' W long.;
- (16) 46°14.13' N lat., 125°02.72' W long.;
- (17) 46°09.53' N lat., 125°04.75' W long.;
- (18) 45°46.64' N lat., 124°54.44' W long.;
- (19) 45°40.86' N lat., 124°55.62' W long.;
- (20) 45°36.50' N lat., 124°51.91' W long.;
- (21) 44°55.69' N lat., 125°08.35' W long.;
- (22) 44°49.93' N lat., 125°01.51' W long.;
- (23) 44°46.93' N lat., 125°02.83' W long.;
- (24) 44°41.96' N lat., 125°10.64' W long.;
- (25) 44°28.31' N lat., 125°11.42' W long.;
- (26) 43°58.37' N lat., 125°02.93' W long.;

(27) 43°52.74' N lat., 125°05.58' W long.;

(28) 43°44.18' N lat., 124°57.17' W long.;

(29) 43°37.58' N lat., 125°07.70' W long.;

(30) 43°15.95' N lat., 125°07.84' W long.;

(31) 42°47.50' N lat., 124°59.96' W long.;

(32) 42°39.02' N lat., 125°01.07' W long.;

(33) 42°34.80' N lat., 125°02.89' W long.;

(34) 42°34.11' N lat., 124°55.62' W long.;

(35) 42°23.81' N lat., 124°52.85' W long.;

(36) 42°16.80' N lat., 125°00.20' W long.;

(37) 42°06.60' N lat., 124°59.14' W long.;

(38) 41°59.28' N lat., 125°06.23' W long.;

(39) 41°31.10' N lat., 125°01.30' W long.;

(40) 41°14.52' N lat., 124°52.67' W long.;

(41) 40°40.65' N lat., 124°45.69' W long.;

(42) 40°35.05' N lat., 124°45.65' W long.;

(43) 40°23.81' N lat., 124°41.16' W long.;

(44) 40°20.54' N lat., 124°36.36' W long.;

(45) 40°20.84' N lat., 124°57.23' W long.;

(46) 40°18.54' N lat., 125°09.47' W long.;

(47) 40°14.54' N lat., 125°09.83' W long.;

(48) 40°11.79' N lat., 125°07.39' W long.;

(49) 40°06.72' N lat., 125°04.28' W long.;

(50) 39°52.62' N lat., 124°40.65' W long.;

(51) 39°52.29' N lat., 124°34.72' W long.;

(52) 39°55.19' N lat., 124°29.32' W long.;

(53) 39°54.43' N lat., 124°24.06' W long.;

(54) 39°44.25' N lat., 124°12.60' W long.;

(55) 39°35.82' N lat., 124°12.02' W long.;

(56) 39°24.54' N lat., 124°16.01' W long.;

(57) 39°01.97' N lat., 124°11.20' W long.;

(58) 38°33.48' N lat., 123°48.21' W long.;

(59) 38°14.49' N lat., 123°38.89' W long.;

(60) 37°56.97' N lat., 123°31.65' W long.;

(61) 37°49.09' N lat., 123°27.98' W long.;

(62) 37°40.29' N lat., 123°12.83' W long.;

(63) 37°22.54' N lat., 123°14.65' W long.;

(64) 37°05.98' N lat., 123°05.31' W long.;

(65) 36°59.02' N lat., 122°50.92' W long.;

(66) 36°51.52' N lat., 122°22.03' W long.;

(67) 36°49.09' N lat., 122°21.84' W long.;

(68) 36°50.47' N lat., 122°19.03' W long.;

(69) 36°50.14' N lat., 122°17.50' W long.;

(70) 36°44.54' N lat., 122°19.42' W long.;

(71) 36°40.76' N lat., 122°17.28' W long.;

(72) 36°39.88' N lat., 122°09.69' W long.;

(73) 36°40.02' N lat., 122°09.09' W long.;

(74) 36°40.99' N lat., 122°08.53' W long.;

(75) 36°41.17' N lat., 122°08.97' W long.;

(76) 36°44.52' N lat., 122°07.13' W long.;

(77) 36°42.26' N lat., 122°03.54' W long.;

(78) 36°30.02' N lat., 122°09.85' W long.;

(79) 36°22.33' N lat., 122°22.99' W long.;

(80) 36°14.36' N lat., 122°21.19' W long.;

(81) 36°09.50' N lat., 122°14.25' W long.;

(82) 35°51.50' N lat., 121°55.92' W long.;

(83) 35°49.53' N lat., 122°13.00' W long.;

(84) 34°58.30' N lat., 121°36.76' W long.;

(85) 34°53.13' N lat., 121°37.49' W long.;

(86) 34°46.54' N lat., 121°46.25' W long.;

(87) 34°37.81' N lat., 121°35.72' W long.;

(88) 34°37.72' N lat., 121°27.35' W long.;

(89) 34°26.77' N lat., 121°07.58' W long.;

(90) 34°18.54' N lat., 121°05.01' W long.;

(91) 34°02.68' N lat., 120°54.30' W long.;

(92) 33°48.11' N lat., 120°25.46' W long.;

(93) 33°42.54' N lat., 120°38.24' W long.;

(94) 33°46.26' N lat., 120°43.64' W long.;

(95) 33°40.71' N lat., 120°51.29' W long.;

(96) 33°33.14' N lat., 120°40.25' W long.;

(97) 32°51.57' N lat., 120°23.35' W long.;

(98) 32°38.54' N lat., 120°09.54' W long.;

(99) 32°35.76' N lat., 119°53.43' W long.;

(100) 32°29.54' N lat., 119°46.00' W long.;

(101) 32°25.99' N lat., 119°41.16' W long.;

(102) 32°30.46' N lat., 119°33.15' W long.;

(103) 32°23.47' N lat., 119°25.71' W long.;

(104) 32°19.19' N lat., 119°13.96' W long.;

(105) 32°13.18' N lat., 119°04.44' W long.;

(106) 32°13.40' N lat., 118°51.87' W long.;

(107) 32°19.62' N lat., 118°47.80' W long.;

(108) 32°27.26' N lat., 118°50.29' W long.;

(109) 32°28.42' N lat., 118°53.15' W long.;

(110) 32°31.30' N lat., 118°55.09' W long.;

(111) 32°33.04' N lat., 118°53.57' W long.;

(112) 32°19.07' N lat., 118°27.54' W long.;

(113) 32°18.57' N lat., 118°18.97' W long.;

(114) 32°09.01' N lat., 118°13.96' W long.;

(115) 32°06.57' N lat., 118°18.78' W long.;

(116) 32°01.32' N lat., 118°18.21' W long.; and

(117) 31°57.89' N lat., 118°10.51' W long.;

■ 11. Revise § 660.77 to read as follows:

**§ 660.77 EFHCAs off the Coast of Washington.**

(a) *General.* Boundary line coordinates for EFHCAs off Washington are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFHCAs is detailed at §§ 660.12, 660.112, 660.130, 660.212, 660.230, 660.312, 660.330, and 660.360.

(b) *Olympic 2.* The boundary of the Olympic 2 EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 48°21.46' N lat., 124°51.61' W long.:

(1) 48°21.46' N lat., 124°51.61' W long.;

(2) 48°17.00' N lat., 124°57.18' W long.;

(3) 48°06.13' N lat., 125°00.68' W long.;

(4) 48°06.66' N lat., 125°06.55' W long.;

(5) 48°08.44' N lat., 125°14.61' W long.;

(6) 48°22.57' N lat., 125°09.82' W long.;

(7) 48°21.42' N lat., 125°03.55' W long.;

(8) 48°22.99' N lat., 124°59.29' W long.; and

(9) 48°23.89' N lat., 124°54.37' W long.

(c) *Biogenic 1*. The boundary of the Biogenic 1 EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 47°29.97' N lat., 125°20.14' W long.:

(1) 47°29.97' N lat., 125°20.14' W long.;

(2) 47°30.01' N lat., 125°30.06' W long.;

(3) 47°40.09' N lat., 125°50.18' W long.;

(4) 47°47.27' N lat., 125°50.06' W long.;

(5) 47°47.00' N lat., 125°24.28' W long.;

(6) 47°39.53' N lat., 125°10.49' W long.; and

(7) 47°30.31' N lat., 125°08.81' W long.

(d) *Biogenic 2*. The boundary of the Biogenic 2 EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 47°08.77' N lat., 125°00.91' W long.:

(1) 47°08.77' N lat., 125°00.91' W long.;

(2) 47°08.82' N lat., 125°10.01' W long.;

(3) 47°20.01' N lat., 125°10.00' W long.; and

(4) 47°20.00' N lat., 125°01.25' W long.

(e) *Quinalt Canyon*. The boundary of the Quinalt Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 47°17.00' N lat., 125°15.63' W long.:

(1) 47°17.00' N lat., 125°15.63' W long.;

(2) 47°17.00' N lat., 125°10.00' W long.; and

(3) 47°08.82' N lat., 125°10.01' W long.

(f) *Grays Canyon*. The Grays Canyon EFHCA consists of two adjacent polygons defined in this paragraph, combined.

(1) *Grays Canyon North*. The boundary of Grays Canyon North is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°56.79' N lat., 125°00.00' W long.:

(i) 46°56.79' N lat., 125°00.00' W long.;

(ii) 46°58.30' N lat., 125°00.21' W long.;

(iii) 46°58.47' N lat., 124°59.08' W long.;

(iv) 47°01.04' N lat., 124°59.54' W long.;

(v) 47°03.63' N lat., 124°56.00' W long.;

(vi) 47°03.69' N lat., 124°55.84' W long.;

(vii) 47°02.69' N lat., 124°54.35' W long.;

(viii) 46°58.03' N lat., 124°54.12' W long.;

(ix) 46°55.91' N lat., 124°54.40' W long.; and

(x) 46°58.01' N lat., 124°55.09' W long.

(2) *Grays Canyon South-Central*. The boundary of Grays Canyon South-Central is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°56.79' N lat., 125°00.00' W long.:

(i) 46°56.79' N lat., 125°00.00' W long.;

(ii) 46°58.01' N lat., 124°55.09' W long.;

(iii) 46°55.91' N lat., 124°54.40' W long.;

(iv) 46°55.07' N lat., 124°54.14' W long.;

(v) 46°59.60' N lat., 124°49.79' W long.;

(vi) 46°58.72' N lat., 124°48.78' W long.;

(vii) 46°54.45' N lat., 124°48.36' W long.;

(viii) 46°53.99' N lat., 124°49.95' W long.;

(ix) 46°54.38' N lat., 124°52.73' W long.;

(x) 46°53.30' N lat., 124°52.35' W long.;

(xi) 46°53.30' N lat., 124°49.13' W long.;

(xii) 46°50.40' N lat., 124°49.06' W long.;

(xiii) 46°48.12' N lat., 124°47.94' W long.;

(xiv) 46°47.48' N lat., 124°50.86' W long.;

(xv) 46°49.81' N lat., 124°52.79' W long.; and

(xvi) 46°51.55' N lat., 125°00.00' W long.

(g) *Biogenic 3*. The boundary of the Biogenic 3 EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°48.16' N lat., 125°10.75' W long.:

(1) 46°48.16' N lat., 125°10.75' W long.;

(2) 46°40.00' N lat., 125°10.00' W long.;

(3) 46°40.00' N lat., 125°20.01' W long.; and

(4) 46°50.00' N lat., 125°20.00' W long.

(h) *Willapa Canyonhead*. The boundary of the Willapa Canyonhead

EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°33.50' N lat., 124°28.77' W long.:

(1) 46°33.50' N lat., 124°28.77' W long.;

(2) 46°33.50' N lat., 124°29.50' W long.;

(3) 46°33.85' N lat., 124°36.99' W long.;

(4) 46°36.50' N lat., 124°38.00' W long.;

(5) 46°37.50' N lat., 124°41.00' W long.;

(6) 46°37.64' N lat., 124°41.11' W long.;

(7) 46°39.43' N lat., 124°38.69' W long.; and

(8) 46°34.50' N lat., 124°28.50' W long.

(i) *Willapa Deep*. The boundary of the Willapa Deep EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°22.57' N lat., 124°46.70' W long.:

(1) 46°22.57' N lat., 124°46.70' W long.;

(2) 46°24.38' N lat., 124°56.31' W long.;

(3) 46°27.49' N lat., 124°54.36' W long.;

(4) 46°36.87' N lat., 125°09.27' W long.;

(5) 46°35.59' N lat., 125°04.58' W long.;

(6) 46°31.54' N lat., 124°57.53' W long.;

(7) 46°28.70' N lat., 124°51.77' W long.; and

(8) 46°23.78' N lat., 124°43.30' W long.

■ 12. Revise § 660.78 to read as follows:

**§ 660.78 EFHCAs off the Coast of Oregon.**

(a) *General*. Boundary line coordinates for EFHCAs off Oregon are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFHCA is detailed at §§ 660.12, 660.112, 660.130, 660.212, 660.230, 660.312, 660.330, and 660.360.

(b) *Astoria Deep*. The boundary of the Astoria Deep EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°03.00' N lat., 124°57.36' W long.:

(1) 46°03.00' N lat., 124°57.36' W long.;

(2) 46°05.37' N lat., 125°02.88' W long.;

(3) 46°09.53' N lat., 125°04.75' W long.;

(4) 46°14.13' N lat., 125°02.72' W long.;

(5) 46°14.79' N lat., 125°02.31' W long.;

(6) 46°08.28' N lat., 125°00.20' W long.; and

(7) 46°05.74' N lat., 124°55.32' W long.

(c) *Thompson Seamount*. The boundary of the Thompson Seamount EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°06.93' N lat., 128°39.77' W long.:

(1) 46°06.93' N lat., 128°39.77' W long.;

(2) 46°06.76' N lat., 128°39.60' W long.;

(3) 46°07.80' N lat., 128°39.43' W long.;

(4) 46°08.50' N lat., 128°34.39' W long.;

(5) 46°06.76' N lat., 128°29.36' W long.;

(6) 46°03.64' N lat., 128°28.67' W long.;

(7) 45°59.64' N lat., 128°31.62' W long.;

(8) 45°56.87' N lat., 128°33.18' W long.;

(9) 45°53.92' N lat., 128°39.25' W long.;

(10) 45°54.26' N lat., 128°43.42' W long.;

(11) 45°56.87' N lat., 128°45.85' W long.;

(12) 46°00.86' N lat., 128°46.02' W long.;

(13) 46°03.29' N lat., 128°44.81' W long.; and

(14) 46°06.24' N lat., 128°42.90' W long.

(d) *Astoria Canyon*. The boundary of the Astoria Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 46°06.48' N lat., 125°05.46' W long.:

(1) 46°06.48' N lat., 125°05.46' W long.;

(2) 46°03.00' N lat., 124°57.36' W long.;

(3) 46°02.28' N lat., 124°57.66' W long.;

(4) 46°01.92' N lat., 125°02.46' W long.;

(5) 45°48.72' N lat., 124°56.58' W long.;

(6) 45°47.70' N lat., 124°52.20' W long.;

(7) 45°40.86' N lat., 124°55.62' W long.;

(8) 45°29.82' N lat., 124°54.30' W long.;

(9) 45°25.98' N lat., 124°56.82' W long.;

(10) 45°26.04' N lat., 125°10.50' W long.;

(11) 45°33.12' N lat., 125°16.26' W long.;

(12) 45°40.32' N lat., 125°17.16' W long.; and

(13) 46°03.00' N lat., 125°14.94' W long.

(e) *Nehalem Bank/Shale Pile*. The boundary of the Nehalem Bank/Shale Pile EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 45°51.53' N lat., 124°31.15' W long.:

(1) 45°51.53' N lat., 124°31.15' W long.;

(2) 45°47.95' N lat., 124°31.70' W long.;

(3) 45°52.75' N lat., 124°39.20' W long.;

(4) 45°58.02' N lat., 124°38.99' W long.;

(5) 45°60.83' N lat., 124°36.78' W long.;

(6) 45°59.94' N lat., 124°34.63' W long.;

(7) 45°58.90' N lat., 124°33.47' W long.;

(8) 45°54.27' N lat., 124°30.73' W long.;

(9) 45°53.62' N lat., 124°30.83' W long.;

(10) 45°52.90' N lat., 124°30.67' W long.;

(11) 45°52.03' N lat., 124°30.60' W long.; and

(12) 45°51.74' N lat., 124°30.85' W long.

(f) *Garibaldi Reef North*. The boundary of the Garibaldi Reef North EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 45°40.81' N lat., 124°18.46' W long.:

(1) 45°40.81' N lat., 124°18.46' W long.;

(2) 45°39.70' N lat., 124°19.46' W long.;

(3) 45°40.84' N lat., 124°22.17' W long.;

(4) 45°44.94' N lat., 124°23.07' W long.;

(5) 45°45.17' N lat., 124°22.19' W long.; and

(6) 45°43.49' N lat., 124°18.94' W long.

(g) *Garibaldi Reef South*. The boundary of the Garibaldi Reef South EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 45°34.53' N lat., 124°15.47' W long.:

(1) 45°34.53' N lat., 124°15.47' W long.;

(2) 45°33.46' N lat., 124°13.59' W long.;

(3) 45°32.53' N lat., 124°14.39' W long.; and

(4) 45°33.58' N lat., 124°16.54' W long.

(h) *Siletz Deepwater*. The boundary of the Siletz Deepwater EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 44°42.72' N lat., 125°18.49' W long.:

(1) 44°42.72' N lat., 125°18.49' W long.;

(2) 44°56.26' N lat., 125°12.61' W long.;

(3) 44°56.34' N lat., 125°09.13' W long.;

(4) 44°49.93' N lat., 125°01.51' W long.;

(5) 44°46.93' N lat., 125°02.83' W long.;

(6) 44°41.96' N lat., 125°10.64' W long.;

(7) 44°33.36' N lat., 125°08.82' W long.; and

(8) 44°33.38' N lat., 125°17.08' W long.

(i) *Daisy Bank/Nelson Island*. The boundary of the Daisy Bank/Nelson Island EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 44°39.24' N lat., 124°38.65' W long.:

(1) 44°39.24' N lat., 124°38.65' W long.;

(2) 44°37.17' N lat., 124°38.60' W long.;

(3) 44°35.55' N lat., 124°39.27' W long.;

(4) 44°37.57' N lat., 124°41.70' W long.;

(5) 44°36.90' N lat., 124°42.91' W long.;

(6) 44°38.25' N lat., 124°46.28' W long.;

(7) 44°38.52' N lat., 124°49.11' W long.;

(8) 44°40.27' N lat., 124°49.11' W long.;

(9) 44°41.35' N lat., 124°48.03' W long.; and

(10) 44°43.92' N lat., 124°44.66' W long.

(j) *Newport Rockpile/Stonewall Bank*. The boundary of the Newport Rockpile/Stonewall Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 44°27.42' N lat., 124°19.52' W long.:

(1) 44°27.42' N lat., 124°19.52' W long.;

(2) 44°27.42' N lat., 124°25.31' W long.;

(3) 44°29.05' N lat., 124°28.88' W long.;

(4) 44°35.33' N lat., 124°28.87' W long.;

(5) 44°36.94' N lat., 124°26.78' W long.;

(6) 44°38.62' N lat., 124°26.76' W long.;

(7) 44°39.02' N lat., 124°25.56' W long.;

(8) 44°38.41' N lat., 124°22.73' W long.;

(9) 44°35.12' N lat., 124°21.79' W long.; and

(10) 44°28.82' N lat., 124°18.80' W long.

(k) *Hydrate Ridge*. The boundary of the Hydrate Ridge EFHCA is defined by

straight lines connecting all of the following points in the order stated and connecting back to 44°28.31' N lat., 125°11.42' W long.:

- (1) 44°28.31' N lat., 125°11.42' W long.;
- (2) 44°33.37' N lat., 125°11.13' W long.;
- (3) 44°33.36' N lat., 125°08.82' W long.;
- (4) 44°35.36' N lat., 125°09.24' W long.;
- (5) 44°35.36' N lat., 125°07.79' W long.; and
- (6) 44°28.31' N lat., 125°07.66' W long.

(l) *Heceta Bank*. The boundary of the Heceta Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 44°22.27' N lat., 124°37.63' W long.:

- (1) 44°22.27' N lat., 124°37.63' W long.;
- (2) 44°20.56' N lat., 124°36.27' W long.;
- (3) 44°21.06' N lat., 124°32.69' W long.;
- (4) 44°21.76' N lat., 124°29.28' W long.;
- (5) 44°21.23' N lat., 124°28.08' W long.;
- (6) 44°18.68' N lat., 124°28.13' W long.;
- (7) 44°17.66' N lat., 124°31.42' W long.;
- (8) 44°14.32' N lat., 124°31.15' W long.;
- (9) 44°13.02' N lat., 124°31.53' W long.;
- (10) 44°12.97' N lat., 124°32.29' W long.;
- (11) 44°13.84' N lat., 124°32.87' W long.;
- (12) 44°16.64' N lat., 124°33.44' W long.;
- (13) 44°17.00' N lat., 124°33.52' W long.;
- (14) 44°15.93' N lat., 124°35.93' W long.;
- (15) 44°14.38' N lat., 124°37.37' W long.;
- (16) 44°13.52' N lat., 124°40.45' W long.;
- (17) 44°09.00' N lat., 124°45.30' W long.;
- (18) 44°03.46' N lat., 124°45.71' W long.;
- (19) 43°58.55' N lat., 124°45.79' W long.;
- (20) 43°57.37' N lat., 124°50.89' W long.;
- (21) 43°56.66' N lat., 124°54.47' W long.;
- (22) 43°57.24' N lat., 124°55.54' W long.;
- (23) 43°57.68' N lat., 124°55.48' W long.;
- (24) 44°00.14' N lat., 124°55.25' W long.;

(25) 44°02.88' N lat., 124°53.96' W long.;

(26) 44°13.47' N lat., 124°54.08' W long.;

(27) 44°19.27' N lat., 124°41.03' W long.;

(28) 44°24.16' N lat., 124°40.62' W long.; and

(29) 44°24.10' N lat., 124°38.10' W long.

(m) *Deepwater off Coos Bay*. The boundary of the Deepwater off Coos Bay EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 43°29.32' N lat., 125°20.11' W long.:

- (1) 43°29.32' N lat., 125°20.11' W long.;
- (2) 43°38.96' N lat., 125°18.75' W long.;
- (3) 43°37.88' N lat., 125°08.26' W long.;
- (4) 43°36.58' N lat., 125°06.56' W long.;
- (5) 43°33.04' N lat., 125°08.41' W long.;
- (6) 43°27.74' N lat., 125°07.25' W long.;
- (7) 43°15.95' N lat., 125°07.84' W long.;
- (8) 43°15.38' N lat., 125°10.47' W long.; and
- (9) 43°25.73' N lat., 125°19.36' W long.

(n) *Arago Reef*. The boundary of the Arago Reef EFHCA is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

- (1) 43°08.49' N lat., 124°30.78' W long.;
- (2) 43°08.55' N lat., 124°30.79' W long.;
- (3) 43°10.22' N lat., 124°37.82' W long.;
- (4) 43°16.91' N lat., 124°37.50' W long.;
- (5) 43°16.51' N lat., 124°28.97' W long.; and
- (6) 43°16.88' N lat., 124°28.16' W long.

(o) *Bandon High Spot*. The boundary of the Bandon High Spot EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 42°57.18' N lat., 124°46.01' W long.:

- (1) 42°57.18' N lat., 124°46.01' W long.;
- (2) 42°56.10' N lat., 124°47.48' W long.;
- (3) 42°56.66' N lat., 124°48.79' W long.;
- (4) 42°53.67' N lat., 124°51.81' W long.;
- (5) 42°54.00' N lat., 124°53.03' W long.;
- (6) 42°55.11' N lat., 124°53.71' W long.;

(7) 42°58.00' N lat., 124°52.99' W long.;

(8) 43°00.39' N lat., 124°51.77' W long.;

(9) 43°02.64' N lat., 124°52.01' W long.;

(10) 43°06.07' N lat., 124°50.97' W long.;

(11) 43°06.07' N lat., 124°50.23' W long.;

(12) 43°04.47' N lat., 124°48.50' W long.;

(13) 43°03.20' N lat., 124°47.52' W long.; and

(14) 43°00.94' N lat., 124°46.57' W long.

(p) *President Jackson Seamount*. The boundary of the President Jackson Seamount EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 42°21.41' N lat., 127°42.91' W long.:

- (1) 42°21.41' N lat., 127°42.91' W long.;
- (2) 42°21.96' N lat., 127°43.73' W long.;
- (3) 42°23.78' N lat., 127°46.09' W long.;
- (4) 42°26.05' N lat., 127°48.64' W long.;
- (5) 42°28.60' N lat., 127°52.10' W long.;
- (6) 42°31.06' N lat., 127°55.02' W long.;
- (7) 42°34.61' N lat., 127°58.84' W long.;
- (8) 42°37.34' N lat., 128°01.48' W long.;
- (9) 42°39.62' N lat., 128°05.12' W long.;
- (10) 42°41.81' N lat., 128°08.13' W long.;
- (11) 42°43.44' N lat., 128°10.04' W long.;
- (12) 42°44.99' N lat., 128°12.04' W long.;
- (13) 42°48.27' N lat., 128°15.05' W long.;
- (14) 42°51.28' N lat., 128°15.05' W long.;
- (15) 42°53.64' N lat., 128°12.23' W long.;
- (16) 42°52.64' N lat., 128°08.49' W long.;
- (17) 42°51.64' N lat., 128°06.94' W long.;
- (18) 42°50.27' N lat., 128°05.76' W long.;
- (19) 42°48.18' N lat., 128°03.76' W long.;
- (20) 42°45.45' N lat., 128°01.94' W long.;
- (21) 42°42.17' N lat., 127°57.57' W long.;
- (22) 42°41.17' N lat., 127°53.92' W long.;
- (23) 42°38.80' N lat., 127°49.92' W long.;

(24) 42°36.43' N lat., 127°44.82' W long.;

(25) 42°33.52' N lat., 127°41.36' W long.;

(26) 42°31.24' N lat., 127°39.63' W long.;

(27) 42°28.33' N lat., 127°36.53' W long.;

(28) 42°23.96' N lat., 127°35.89' W long.;

(29) 42°21.96' N lat., 127°37.72' W long.; and

(30) 42°21.05' N lat., 127°40.81' W long.

(q) *Rogue Canyon*. The boundary of the Rogue Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 42°41.33' N lat., 125°16.61' W long.:

(1) 42°41.33' N lat., 125°16.61' W long.;

(2) 42°41.55' N lat., 125°03.05' W long.;

(3) 42°35.29' N lat., 125°02.21' W long.;

(4) 42°34.11' N lat., 124°55.62' W long.;

(5) 42°30.61' N lat., 124°54.97' W long.;

(6) 42°23.81' N lat., 124°52.85' W long.; and

(7) 42°17.94' N lat., 125°10.17' W long.

(r) *Rogue River Reef*. The boundary of the Rogue River Reef EFHCA is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(1) 42°23.27' N lat., 124°30.03' W long.;

(2) 42°24.10' N lat., 124°32.41' W long.;

(3) 42°22.28' N lat., 124°39.92' W long.;

(4) 42°25.46' N lat., 124°43.91' W long.;

(5) 42°27.87' N lat., 124°44.63' W long.;

(6) 42°29.27' N lat., 124°44.22' W long.;

(7) 42°29.71' N lat., 124°39.83' W long.;

(8) 42°29.36' N lat., 124°36.53' W long.; and

(9) 42°28.16' N lat., 124°34.05' W long.

■ 14. Revise § 660.79 to read as follows:

**§ 660.79 EFHCAs off the Coast of California.**

(a) *General*. Boundary line coordinates for EFHCA off California are provided in this section. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFHCA is detailed at §§ 660.12, 660.112, 660.130, 660.212, 660.230, 660.312, 660.330, and 660.360.

(b) *Brush Patch*. The boundary of the Brush Patch EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 41°51.03' N lat., 124°48.65' W long.:

(1) 41°51.03' N lat., 124°48.65' W long.;

(2) 41°51.98' N lat., 124°51.00' W long.;

(3) 41°53.63' N lat., 124°53.12' W long.;

(4) 41°55.22' N lat., 124°54.50' W long.;

(5) 41°57.16' N lat., 124°54.87' W long.;

(6) 41°59.16' N lat., 124°52.89' W long.;

(7) 41°58.93' N lat., 124°51.25' W long.;

(8) 41°57.98' N lat., 124°50.42' W long.;

(9) 41°54.50' N lat., 124°49.72' W long.;

(10) 41°52.66' N lat., 124°47.85' W long.; and

(11) 41°51.24' N lat., 124°47.23' W long.

(c) *Trinidad Canyon*. The boundary of the Trinidad Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 41°07.81' N lat., 124°51.29' W long.:

(1) 41°07.81' N lat., 124°51.29' W long.;

(2) 41°14.52' N lat., 124°52.67' W long.;

(3) 41°17.66' N lat., 124°54.31' W long.;

(4) 41°18.37' N lat., 124°45.50' W long.;

(5) 41°17.60' N lat., 124°43.42' W long.; and

(6) 41°09.44' N lat., 124°43.11' W long.

(d) *Mad River Rough Patch*. The boundary of the Mad River Rough Patch EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 40°53.66' N lat., 124°26.68' W long.:

(1) 40°53.66' N lat., 124°26.68' W long.;

(2) 40°54.49' N lat., 124°28.22' W long.;

(3) 40°54.88' N lat., 124°28.54' W long.;

(4) 40°57.27' N lat., 124°29.10' W long.;

(5) 40°57.37' N lat., 124°28.96' W long.;

(6) 40°57.27' N lat., 124°28.34' W long.;

(7) 40°54.56' N lat., 124°26.25' W long.; and

(8) 40°54.13' N lat., 124°26.27' W long.

(e) *Samoa Deepwater*. The boundary of the Samoa Deepwater EFHCA is

defined by straight lines connecting all of the following points in the order stated and connecting back to 40°50.11' N lat., 124°35.29' W long.:

(1) 40°50.11' N lat., 124°35.29' W long.;

(2) 40°46.37' N lat., 124°34.69' W long.;

(3) 40°48.50' N lat., 124°39.04' W long.;

(4) 40°51.96' N lat., 124°41.23' W long.; and

(5) 40°52.04' N lat., 124°38.08' W long.

(f) *Eel River Canyon*. The boundary of the Eel River Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 40°40.33' N lat., 124°41.82' W long.:

(1) 40°40.33' N lat., 124°41.82' W long.;

(2) 40°39.69' N lat., 124°33.36' W long.;

(3) 40°40.13' N lat., 124°32.61' W long.;

(4) 40°39.84' N lat., 124°31.21' W long.;

(5) 40°39.36' N lat., 124°30.48' W long.;

(6) 40°39.42' N lat., 124°29.40' W long.;

(7) 40°38.91' N lat., 124°28.42' W long.;

(8) 40°38.57' N lat., 124°28.49' W long.;

(9) 40°37.56' N lat., 124°28.78' W long.;

(10) 40°37.08' N lat., 124°28.42' W long.;

(11) 40°35.79' N lat., 124°29.21' W long.;

(12) 40°37.52' N lat., 124°33.41' W long.;

(13) 40°37.51' N lat., 124°34.46' W long.;

(14) 40°38.22' N lat., 124°35.72' W long.;

(15) 40°38.27' N lat., 124°39.11' W long.;

(16) 40°37.47' N lat., 124°40.46' W long.;

(17) 40°35.47' N lat., 124°42.97' W long.;

(18) 40°32.78' N lat., 124°44.79' W long.;

(19) 40°24.32' N lat., 124°39.97' W long.;

(20) 40°23.26' N lat., 124°42.45' W long.;

(21) 40°27.34' N lat., 124°51.21' W long.;

(22) 40°32.68' N lat., 124°65.63' W long.;

(23) 40°49.12' N lat., 124°47.41' W long.;

(24) 40°44.32' N lat., 124°46.48' W long.; and

(25) 40°41.67' N lat., 124°42.92' W long.

(g) *Blunts Reef*. The Blunts Reef EFHCA consists of the two adjacent polygons defined in this paragraph, combined.

(1) *Blunts Reef North*. The boundary of Blunts Reef North is defined by straight lines connecting all of the following points in the order stated and connecting back to 40°30.21' N lat., 124°26.85' W long.:

- (i) 40°30.21' N lat., 124°26.85' W long.;
- (ii) 40°27.53' N lat., 124°26.84' W long.;
- (iii) 40°24.66' N lat., 124°29.49' W long.;
- (iv) 40°27.84' N lat., 124°31.92' W long.;
- (v) 40°28.31' N lat., 124°33.49' W long.;
- (vi) 40°29.99' N lat., 124°33.49' W long.; and
- (vii) 40°30.46' N lat., 124°32.23' W long.

(2) *Blunts Reef South*. The boundary of Blunts Reef South is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by straight lines connecting the following coordinates in the order stated:

- (i) 40°27.84' N lat., 124°31.92' W long.;
- (ii) 40°28.31' N lat., 124°33.49' W long.;
- (iii) 40°22.49' N lat., 124°30.92' W long.; and
- (iv) 40°23.67' N lat., 124°28.43' W long.

(h) *Mendocino Ridge*. The Mendocino Ridge EFHCA consists of the two adjacent polygons defined in this paragraph, combined.

(1) *Mendocino Ridge North*. The boundary of Mendocino Ridge North is defined by straight lines connecting all of the following points in the order stated and connecting back to 40°25.23' N lat., 124°24.06' W long.:

- (i) 40°25.23' N lat., 124°24.06' W long.;
- (ii) 40°12.50' N lat., 124°22.59' W long.;
- (iii) 40°13.84' N lat., 124°31.89' W long.;
- (iv) 40°14.96' N lat., 124°35.42' W long.;
- (v) 40°15.92' N lat., 124°36.38' W long.;
- (vi) 40°15.81' N lat., 124°38.37' W long.;
- (vii) 40°17.45' N lat., 124°45.42' W long.;
- (viii) 40°18.39' N lat., 124°48.55' W long.;
- (ix) 40°19.98' N lat., 124°52.73' W long.;
- (x) 40°20.06' N lat., 125°02.18' W long.;

(xi) 40°11.79' N lat., 125°07.39' W long.;

(xii) 40°12.55' N lat., 125°11.56' W long.;

(xiii) 40°12.81' N lat., 125°12.98' W long.;

(xiv) 40°20.72' N lat., 125°57.31' W long.;

(xv) 40°23.96' N lat., 125°56.83' W long.;

(xvi) 40°24.04' N lat., 125°56.82' W long.;

(xvii) 40°25.68' N lat., 125°09.77' W long.;

(xviii) 40°21.03' N lat., 124°33.96' W long.; and

(xix) 40°25.72' N lat., 124°24.15' W long.

(2) *Mendocino Ridge South*. The boundary of Mendocino Ridge South is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(i) 40°10.03' N lat., 124°20.51' W long.;

(ii) 40°10.42' N lat., 124°22.26' W long.;

(iii) 40°13.84' N lat., 124°31.89' W long.; and

(iv) 40°12.82' N lat., 124°24.85' W long.

(i) *Delgada Canyon*. The boundary of the Delgada Canyon EFHCA is defined as the areas of the state territorial sea, east of the West Coast EEZ and within a boundary line defined by connecting the following coordinates in the order stated:

(1) 40°06.58' N lat., 124°07.39' W long.;

(2) 40°01.37' N lat., 124°08.79' W long.;

(3) 40°04.35' N lat., 124°10.89' W long.;

(4) 40°05.71' N lat., 124°09.42' W long.;

(5) 40°07.18' N lat., 124°09.61' W long.; and

(6) 40°07.13' N lat., 124°09.09' W long.

(j) *Tolo Bank*. The boundary of the Tolo Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 39°58.75' N lat., 124°04.58' W long.:

(1) 39°58.75' N lat., 124°04.58' W long.;

(2) 39°56.05' N lat., 124°01.45' W long.;

(3) 39°53.99' N lat., 124°00.17' W long.;

(4) 39°52.28' N lat., 124°03.12' W long.; and

(5) 39°57.90' N lat., 124°07.07' W long.

(k) *Navarro Canyon*. The boundary of the Navarro Canyon EFHCA is defined

by straight lines connecting all of the following points in the order stated and connecting back to 39°04.76' N lat., 124°11.80' W long.:

(1) 39°04.76' N lat., 124°11.80' W long.;

(2) 39°11.84' N lat., 124°13.30' W long.;

(3) 39°11.39' N lat., 124°10.38' W long.;

(4) 39°08.73' N lat., 124°10.38' W long.;

(5) 39°07.16' N lat., 124°08.98' W long.; and

(6) 39°06.07' N lat., 124°08.55' W long.

(l) *Point Arena North*. The boundary of the Point Arena North EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 39°03.32' N lat., 123°51.15' W long.:

(1) 39°03.32' N lat., 123°51.15' W long.;

(2) 38°56.54' N lat., 123°49.79' W long.;

(3) 38°54.12' N lat., 123°52.69' W long.;

(4) 38°59.64' N lat., 123°55.02' W long.; and

(5) 39°02.83' N lat., 123°55.21' W long.

(m) *Point Arena South Biogenic Area*. The boundary of the Point Arena South Biogenic Area EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 38°33.24' N lat., 123°35.18' W long.:

(1) 38°33.24' N lat., 123°35.18' W long.;

(2) 38°32.01' N lat., 123°35.78' W long.;

(3) 38°33.19' N lat., 123°40.30' W long.;

(4) 38°34.62' N lat., 123°42.32' W long.;

(5) 38°35.98' N lat., 123°44.22' W long.;

(6) 38°38.27' N lat., 123°46.57' W long.;

(7) 38°41.11' N lat., 123°48.69' W long.;

(8) 38°41.95' N lat., 123°45.41' W long.;

(9) 38°36.02' N lat., 123°41.30' W long.; and

(10) 38°34.37' N lat., 123°37.47' W long.

(n) *The Football*. The boundary of The Football EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 38°24.36' N lat., 123°32.10' W long.:

(1) 38°24.36' N lat., 123°32.10' W long.;

(2) 38°23.58' N lat., 123°33.96' W long.;

(3) 38°29.10' N lat., 123°37.32' W long.; and

(4) 38°29.04' N lat., 123°35.04' W long.

(o) *Gobbler's Knob*. The boundary of the Gobbler's Knob EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 38°06.84' N lat., 123°25.98' W long.:

(1) 38°06.84' N lat., 123°25.98' W long.;

(2) 38°07.14' N lat., 123°27.60' W long.;

(3) 38°11.64' N lat., 123°29.58' W long.;

(4) 38°12.36' N lat., 123°28.80' W long.;

(5) 38°12.42' N lat., 123°27.78' W long.; and

(6) 38°08.70' N lat., 123°25.98' W long.

(p) *Point Reyes Reef*. The boundary of the Point Reyes Reef EFHCA is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(1) 38°2.88' N lat., 123°03.46' W long.;

(2) 38°2.98' N lat., 123°03.84' W long.;

(3) 38°6.52' N lat., 123°03.63' W long.;

(4) 38°8.69' N lat., 123°01.86' W long.;

and

(5) 38°8.92' N lat., 123°00.90' W long.

(q) *Cordell Bank/Biogenic Area*. The boundary of the Cordell Bank/Biogenic Area EFHCA is located offshore of California's Marin County defined by straight lines connecting all of the following points in the order stated and connecting back to 38°05.46' N lat., 123°25.97' W long.:

(1) 38°05.46' N lat., 123°25.97' W long.;

(2) 38°04.44' N lat., 123°24.44' W long.;

(3) 38°03.05' N lat., 123°21.33' W long.;

(4) 38°03.07' N lat., 123°07.35' W long.;

(5) 38°02.84' N lat., 123°07.36' W long.;

(6) 38°01.09' N lat., 123°07.06' W long.;

(7) 38°01.02' N lat., 123°22.08' W long.;

(8) 37°54.75' N lat., 123°23.64' W long.;

(9) 37°46.01' N lat., 123°25.62' W long.;

(10) 37°46.68' N lat., 123°27.05' W long.;

(11) 37°47.66' N lat., 123°28.18' W long.;

(12) 37°50.26' N lat., 123°30.94' W long.;

(13) 37°54.41' N lat., 123°32.69' W long.;

(14) 37°56.94' N lat., 123°32.87' W long.;

(15) 37°57.09' N lat., 123°26.39' W long.;

(16) 37°57.76' N lat., 123°26.48' W long.;

(17) 37°58.57' N lat., 123°26.95' W long.;

(18) 37°59.94' N lat., 123°28.58' W long.;

(19) 38°00.27' N lat., 123°29.32' W long.;

(20) 38°00.63' N lat., 123°29.95' W long.;

(21) 38°01.23' N lat., 123°30.53' W long.;

(22) 38°01.60' N lat., 123°30.81' W long.;

(23) 38°01.84' N lat., 123°31.05' W long.;

(24) 38°02.00' N lat., 123°31.31' W long.;

(25) 38°02.37' N lat., 123°31.45' W long.;

(26) 38°03.99' N lat., 123°30.75' W long.;

(27) 38°04.85' N lat., 123°30.36' W long.; and

(28) 38°05.73' N lat., 123°28.46' W long.

(r) *Cordell Bank (50-fm (91-m) isobath)*. The boundary of the Cordell Bank (50-fm (91-m) isobath) EFHCA is located offshore of California's Marin County defined by straight lines connecting all of the following points in the order stated and connecting back to 37°57.62' N lat., 123°24.22' W long.:

(1) 37°57.62' N lat., 123°24.22' W long.;

(2) 37°57.70' N lat., 123°25.25' W long.;

(3) 37°59.47' N lat., 123°26.63' W long.;

(4) 38°00.24' N lat., 123°27.87' W long.;

(5) 38°00.98' N lat., 123°27.65' W long.;

(6) 38°02.81' N lat., 123°28.75' W long.;

(7) 38°04.26' N lat., 123°29.25' W long.;

(8) 38°04.55' N lat., 123°28.32' W long.;

(9) 38°03.87' N lat., 123°27.69' W long.;

(10) 38°04.27' N lat., 123°26.68' W long.;

(11) 38°02.67' N lat., 123°24.17' W long.;

(12) 38°00.87' N lat., 123°23.15' W long.;

(13) 37°59.32' N lat., 123°22.52' W long.; and

(14) 37°58.24' N lat., 123°23.16' W long.

(s) *Rittenburg Bank*. The boundary of the Rittenburg Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 37°51.36' N lat., 123°19.18' W long.:

(1) 37°51.36' N lat., 123°19.18' W long.;

(2) 37°53.61' N lat., 123°21.67' W long.;

(3) 37°54.32' N lat., 123°19.69' W long.;

(4) 37°53.98' N lat., 123°18.99' W long.;

(5) 37°54.96' N lat., 123°16.32' W long.; and

(6) 37°53.32' N lat., 123°15.00' W long.

(t) *Farallon Islands/Fanny Shoal/Cochrane Bank*. The boundary of the Farallon Islands/Fanny Shoal/Cochrane Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 37°51.58' N lat., 123°14.07' W long.:

(1) 37°51.58' N lat., 123°14.07' W long.;

(2) 37°44.51' N lat., 123°01.50' W long.;

(3) 37°41.71' N lat., 122°58.38' W long.;

(4) 37°40.80' N lat., 122°58.54' W long.;

(5) 37°39.87' N lat., 122°59.64' W long.;

(6) 37°42.05' N lat., 123°03.72' W long.;

(7) 37°43.73' N lat., 123°04.45' W long.;

(8) 37°46.94' N lat., 123°11.65' W long.;

(9) 37°46.51' N lat., 123°14.14' W long.;

(10) 37°47.87' N lat., 123°16.94' W long.; and

(11) 37°49.23' N lat., 123°16.81' W long.

(u) *Farallon Escarpment*. The boundary of the Farallon Escarpment EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 37°44.85' N lat., 123°13.73' W long.:

(1) 37°44.85' N lat., 123°13.73' W long.;

(2) 37°45.58' N lat., 123°12.74' W long.;

(3) 37°45.18' N lat., 123°11.87' W long.;

(4) 37°42.71' N lat., 123°09.04' W long.;

(5) 37°40.73' N lat., 123°08.42' W long.;

(6) 37°39.15' N lat., 123°06.76' W long.;

(7) 37°38.26' N lat., 123°08.27' W long.;

(8) 37°34.32' N lat., 123°07.43' W long.;

(9) 37°29.55' N lat., 123°09.74' W long.;

(10) 37°29.18' N lat., 123°13.97' W long.;

(11) 37°40.29' N lat., 123°12.83' W long.;

(12) 37°47.52' N lat., 123°25.28' W long.; and

(13) 37°50.65' N lat., 123°24.57' W long.

(v) *Half Moon Bay*. The boundary of the Half Moon Bay EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 37°18.14' N lat., 122°31.15' W long.:

(1) 37°18.14' N lat., 122°31.15' W long.;

(2) 37°19.80' N lat., 122°34.70' W long.;

(3) 37°19.28' N lat., 122°38.76' W long.;

(4) 37°23.54' N lat., 122°40.75' W long.;

(5) 37°25.41' N lat., 122°33.20' W long.; and

(6) 37°23.28' N lat., 122°30.71' W long.

(w) *Pescadero Reef*. The boundary of the Pescadero Reef EFHCA is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(1) 37°17.18' N lat., 122°28.34' W long.;

(2) 37°17.76' N lat., 122°29.59' W long.;

(3) 37°19.38' N lat., 122°29.63' W long.; and

(4) 37°19.50' N lat., 122°28.00' W long.;

(x) *Pigeon Point Reef*. The boundary of the Pigeon Point EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 37°06.02' N lat., 122°28.14' W long.:

(1) 37°06.02' N lat., 122°28.14' W long.;

(2) 37°08.91' N lat., 122°31.76' W long.;

(3) 37°10.29' N lat., 122°29.70' W long.; and

(4) 37°07.20' N lat., 122°26.82' W long.

(y) *Ascension Canyonhead*. The boundary of the Ascension Canyonhead EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°56.88' N lat., 122°24.84' W long.:

(1) 36°56.88' N lat., 122°24.84' W long.;

(2) 36°57.30' N lat., 122°26.36' W long.;

(3) 36°56.65' N lat., 122°27.06' W long.;

(4) 37°01.55' N lat., 122°24.73' W long.;

(5) 37°01.40' N lat., 122°24.37' W long.;

(6) 37°01.00' N lat., 122°24.35' W long.;

(7) 37°00.61' N lat., 122°24.03' W long.; and

(8) 36°59.20' N lat., 122°24.64' W long.

(z) *South of Davenport*. The boundary of the South of Davenport EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°54.00' N lat., 122°13.05' W long.:

(1) 36°54.00' N lat., 122°13.05' W long.;

(2) 36°56.79' N lat., 122°17.91' W long.;

(3) 36°57.80' N lat., 122°18.14' W long.;

(4) 36°57.84' N lat., 122°17.72' W long.;

(5) 36°57.38' N lat., 122°17.05' W long.;

(6) 36°55.84' N lat., 122°14.26' W long.;

(7) 36°54.80' N lat., 122°12.61' W long.; and

(8) 36°54.49' N lat., 122°12.48' W long.

(aa) *Monterey Bay/Canyon*. The boundary of the Monterey Bay/Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°54.17' N lat., 122°23.68' W long.:

(1) 36°54.17' N lat., 122°23.68' W long.;

(2) 36°53.58' N lat., 122°22.48' W long.;

(3) 36°52.72' N lat., 122°22.11' W long.;

(4) 36°49.09' N lat., 122°21.84' W long.;

(5) 36°50.47' N lat., 122°19.03' W long.;

(6) 36°49.60' N lat., 122°15.08' W long.;

(7) 36°49.37' N lat., 122°15.20' W long.;

(8) 36°48.31' N lat., 122°18.59' W long.;

(9) 36°45.55' N lat., 122°18.91' W long.;

(10) 36°44.32' N lat., 122°18.49' W long.;

(11) 36°42.04' N lat., 122°16.07' W long.;

(12) 36°40.30' N lat., 122°13.31' W long.;

(13) 36°39.88' N lat., 122°09.69' W long.;

(14) 36°40.02' N lat., 122°09.09' W long.;

(15) 36°40.99' N lat., 122°08.53' W long.;

(16) 36°41.30' N lat., 122°09.35' W long.;

(17) 36°44.94' N lat., 122°08.46' W long.;

(18) 36°46.31' N lat., 122°05.48' W long.;

(19) 36°48.50' N lat., 122°06.02' W long.;

(20) 36°49.18' N lat., 122°03.12' W long.;

(21) 36°47.80' N lat., 122°02.71' W long.;

(22) 36°49.60' N lat., 122°00.85' W long.;

(23) 36°51.53' N lat., 121°58.25' W long.;

(24) 36°50.78' N lat., 121°56.89' W long.;

(25) 36°47.39' N lat., 121°58.16' W long.;

(26) 36°48.34' N lat., 121°50.95' W long.;

(27) 36°47.23' N lat., 121°52.25' W long.;

(28) 36°45.60' N lat., 121°54.17' W long.;

(29) 36°44.76' N lat., 121°56.04' W long.;

(30) 36°41.68' N lat., 121°56.33' W long.;

(31) 36°38.21' N lat., 121°55.96' W long.; extending along the mainland coast to

(32) 36°25.31' N lat., 121°54.86' W long.;

(33) 36°25.25' N lat., 121°58.34' W long.;

(34) 36°30.86' N lat., 122°00.45' W long.;

(35) 36°30.78' N lat., 122°01.32' W long.;

(36) 36°31.22' N lat., 122°01.35' W long.;

(37) 36°32.38' N lat., 122°01.69' W long.;

(38) 36°35.41' N lat., 122°04.44' W long.;

(39) 36°34.69' N lat., 122°04.99' W long.;

(40) 36°30.59' N lat., 122°03.45' W long.;

(41) 36°30.02' N lat., 122°09.85' W long.;

(42) 36°30.23' N lat., 122°36.82' W long.;

(43) 36°55.08' N lat., 122°36.46' W long.;

(44) 36°54.01' N lat., 122°29.95' W long.;

(45) 36°56.65' N lat., 122°27.06' W long.;

(46) 36°57.30' N lat., 122°26.36' W long.;

(47) 36°56.88' N lat., 122°24.84' W long.; and

(48) 36°56.53' N lat., 122°23.58' W long.

(bb) *West of Sobranes Point*. The boundary of the West of Sobranes Point EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°30.59' N lat., 122°03.45' W long.:

(1) 36°30.59' N lat., 122°03.45' W long.;

(2) 36°25.41' N lat., 122°13.54' W long.;

(3) 36°25.71' N lat., 122°17.22' W long.; and

(4) 36°30.02' N lat., 122°09.85' W long.

(cc) *Point Sur Deep*. The boundary of the Point Sur Deep EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°17.95' N lat., 122°17.13' W long.:

(1) 36°17.95' N lat., 122°17.13' W long.;

(2) 36°17.83' N lat., 122°22.56' W long.;

(3) 36°22.33' N lat., 122°22.99' W long.;

(4) 36°26.00' N lat., 122°20.81' W long.; and

(5) 36°25.41' N lat., 122°13.54' W long.

(dd) *Big Sur Coast/Port San Luis*. The Big Sur Coast/Port San Luis EFHCA consists of the three adjacent polygons defined in this paragraph, combined.

(1) *Main*. The main polygon covers Davidson Seamount, portions of Santa Lucia Bank and Sur Canyon, and is defined by straight lines connecting all of the following points in the order stated and connecting back to 36°15.74' N lat., 121°56.75' W long.:

(i) 36°15.74' N lat., 121°56.75' W long.;

(ii) 36°15.84' N lat., 121°56.35' W long.;

(iii) 36°14.27' N lat., 121°53.89' W long.;

(iv) 36°10.93' N lat., 121°48.66' W long.;

(v) 36°07.40' N lat., 121°43.14' W long.;

(vi) 36°07.36' N lat., 121°43.26' W long.;

(vii) 35°59.00' N lat., 121°50.49' W long.;

(viii) 35°55.70' N lat., 121°50.02' W long.;

(ix) 35°53.05' N lat., 121°56.69' W long.;

(x) 35°38.99' N lat., 121°49.73' W long.;

(xi) 35°20.06' N lat., 121°27.00' W long.;

(xii) 35°20.39' N lat., 121°33.08' W long.;

(xiii) 35°09.72' N lat., 121°33.92' W long.;

(xiv) 35°06.21' N lat., 121°33.51' W long.;

(xv) 35°04.09' N lat., 121°32.19' W long.;

(xvi) 35°02.65' N lat., 121°30.63' W long.;

(xvii) 35°02.79' N lat., 121°26.30' W long.;

(xviii) 34°58.71' N lat., 121°24.21' W long.;

(xix) 34°47.24' N lat., 121°22.40' W long.;

(xx) 34°35.70' N lat., 121°45.99' W long.;

(xxi) 35°47.36' N lat., 122°30.25' W long.;

(xxii) 35°27.26' N lat., 122°45.15' W long.;

(xxiii) 35°34.39' N lat., 123°00.25' W long.;

(xxiv) 36°01.64' N lat., 122°40.76' W long.;

(xxv) 36°17.41' N lat., 122°41.22' W long.;

(xxvi) 36°17.83' N lat., 122°22.56' W long.;

(xxvii) 36°17.95' N lat., 122°17.13' W long.;

(xxviii) 36°13.85' N lat., 122°15.95' W long.;

(xxix) 36°12.30' N lat., 122°10.19' W long.;

(xxx) 36°09.95' N lat., 122°03.73' W long.;

(xxxi) 36°09.93' N lat., 121°56.57' W long.;

(xxxii) 36°11.89' N lat., 121°55.81' W long.;

(xxxiii) 36°12.58' N lat., 121°58.55' W long.;

(xxxiv) 36°13.95' N lat., 121°58.45' W long.;

(xxxv) 36°14.84' N lat., 122°00.28' W long.; and

(xxxvi) 36°15.21' N lat., 121°58.83' W long.

(2) *North*. This area is a northern expansion in the vicinity of Point Sur Platform and is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(i) 36°15.74' N lat., 121°56.75' W long.;

(ii) 36°15.21' N lat., 121°58.83' W long.;

(iii) 36°16.66' N lat., 122°01.19' W long.;

(iv) 36°17.95' N lat., 122°02.25' W long.;

(v) 36°18.56' N lat., 122°01.53' W long.; and

(vi) 36°17.65' N lat., 121°57.85' W long.

(3) *Northeast*. This area is a northeastern expansion in the vicinity of Partington Point and Lopez Point and is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(i) 36°02.32' N lat., 121°39.40' W long.;

(ii) 35°58.89' N lat., 121°45.38' W long.;

(iii) 35°59.00' N lat., 121°50.49' W long.; and

(iv) 36°07.36' N lat., 121°43.26' W long.

(ee) *Davidson Seamount*. The boundary of the Davidson Seamount

EFHCA is defined by straight lines connecting the following points in the order stated and connecting back to 35°54.00' N lat., 123°00.00' W long.:

(1) 35°54.00' N lat., 123°00.00' W long.;

(2) 35°54.00' N lat., 122°30.00' W long.;

(3) 35°30.00' N lat., 122°30.00' W long.; and

(4) 35°30.00' N lat., 123°00.00' W long.

(ff) *La Cruz Canyon*. The boundary of the La Cruz Canyon EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 35°42.85' N lat., 121°25.92' W long.:

(1) 35°42.85' N lat., 121°25.92' W long.;

(2) 35°42.83' N lat., 121°26.31' W long.;

(3) 35°43.63' N lat., 121°26.92' W long.;

(4) 35°45.14' N lat., 121°27.61' W long.;

(5) 35°46.88' N lat., 121°27.80' W long.;

(6) 35°49.15' N lat., 121°29.43' W long.;

(7) 35°49.53' N lat., 121°28.71' W long.;

(8) 35°49.15' N lat., 121°27.84' W long.;

(9) 35°48.68' N lat., 121°27.58' W long.;

(10) 35°47.84' N lat., 121°27.75' W long.;

(11) 35°46.50' N lat., 121°26.57' W long.;

(12) 35°45.40' N lat., 121°25.99' W long.;

(13) 35°44.19' N lat., 121°24.69' W long.; and

(14) 35°43.83' N lat., 121°26.52' W long.

(gg) *West of Piedras Blancas State Marine Conservation Area*. The boundary of the West of Piedras Blancas SMCA EFHCA is defined as the areas within the West Coast EEZ shoreward (east) of a boundary line defined by connecting the following coordinates in the order stated:

(1) 35°39.12' N lat., 121°20.94' W long.;

(2) 35°39.11' N lat., 121°21.32' W long.;

(3) 35°40.63' N lat., 121°22.63' W long.;

(4) 35°42.84' N lat., 121°23.67' W long.; and

(5) 35°42.85' N lat., 121°22.81' W long.

(hh) *East San Lucia Bank*. The boundary of the East San Lucia Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 34°45.09' N lat., 121°05.73' W long.:

(1) 34°45.09' N lat., 121°05.73' W long.;

(2) 34°39.90' N lat., 121°10.30' W long.;

(3) 34°43.39' N lat., 121°14.73' W long.;

(4) 34°52.83' N lat., 121°14.85' W long.; and

(5) 34°52.82' N lat., 121°05.90' W long.

(ii) *Point Conception*. The boundary of the Point Conception EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 34°29.24' N lat., 120°36.05' W long.:

(1) 34°29.24' N lat., 120°36.05' W long.;

(2) 34°28.57' N lat., 120°34.44' W long.;

(3) 34°26.81' N lat., 120°33.21' W long.;

(4) 34°24.54' N lat., 120°32.23' W long.;

(5) 34°23.41' N lat., 120°30.61' W long.;

(6) 33°53.05' N lat., 121°05.19' W long.;

(7) 34°13.64' N lat., 121°20.91' W long.;

(8) 34°40.04' N lat., 120°54.01' W long.;

(9) 34°36.41' N lat., 120°43.48' W long.;

(10) 34°33.50' N lat., 120°43.72' W long.;

(11) 34°31.22' N lat., 120°42.06' W long.;

(12) 34°30.04' N lat., 120°40.27' W long.;

(13) 34°30.02' N lat., 120°40.23' W long.; and

(14) 34°29.26' N lat., 120°37.89' W long.

(jj) *Harris Point*. The boundary of the Harris Point EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 34°03.10' N lat., 120°23.30' W long.;

(2) 34°12.50' N lat., 120°23.30' W long.;

(3) 34°12.50' N lat., 120°18.40' W long.;

(4) 34°01.80' N lat., 120°18.40' W long.;

(5) 34°02.90' N lat., 120°20.20' W long.; and

(6) 34°03.50' N lat., 120°21.30' W long.

(kk) *Harris Point Exception*. An exemption to the Harris Point reserve, where commercial and recreational take of living marine resources is allowed, exists between the mean high water line in Cuyler Harbor and a straight line connecting all of the following points:

(1) 34°02.90' N lat., 120°20.20' W long.; and

(2) 34°03.50' N lat., 120°21.30' W long.

(ll) *Richardson Rock*. The boundary of the Richardson Rock EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 34°10.40' N lat., 120°28.20' W long.:

(1) 34°10.40' N lat., 120°28.20' W long.;

(2) 34°10.40' N lat., 120°36.29' W long.;

(3) 34°02.21' N lat., 120°36.29' W long.; and

(4) 34°02.21' N lat., 120°28.20' W long.

(mm) *Scorpion*. The boundary of the Scorpion EFHCA is defined by the mean high water line and a straight line connecting all of the following points in the order stated:

(1) 34°02.94' N lat., 119°35.50' W long.;

(2) 34°09.35' N lat., 119°35.50' W long.;

(3) 34°09.35' N lat., 119°32.80' W long.; and

(4) 34°02.80' N lat., 119°32.80' W long.

(nn) *Painted Cave*. The boundary of the Painted Cave EFHCA is defined by the mean high water line and a straight line connecting all of the following points in the order stated:

(1) 34°04.50' N lat., 119°53.00' W long.;

(2) 34°05.20' N lat., 119°53.00' W long.;

(3) 34°05.00' N lat., 119°51.00' W long.; and

(4) 34°04.00' N lat., 119°51.00' W long.

(oo) *Anacapa Island*. The boundary of the Anacapa Island EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 34°00.80' N lat., 119°26.70' W long.;

(2) 34°05.00' N lat., 119°26.70' W long.;

(3) 34°05.00' N lat., 119°21.40' W long.; and

(4) 34°01.00' N lat., 119°21.40' W long.

(pp) *Carrington Point*. The boundary of the Carrington Point EFHCA is defined by the mean high water line and straight lines connecting all of the following points:

(1) 34°01.30' N lat., 120°05.20' W long.;

(2) 34°04.00' N lat., 120°05.20' W long.;

(3) 34°04.00' N lat., 120°01.00' W long.;

(4) 34°00.50' N lat., 120°01.00' W long.; and

(5) 34°00.50' N lat., 120°02.80' W long.

(qq) *Judith Rock*. The boundary of the Judith Rock EFHCA is defined by the mean high water line and a straight line connecting all of the following points in the order stated:

(1) 34°01.80' N lat., 120°26.60' W long.;

(2) 33°58.50' N lat., 120°26.60' W long.;

(3) 33°58.50' N lat., 120°25.30' W long.; and

(4) 34°01.50' N lat., 120°25.30' W long.

(rr) *Skunk Point*. The boundary of the Skunk Point EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°59.00' N lat., 119°58.80' W long.;

(2) 33°59.00' N lat., 119°58.02' W long.;

(3) 33°57.10' N lat., 119°58.00' W long.; and

(4) 33°57.10' N lat., 119°58.20' W long.

(ss) *Footprint*. The boundary of the Footprint EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 33°59.00' N lat., 119°26.00' W long.:

(1) 33°59.00' N lat., 119°26.00' W long.;

(2) 33°59.00' N lat., 119°31.00' W long.;

(3) 33°54.11' N lat., 119°31.00' W long.; and

(4) 33°54.11' N lat., 119°26.00' W long.

(tt) *Gull Island*. The boundary of the Gull Island EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°58.02' N lat., 119°51.00' W long.;

(2) 33°58.02' N lat., 119°53.00' W long.;

(3) 33°51.63' N lat., 119°53.00' W long.;

(4) 33°51.62' N lat., 119°48.00' W long.; and

(5) 33°57.70' N lat., 119°48.00' W long.

(uu) *South Point*. The boundary of the South Point EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°55.00' N lat., 120°10.00' W long.;

(2) 33°50.40' N lat., 120°10.00' W long.;

(3) 33°50.40' N lat., 120°06.50' W long.; and

(4) 33°53.80' N lat., 120°06.50' W long.

(vv) *Hidden Reef/Kidney Bank*. The boundary of the Hidden Reef/Kidney

Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 33°48.00' N lat., 119°15.06' W long.:

(1) 33°48.00' N lat., 119°15.06' W long.;

(2) 33°48.00' N lat., 118°57.06' W long.;

(3) 33°33.00' N lat., 118°57.06' W long.; and

(4) 33°33.00' N lat., 119°15.06' W long.

(ww) *Catalina Island*. The boundary of the Catalina Island EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 33°34.71' N lat., 118°11.40' W long.:

(1) 33°34.71' N lat., 118°11.40' W long.;

(2) 33°25.88' N lat., 118°03.76' W long.;

(3) 33°11.69' N lat., 118°09.21' W long.;

(4) 33°19.73' N lat., 118°35.41' W long.;

(5) 33°23.90' N lat., 118°35.11' W long.;

(6) 33°25.68' N lat., 118°41.66' W long.;

(7) 33°30.25' N lat., 118°42.25' W long.;

(8) 33°32.73' N lat., 118°38.38' W long.; and

(9) 33°27.07' N lat., 118°20.33' W long.

(xx) *Santa Barbara*. The Santa Barbara EFHCA is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°28.50' N lat., 119°01.70' W long.;

(2) 33°28.50' N lat., 118°54.54' W long.;

(3) 33°21.78' N lat., 118°54.54' W long.;

(4) 33°21.78' N lat., 119°02.20' W long.; and

(5) 33°27.90' N lat., 119°02.20' W long.

(yy) *Potato Bank*. Potato Bank is within the Western Cowcod Conservation Area, defined at § 660.70. The boundary of the Potato Bank EFHCA is defined by straight lines connecting all of the following points in the order stated and connecting back to 33°11.00' N lat., 119°55.67' W long.:

(1) 33°11.00' N lat., 119°55.67' W long.;

(2) 33°21.00' N lat., 119°55.67' W long.;

(3) 33°21.00' N lat., 119°45.67' W long.; and

(4) 33°11.00' N lat., 119°45.67' W long.

(zz) *Cherry Bank*. Cherry Bank is within the Cowcod Conservation Area

West, an area south of Point Conception. The Cherry Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated and connecting back to 32°59.00' N lat., 119°32.05' W long.:

(1) 32°59.00' N lat., 119°32.05' W long.;

(2) 32°59.00' N lat., 119°17.05' W long.;

(3) 32°46.00' N lat., 119°17.05' W long.; and

(4) 32°46.00' N lat., 119°32.05' W long.

(aaa) *Cowcod EFHCA East*. The Cowcod EFHCA East is defined by straight lines connecting all of the following points in the order stated and connecting back to 32°41.15' N lat., 118°02.00' W long.:

(1) 32°41.15' N lat., 118°02.00' W long.;

(2) 32°42.00' N lat., 118°02.00' W long.;

(3) 32°42.00' N lat., 117°50.00' W long.;

(4) 32°36.70' N lat., 117°50.00' W long.;

(5) 32°30.00' N lat., 117°53.50' W long.;

(6) 32°30.00' N lat., 118°02.00' W long.; and

(7) 32°40.49' N lat., 118°02.00' W long.

(bbb) *Southern California Bight*. The boundary of the Southern California Bight EFHCA is defined as the area that includes all waters within the West Coast EEZ that is: south of a straight line connecting 34°02.65' N lat., 120°54.25' W long. and 34°23.09' N lat., 120°30.98' W long.; shoreward (east and northeast) of the boundary line approximating the 700-fm (1280-m) depth contour, defined at § 660.76(b) and seaward (south and southwest) of a line defined by the inner boundary of the West Coast EEZ and a series of straight lines connecting the coordinates listed below in the order stated. The straight line segments and coordinates defined below exclude nearshore portions of the West Coast EEZ from this EFHCA.

(1) *Northern Boundary*. The northern boundary of the Southern California Bight EFHCA is a straight line connecting the following points in the order stated.

(i) 34°02.68' N lat., 120°54.30' W long.; and

(ii) 34°23.09' N lat., 120°30.98' W long.

(2) *Santa Barbara Channel*. In the area of the Santa Barbara Channel, the EFHCA extends seaward/southwest of a boundary line defined by straight lines connecting the following points in the order stated:

(i) 34°02.68' N lat., 120°54.30' W long.;

(ii) 34°23.09' N lat., 120°30.98' W long.;

(iii) 34°21.64' N lat., 120°25.32' W long.;

(iv) 34°23.55' N lat., 120°15.12' W long.;

(v) 34°20.15' N lat., 119°57.09' W long.;

(vi) 34°16.84' N lat., 119°49.14' W long.;

(vii) 34°11.24' N lat., 119°42.12' W long.;

(viii) 34°11.30' N lat., 119°37.11' W long.;

(ix) 34°09.89' N lat., 119°29.78' W long.;

(x) 34°09.19' N lat., 119°27.45' W long.;

(xi) 34°04.70' N lat., 119°15.38' W long.;

(xii) 34°03.33' N lat., 119°12.93' W long.; and

(xiii) 34°02.84' N lat., 119°07.92' W long.

(3) *Santa Monica Bay*. In the area of Santa Monica bay, the EFHCA extends seaward/southwest of a boundary line defined by straight lines connecting the following points in the order stated:

(i) 33°58.64' N lat., 118°44.34' W long.;

(ii) 33°55.90' N lat., 118°36.39' W long.;

(iii) 33°53.54' N lat., 118°39.81' W long.;

(iv) 33°50.10' N lat., 118°36.30' W long.; and

(v) 33°46.75' N lat., 118°29.33' W long.

(4) *San Pedro Bay*. In the area between Long Beach, CA and Newport Beach, CA, the EFHCA extends seaward/southwest of a boundary line defined by straight lines connecting the following points in the order stated:

(i) 33°39.28' N lat., 118°16.82' W long.;

(ii) 33°35.78' N lat., 118°17.28' W long.;

(iii) 33°33.74' N lat., 118°12.53' W long.;

(iv) 33°34.71' N lat., 118°11.40' W long.;

(v) 33°32.69' N lat., 118°09.66' W long.; and

(vi) 33°33.70' N lat., 117°57.43' W long.

(5) *San Clemente*. In the area between Dana Point, CA and Oceanside, CA, the EFHCA extends seaward/southwest of a boundary line defined by straight lines connecting the following points in the order stated:

(i) 33°24.37' N lat., 117°42.49' W long.;

(ii) 33°16.07' N lat., 117°34.74' W long.; and

(iii) 33°09.00' N lat., 117°25.27' W long.

(6) *San Diego*. In the area west of San Diego, CA, the EFHCA extends seaward/ west of a boundary line defined by straight lines connecting the following points in the order stated:

- (i) 32°51.02' N lat., 117°20.47' W long.;
- (ii) 32°46.31' N lat., 117°23.44' W long.;
- (iii) 32°42.68' N lat., 117°20.98' W long.; and
- (iv) 32°34.18' N lat., 117°21.08' W long.

■ 15. In § 660.111, revise the introductory text and add definitions for “Block area closures or BACs”, “Columbia River Salmon Conservation Zone”, “Klamath River Salmon Conservation Zone”, and “Stow or stowed” in alphabetical order to read as follows:

**§ 660.111 Trawl fishery—definitions.**

These definitions are specific to the limited entry trawl fisheries covered in this subpart. General groundfish definitions are found at § 660.11.

\* \* \* \* \*

*Block area closures* or *BACs* are a type of groundfish conservation area, defined at § 660.11, bounded on the north and south by commonly used geographic coordinates, defined at § 660.11, and on the east and west by boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74. BACs may be implemented or modified, off Oregon and California, as routine management measures, per regulations at § 660.60(c). BACs may vary in their shape and duration. Their shape and effective dates will be announced in the **Federal Register**. BACs may have a specific re-opening date as described in the **Federal Register**, or may be in effect until modified. BACs that are in effect until modified by Council recommendation and subsequent NMFS action are set out in Tables 1 (North) and 1 (South) of this subpart.

\* \* \* \* \*

*Columbia River Salmon Conservation Zone* means the ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N lat. to 124°13.30' W long., then southerly along a line of 167 True to 46°11.10' N lat. and 124°11' W long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

\* \* \* \* \*

*Klamath River Salmon Conservation Zone* means the ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80' N lat. (approximately 6 nm north of the

Klamath River mouth), on the west by 124°23' W long. (approximately 12 nm from shore), and on the south by 41°26.80' N lat. (approximately 6 nm south of the Klamath River mouth).

\* \* \* \* \*

*Stow* or *stowed*, for the purposes of this subpart, means the subject trawl gear is either stored below deck; or, if the gear cannot readily be moved, must be stowed in a secured and covered manner detached from all towing lines so that it is rendered unusable for fishing; or, if remaining on deck uncovered, must be stowed disconnected from the trawl doors with the trawl doors hung from their stanchions.

\* \* \* \* \*

■ 16. In § 660.112, revise the introductory text and paragraphs (a)(5)(i) through (vii) and remove (a)(5)(viii).

The revisions read as follows:

**§ 660.112 Trawl fishery—prohibitions.**

In addition to the general prohibitions specified in § 660.12 and § 600.725 of this chapter, it is unlawful for any person or vessel to:

\* \* \* \* \*

- (a) \* \* \*
- (5) \* \* \*

(i) Operate any vessel registered to a limited entry permit with a trawl endorsement in an applicable GCA (defined at §§ 660.11 and 660.130), except for purposes of continuous transiting (defined at § 660.11), unless all groundfish trawl gear on board is stowed (as defined at § 660.111), or unless otherwise authorized at § 660.130.

(ii) Fish with bottom trawl gear (defined at § 660.11) anywhere within EFH seaward of a line approximating the 700-fm (1,280-m) depth contour, as defined in § 660.76. For the purposes of regulation, EFH seaward of 700-fm (1,280-m) within the EEZ is described at § 660.75.

(iii) Fish with bottom trawl gear (defined at § 660.11) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at § 660.75.

(iv) Fish with bottom trawl gear (defined at § 660.11) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined at § 660.73).

(v) Fish with bottom trawl gear (defined at § 660.11), within the EEZ in the following EFHCAs areas (defined at §§ 660.77 and 660.78): Olympic 2, Biogenic 1, Biogenic 2, Quinault Canyon, Grays Canyon, Willapa Canyonhead, Willapa Deep, Biogenic 3, Astoria Deep, Astoria Canyon, Nehalem Bank/Shale Pile, Garibaldi Reef North, Garibaldi Reef South, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Hydrate Ridge, Heceta Bank, Deepwater off Coos Bay, Arago Reef, Bandon High Spot, Rogue Canyon, and Rogue River Reef.

(vi) Fish with bottom trawl gear (defined at § 660.11), other than demersal seine, unless otherwise specified in this section or § 660.130, within the EEZ in the following EFHCAs areas (defined at § 660.79): Brush Patch, Trinidad Canyon, Mad River Rough Patch, Samoa Deepwater, Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Navarro Canyon, Point Arena North, Point Arena South Biogenic Area, The Football, Gobbler's Knob, Point Reyes Reef, Cordell Bank/Biogenic Area, Rittenburg Bank, Farallon Islands/Fanny Shoal/Cochrane Bank, Farallon Escarpment, Half Moon Bay, Pescadero Reef, Pigeon Point Reef, Ascension Canyonhead, South of Davenport, Monterey Bay/Canyon, West of Sobranes Point, Point Sur Deep, Big Sur Coast/Port San Luis, La Cruz Canyon, West of Piedras Blancas State Marine Conservation Area, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), Cowcod EFHCA Conservation Area East, and Southern California Bight.

(vii) Fish with bottom contact gear (defined at § 660.11) within specific EFHCAs and the DECA, consistent with the prohibitions at § 660.12(a)(4), (16) through (18).

\* \* \* \* \*

■ 17. In § 660.130, revise paragraphs (a), (c), and (e) and add paragraph (f) to read as follows:

**§ 660.130 Trawl fishery—management measures.**

(a) *General*. This section applies to the limited entry trawl fishery. Most species taken in the limited entry trawl fishery will be managed with quotas (see § 660.140), allocations or set-asides (see § 660.150 or § 660.160), or cumulative trip limits (see trip limits in Tables 1 (North) and 1 (South) of this subpart), size limits (see § 660.60 (h)(5)), seasons

(see Pacific whiting at § 660.131(b), subpart D), gear restrictions (see paragraphs (b) and (c) of this section) and closed areas (see paragraphs (c) and (e) of this section and §§ 660.70 through 660.79). The limited entry trawl fishery has gear requirements and harvest limits that differ by the type of groundfish trawl gear on board and the area fished. Groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (e)(1) of this section and § 660.70). The trip limits in Tables 1 (North) and 1 (South) of this subpart applies to vessels participating in the limited entry trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

\* \* \* \* \*

(c) *Restrictions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (*i.e.*, large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 1 (North) and Table 1 (South) of this subpart provide trip limits that are specific to different types of trawl gear: Large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If Table 1 (North) and Table 1 (South) of this subpart provide gear specific limits or closed areas for a particular species or species group, prohibitions at §§ 660.12 and 660.112(a)(5) apply. Additional conservation areas applicable to vessels registered to limited entry permits with trawl endorsements are listed at paragraph (e) of this section.

(1) *Fishing with large footrope trawl gear*—(i) *North of 46°16' N lat.* It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the trawl RCA, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.71 through 660.74. The use of large footrope gear is allowed where bottom trawling is allowed seaward of the trawl RCA.

(ii) *South of 46°16' N lat.* It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the boundary line approximating the 100 fm (183 m) depth contour defined with latitude and longitude coordinates at § 660.73. The use of large footrope gear is allowed where bottom trawling is allowed

seaward of the boundary line approximating the 100 fm (183 m) depth contour.

(2) *Fishing with small footrope trawl gear.* The use of small footrope bottom trawl gear is allowed in all areas where bottom trawling is allowed with the following requirements:

(i) *Fishing with selective flatfish trawl gear.* The use of selective flatfish trawl gear, a type of small footrope trawl gear, is allowed in all areas where bottom trawling is allowed. Selective flatfish trawl gear is required shoreward of the boundary line approximating the 100 fm (183 m) depth contour between 42° N lat. and 40°10' N lat. and fishing with all other types of small footrope trawl gear is prohibited in this area.

(ii) *Salmon bycatch mitigation restrictions.* The use of small footrope trawl, other than selective flatfish trawl gear, is prohibited between 42° N lat. and 40°10' N lat.

(iii) *Salmon conservation area restrictions.* The use of small footrope trawl, other than of selective flatfish trawl gear, is prohibited inside the Klamath River Salmon Conservation Zone and the Columbia River Salmon Conservation Zone (defined at § 660.131(e)(8)).

(3) *Fishing with limited entry midwater trawl gear*—(i) *North of 40°10' N lat.*, limited entry midwater trawl gear is required for vessels declared into the Pacific whiting fishery; limited entry midwater trawl gear is allowed for vessels declared into the non-whiting Shorebased IFQ Program during the Pacific whiting primary season.

(ii) *South of 40°10' N lat.*, vessels declared into limited entry midwater trawl are prohibited from operating, other than for the purpose of continuous transiting with prohibited gear stowed, shoreward of the boundary line approximating the 150 fm (274 m) depth contour, as defined with latitude and longitude coordinates at § 660.73. Vessels declared limited entry midwater trawl may operate seaward of a boundary line approximating the 150 fm (274 m) depth contour. See also paragraph (c)(4)(ii) of this section for additional restrictions.

(4) *More than one type of trawl gear on board.* The trip limits in Table 1 (North) or Table 1 (South) of this subpart must not be exceeded. A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may have more than one type of limited entry trawl gear on board (midwater, large or small footrope, including selective flatfish trawl), either simultaneously or successively, during a cumulative limit period except between 42° N lat. and

40°10' N lat. as described in this section. If a vessel fishes both north and south of 40°10' N lat. with any type of small or large footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive cumulative limit associated with the gear on board would apply for that trip and all catch would be counted toward that cumulative limit (See crossover provisions at § 660.60(h)(7)). When operating in an applicable GCA, all trawl gear must be stowed, consistent with prohibitions at § 660.112(a)(5)(i), unless authorized in this section.

(i) *Vessels operating north of 40°10' N lat.*—(A) *Limited entry bottom trawl gears.* A vessel may have more than one type of limited entry bottom trawl gear on board (large or small footrope, including selective flatfish trawl), either simultaneously or successively, during a cumulative limit period with the following exception: between 42° N lat. and 40°10' N lat. and shoreward of the boundary line approximating the 100 fm (183 m) depth contour defined with latitude and longitude coordinates at § 660.73. In this area, vessels may not have any type of small footrope trawl gear other than selective flatfish trawl gear on board when fishing, per prohibitions at § 660.112(a)(5)(i).

(B) *Limited entry midwater trawl gears.* A vessel may have more than one type of midwater groundfish trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(C) *Limited entry selective flatfish trawl gear.* If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear-cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the trawl RCA or the boundary line approximating the 100 fm (183 m) depth contour defined with latitude and longitude coordinates at § 660.73.

(D) *Cumulative limits.* If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the cumulative limits for that gear. If more than one type of groundfish bottom trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the groundfish bottom trawl gear on board during that cumulative limit period applies for the entire cumulative limit period.

(ii) *Vessels operating south of 40°10' N lat.*—(A) *Limited entry bottom trawl gears.* A vessel may have more than one type of limited entry bottom trawl gear on board (large or small footrope, including selective flatfish trawl), either simultaneously or successively, during a cumulative limit period.

(B) *Limited entry midwater trawl gear.* Vessels may not operate, other than transiting through, with limited entry midwater trawl gear on board that is not stowed, consistent with § 660.112(a)(5), in the area shoreward of the boundary line approximating the 150 fm (274 m) depth contour defined with latitude and longitude coordinates at § 660.73. If a vessel fishes with limited entry bottom trawl gear in this area, vessels may have midwater trawl gear on board that is stowed, consistent with § 660.112(a)(5), and may fish seaward of the boundary line approximating the 150 fm (274 m) depth contour on the same trip with appropriate declaration changes. Vessels with groundfish on board harvested using limited entry midwater trawl gear may transit the area shoreward of the boundary line approximating the 150 fm (274 m) depth contour defined with latitude and longitude coordinates at § 660.73 if the midwater gear is stowed consistent with § 660.112(a)(5).

\* \* \* \* \*

(e) *Groundfish conservation areas (GCAs).* GCAs are closed areas, defined at § 660.11, and using latitude and longitude coordinates specified at §§ 660.70 through 660.74. This paragraph describes GCAs applicable to the limited entry trawl fishery, per prohibitions at § 660.112(a)(5), and exceptions to those closures. Vessels with trawl gear on board that is not stowed, as defined at § 660.111, may not operate within a GCA listed in this section, unless authorized in this section. Vessels may not take and retain, possess, or land groundfish taken within an applicable GCA, except as authorized in this paragraph. A vessel authorized to fish within an applicable GCA may simultaneously have other groundfish trawl gear on board the vessel that is unlawful to use for fishing within the applicable GCAs, but only if the prohibited gear is stowed, as defined at § 660.111. Continuous transit, with or without groundfish on board, is allowed within an applicable GCA, only when all prohibited trawl gear on board stowed, as defined at § 660.111. Additional closed areas that specifically apply to vessels using limited entry midwater trawl gear are described at § 660.131(c).

(1) *Cowcod conservation areas (CCAs).* This closure applies to vessels

with limited entry trawl gear on board. Limited entry trawl vessels may transit through the Western CCA within the transit corridor, defined at § 660.70.

(2) *Farallon islands.* Under California law, commercial fishing for all groundfish is prohibited around the Farallon Islands, as defined at § 660.70. Vessels may transit through with all trawl gear stowed.

(3) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters of depths less than 100-fm (183-m) around Cordell Banks, defined at § 660.70. Vessels may transit through with all trawl gear stowed.

(4) *Trawl RCA.* This GCA is off the coast of Washington, between the US/ Canada border and 46°16' N lat. Boundaries for the trawl RCA applicable to groundfish trawl vessels throughout the year are provided in the header to Table 1 (North) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c). Prohibitions at § 660.112(a)(5) do not apply under the following conditions and when the vessel has a valid declaration for the allowed fishing:

(i) *Limited entry midwater trawl gear.* Limited entry midwater trawl gear may be used within the trawl RCA by vessels targeting Pacific whiting or non-whiting when it is an authorized gear type for the area and season. If a vessel fishes in the trawl RCA using midwater trawl gear, it may also fish outside the trawl RCA with limited entry trawl gear on the same trip with appropriate declaration changes.

(ii) *Transiting.* A vessel authorized to operate in the trawl RCA may continuously transit through the trawl RCA, with or without groundfish on board, with prohibited trawl gear stowed, as defined at § 660.111.

(5) *Block area closures or BACs.* BACs, defined at § 660.111, are applicable to vessels with groundfish bottom trawl gear on board that is not stowed, per the prohibitions in § 660.112(a)(5). When in effect, BACs are areas closed to bottom trawl fishing. A vessel operating, for any purpose other than continuous transiting, in the BAC must have prohibited trawl gear stowed, as defined at § 660.111. Nothing in these Federal regulations supersedes any state regulations that may prohibit trawling shoreward of the fishery management area, defined at § 660.11. Prohibitions at § 660.112(a)(5) do not apply under any of the following conditions and when the vessel has a valid declaration for the allowed fishing:

(i) *Limited entry midwater trawl.* Limited entry midwater trawl gear may be used within the BAC only when it is

an authorized gear type for the area and season. If a vessel fishes in the BAC using midwater trawl gear, it may also fish outside the BAC with groundfish bottom trawl gear on the same trip with appropriate declaration changes.

(ii) *Transiting.* A vessel authorized to operate in a BAC may continuously transit through the BAC, with or without groundfish on board, with prohibited trawl gear stowed, as defined at § 660.111.

(iii) *Multiple gears.* If a vessel fishes in a BAC using midwater trawl gear, it may also fish outside the BAC with groundfish bottom trawl gear on the same trip with the appropriate declaration change.

(6) *Bycatch reduction areas or BRAs.* Vessels using midwater groundfish trawl gear during the applicable Pacific whiting primary season may be prohibited from fishing shoreward of a boundary line approximating the 75 fm (137 m), 100 fm (183 m), 150 fm (274 m), or 200 fm (366 m) depth contours.

(7) *Eureka management area midwater trawl trip limits.* No more than 10,000-lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished with midwater groundfish trawl gear in the fishery management area shoreward of the boundary line approximating the 100 fm (183 m) depth contour in the Eureka management area, defined at § 660.11. See also midwater trawl depth restrictions in paragraph (c) of this section.

(8) *Salmon conservation zones.* Fishing with midwater trawl gear and bottom trawl gear, other than selective flatfish trawl gear, is prohibited in the Klamath River Salmon Conservation Zone and the Columbia River Salmon Conservation Zone (defined at § 660.111).

(f) *Essential fish habitat conservation areas.* EFHCAs are defined at § 660.11 and at §§ 660.76 through 660.79. EFHCAs apply to vessels using bottom trawl gear or to vessels using bottom contact gear, defined at § 660.11. Vessels may transit through, with or without groundfish on board, with all prohibited gear stowed. EFHCAs closed to bottom trawl gear are listed at § 660.112(a)(5)(v). EFHCAs off California that are closed to bottom trawl gear, except vessels fishing with a valid declaration for demersal seine gear, are listed in § 660.112(a)(5)(vi). EFHCAs closed to bottom contact gear are listed at § 660.12(a)(4), (16) and (17).

■ 18. In § 660.131, revise paragraph (c) to read as follows.

**§ 660.131 Pacific whiting fishery management measures.**

\* \* \* \* \*

(c) *Closed areas.* The conservation areas described here are in addition to conservation areas applicable to vessels operating with midwater trawl gear on board described in § 660.130(c) and (e). Vessels fishing during the Pacific whiting primary seasons shall not target Pacific whiting with midwater groundfish trawl gear in the following

portions of the fishery management area:

(1) *Klamath river salmon conservation zone*, defined at § 660.111.

(2) *Columbia river salmon conservation zone*, defined at § 660.111.

(3) *Bycatch reduction areas or BRAs.* Bycatch reduction area closures specified at § 660.130(e) may be implemented inseason through automatic action when NMFS projects that a Pacific whiting sector will exceed an allocation for a non-whiting

groundfish species specified for that sector before the sector's whiting allocation is projected to be reached.

\* \* \* \* \*

■ 19. Table 1 (North) to part 660, subpart D, is revised to read as follows:

**Table 1 (North) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for Non-IFQ Species and Pacific Whiting North of 40°10' N Lat.**

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**Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.**

This table describes Rockfish Conservation Areas for vessels using limited entry bottom trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species. This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.						
Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table						01012020
	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
<b>Rockfish Conservation Area (RCA)<sup>1/</sup>:</b>						
1	North of 46°16' N. lat.		100 fm line <sup>1/</sup> - 150 fm line <sup>1/</sup>			
South of 46°16' N. lat., Block Area Closures (BACs) may be implemented, and will be announced in the <i>Federal Register</i>						
See provisions at § 660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E.						
See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§ 660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.						
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	Minor Nearshore Rockfish & Washington black rockfish & Oregon black/blue/deacon Rockfish		300 lb/ month			
3	Whiting <sup>2/</sup>					
4	midwater trawl		Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.			
5	large & small footrope gear		Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.			
6	Oregon Cabezon/Kelp Greenling Complex		50 lb/ month			
7	Cabezon in California		50 lb/ month			
8	Shortbelly rockfish		Unlimited			
9	Spiny dogfish		60,000 lb/ month			
10	Big skate	5,000 lb/ 2 months	25,000 lb/ 2 months	30,000 lb/ 2 months	35,000 lb/ 2 months	10,000 lb/ 2 months
11	Longnose skate		Unlimited			
12	Other Fish <sup>3/</sup>		Unlimited			
1/ The Rockfish Conservation Area is a type of Groundfish Conservation Area, defined at §660.11, and defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting. See §§660.112 and 660.130 for more information.						
2/ As specified at §660.131(d), when fishing in the Eureka Area, no more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour.						
3/ "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.						
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.						

TABLE 1 (North)

■ 20. Table 1 (South) to part 660, subpart D, is revised to read as follows:

**Table 1 (South) to Part 660, Subpart D—Limited Entry Trawl Landing Allowances for Non-IFQ Species and Pacific Whiting South of 40°10' N Lat.**

**Table 1 (South) to Part 660, Subpart D -- Limited Entry Trawl Landing Allowances for non-IFQ Species and Pacific Whiting South of 40°10' N. Lat.**

This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species. This table will describe Block Area Closures for vessels using limited entry bottom trawl gear that are in effect for more than one year.							
Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table							01012020
		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Block Area Closures (BACs) may be implemented, and will be announced in the <i>Federal Register</i>							
See provisions at §660.130(c) and (e) for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at §660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 2 (North) and 2 (South) to Part 660, Subpart E							
See §660.60, §660.130, and §660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §660.11, §§660.70-660.74, §§660.76-660.79 and §660.111 for Conservation Area Definitions and Coordinates.							
State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.							
1	Longspine thornyhead						
2	South of 34°27' N. lat.	24,000 lb/ 2 months					
3	Minor Nearshore Rockfish & California black rockfish, & Oregon black/blue/deacon rockfish	300 lb/ month					
4	Whiting						
5	midwater trawl	During the primary whiting season: allowed with the depth restrictions described at § 660.130(c).					
6	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
7	Cabezon	50 lb/ month					
8	Shortbelly rockfish	Unlimited					
9	Spiny dogfish	60,000 lb/ month					
10	Big skate	5,000 lb/ 2 months	30,000 lb/ 2 months	35,000 lb/ 2 months	40,000 lb/ 2 months	15,000 lb/ 2 months	5,000 lb/ 2 months
11	Longnose skate	Unlimited					
12	California scorpionfish	Unlimited					
13	Other Fish <sup>1/</sup>	Unlimited					

TABLE 1 (South)

<sup>1/</sup> "Other Fish" are defined at § 660.11 and include kelp greenling off California and leopard shark.

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

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■ 21. In § 660.212, revise the introductory text and paragraph (c)(2) and remove paragraph (c)(3).

The revisions read as follows:

**§ 660.212 Fixed gear fishery—prohibitions.**

These prohibitions are specific to the limited entry fixed gear fisheries and to the limited entry trawl fishery Shorebased IFQ Program under gear switching. In addition to the general prohibitions specified in §§ 660.12 and 600.725 of this chapter, it is unlawful for any person to:

\* \* \* \* \*

(c) \* \* \*

(2) Fish with bottom contact gear (defined at § 660.11) within specific

EFHCAs or the DECA, as specified in § 660.12(a).

\* \* \* \* \*

- 22. Amend § 660.230 by:
  - a. Revising paragraphs (d) introductory text, (d)(10) introductory text, and (d)(11) introductory text;
  - b. Removing paragraph (d)(14);
  - c. Adding paragraph (g).

The revisions and addition read as follows:

**§ 660.230 Fixed gear fishery—management measures.**

\* \* \* \* \*

(d) *Groundfish conservation areas.* GCAs are defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude

coordinates of the GCA boundaries are specified at §§ 660.70 through 660.74. A vessel that is authorized by this paragraph to fish within a GCA (e.g., fishing for "other flatfish" using no more than 12 hooks, "Number 2" or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the limited entry fixed gear fishery.

\* \* \* \* \*

(10) *Cowcod Conservation Areas.* It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when

those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in the transit corridor, defined at § 660.70. Fishing with limited entry fixed gear is prohibited within the CCAs, except as follows:

\* \* \* \* \*

(11) *Nontrawl Rockfish Conservation Area (RCA)*. The nontrawl RCA is defined at § 660.11 and with latitude and longitude coordinates, at §§ 660.71 through 660.74, where fishing for groundfish with nontrawl gear is prohibited. Boundaries for the nontrawl RCA throughout the year are provided in the header to Table 2 (North) and Table 2 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c).

\* \* \* \* \*

(g) *Essential Fish Habitat Conservation Areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom contact gear, defined at § 660.11, and includes limited entry fixed gear (e.g., longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a).

■ 23. Amend § 660.312 by revising the introductory text and paragraphs (d)(3) and (4) and adding paragraphs (d)(5) through (7) to read as follows:

**§ 660.312 Open access fishery—prohibitions.**

In addition to the general prohibitions specified in §§ 660.12 and 600.725 of this chapter, it is unlawful for any person to:

\* \* \* \* \*

(d) \* \* \*

(3) Fish with bottom contact gear (defined at § 660.11) within specific EFHCAs or the DECA, as specified in § 660.12(a).

(4) Fish with bottom trawl gear (defined at § 660.11) anywhere within EFH seaward of a line approximating the 700-fm (1280-m) depth contour, as defined in § 660.76. For the purposes of regulation, EFH seaward of 700-fm (1280-m) within the EEZ is described at § 660.75.

(5) Fish with bottom trawl gear (defined at § 660.11) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100-fm (183-m) depth contour (defined at § 660.73).

(6) Fish with bottom trawl gear (defined at § 660.11), within the EEZ in the following EFHCAs (defined at §§ 660.77 and 660.78): Olympic 2, Biogenic 1, Biogenic 2, Quinault Canyon, Grays Canyon, Willapa Canyonhead, Willapa Deep, Biogenic 3, Astoria Deep, Astoria Canyon, Nehalem Bank/Shale Pile, Garibaldi Reef North, Garibaldi Reef South, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Hydrate Ridge, Heceta Bank, Deepwater off Coos Bay, Arago Reef, Bandon High Spot, Rogue Canyon, and Rogue River Reef.

(7) Fish with bottom trawl gear (defined at § 660.11), other than demersal seine, unless otherwise specified in this section or § 660.330, within the EEZ in the following EFHCAs (defined at § 660.79): Brush Patch, Trinidad Canyon, Mad River Rough Patch, Samoa Deepwater, Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Navarro Canyon, Point Arena North, Point Arena South Biogenic Area, The Football, Gobbler’s Knob, Point Reyes Reef, Cordell Bank/Biogenic Area, Rittenburg Bank, Farallon Islands/Fanny Shoal/Cochrane Bank, Farallon Escarpment, Half Moon Bay, Pescadero Reef, Pigeon Point Reef, Ascension Canyonhead, South of Davenport, Monterey Bay/Canyon, West of Sobranes Point, Point Sur Deep, Big Sur Coast/Port San Luis, La Cruz Canyon, West of Piedras Blancas State Marine Conservation Area, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), Cowcod EFHCA Conservation Area East, and Southern California Bight.

■ 24. Amend § 660.330 by:

- a. Revising paragraphs (d) introductory text and (d)(11) introductory text;
- b. Removing paragraph (d)(16); and
- c. Adding paragraph (g).

The revisions and addition read as follows:

**§ 660.330 Open access fishery—management measures.**

\* \* \* \* \*

(d) *Groundfish conservation areas (GCAs)*. GCAs, a type of closed area, are defined at § 660.11 and with latitude and longitude coordinates at §§ 660.70 through 660.74. A vessel that is authorized by this paragraph to fish within a GCA (e.g., fishing for “other flatfish” using no more than 12 hooks, “Number 2” or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the open access groundfish fishery.

\* \* \* \* \*

(11) *Cowcod Conservation Areas (CCAs)*. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in the transit corridor, defined at § 660.70. Fishing with open access gear is prohibited in the CCAs, except as follows:

\* \* \* \* \*

(g) *Essential fish habitat conservation areas (EFHCA)*. EFHCAs, defined at § 660.11 and with latitude and longitude coordinates at §§ 660.75 through 660.79, apply to vessels using bottom trawl gear or bottom contact gear, defined at § 660.11, and includes non-groundfish trawl gear and limited entry fixed gear (e.g., longline and pot/trap,) among other gear types. EFHCAs closed to bottom contact gear are listed at § 660.12(a). EFHCAs closed to bottom trawl gear are listed at § 660.312(d).

[FR Doc. 2019–24684 Filed 11–18–19; 8:45 am]

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## Part III

### Department of Homeland Security

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U.S. Citizenship and Immigration Services

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8 CFR Part 208

### Department of Justice

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Executive Office for Immigration Review

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8 CFR Parts 1003, 1208 and 1240

Implementing Bilateral and Multilateral Asylum Cooperative Agreements  
Under the Immigration and Nationality Act; Interim Final Rule

**DEPARTMENT OF HOMELAND SECURITY****U.S. Citizenship and Immigration Services****8 CFR Part 208**

[USCIS Docket No. USCIS–2019–0021]

RIN 1615–AC49

**DEPARTMENT OF JUSTICE****Executive Office for Immigration Review****8 CFR Parts 1003, 1208, and 1240**

[EOIR Docket No. 19–0021; A.G. Order No. 4581–2019]

RIN 1125–AA98

**Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act**

**AGENCY:** Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** Interim final rule; request for comment.

**SUMMARY:** The Department of Justice (“DOJ”) and the Department of Homeland Security (“DHS”) (collectively, “the Departments”) are adopting an interim final rule (“IFR” or “rule”) to modify existing regulations to provide for the implementation of Asylum Cooperative Agreements (“ACAs”) that the United States enters into pursuant to section 208(a)(2)(A) of the Immigration and Nationality Act (“INA” or “Act”). Because the underlying purpose of section 208(a)(2)(A) is to provide asylum seekers with access to only one of the ACA signatory countries’ protection systems, this rule adopts a modified approach to the expedited removal (“ER”) and section 240 processes in the form of a threshold screening as to which country will consider the alien’s claim. This rule will apply to all ACAs in force between the United States and countries other than Canada, including bilateral ACAs recently entered into with El Salvador, Guatemala, and Honduras in an effort to share the distribution of hundreds of thousands of asylum claims. The rule will apply only prospectively to aliens who arrive at a U.S. port of entry, or enter or attempt to enter the United States between ports of entry, on or after the effective date of the rule.

**DATES:**

*Effective date:* This rule is effective November 19, 2019.

*Submission of public comments:* Comments must be submitted on or before December 19, 2019.

**ADDRESSES:** You may submit comments, identified by Docket Numbers USCIS–2019–0021 and EOIR Docket No. 19–0021, through the *Federal eRulemaking Portal*: <http://www.regulations.gov>. If you cannot submit your material by using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

**FOR FURTHER INFORMATION CONTACT:**

*USCIS:* Andrew Davidson, Chief, Asylum Division, Refugee Asylum and International Operations, U.S. Citizenship & Immigration Services, 20 Massachusetts Avenue NW, Suite 1100, Washington, DC 20529–2140; Telephone (202) 272–8377 (not a toll-free call).

*EOIR:* Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2616, Falls Church, VA 22041; Telephone (703) 305–0289 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:****I. Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. The Departments also invite comments that relate to the potential economic or federalism effects that might result from this rule. To provide the most assistance to the Departments, comments should reference a specific portion of the rule; explain the reason for any recommended change; and include data, information, or authority that supports the recommended change. Comments received will be considered and addressed in the process of drafting the final rule.

All comments submitted for this rulemaking should include the agency names and Docket Numbers USCIS–2019–0021 and EOIR Docket No. 19–0021. Please note that all comments received are considered part of the public record and made available for public inspection at <https://www.regulations.gov>. Such information includes personally identifiable information (such as a person’s name, address, or any other data that might personally identify that individual) that the commenter voluntarily submits.

**II. Executive Summary**

The Departments are adopting an interim final rule to modify existing

regulations to provide for the implementation of agreements that the United States enters into pursuant to section 208(a)(2)(A) of the INA. 8 U.S.C. 1158(a)(2)(A). Such agreements—referred to by the Departments as Asylum Cooperative Agreements and alternatively described as safe third country agreements in existing regulations—are formed between the United States and foreign countries where aliens removed to those countries would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.<sup>1</sup> In certain circumstances, an ACA, in conjunction with section 208(a)(2)(A), bars an alien subject to the agreement from applying for asylum in the United States and provides for the removal of the alien, pursuant to the agreement, to a country that will provide access to a full and fair procedure for determining the alien’s protection claim. Removal pursuant to these agreements will be ordered within ER proceedings or, in certain instances, within INA section 240 removal proceedings. But because the underlying purpose of section 208(a)(2)(A) is to provide asylum seekers with access to only one of the ACA signatory countries’ protection systems, this rule adopts a modified approach to the ER and section 240 processes in the form of a threshold screening as to which country will consider the alien’s claim. This rule will apply to all ACAs between the United States and countries other than Canada. In 2002, the United States and Canada entered into a bilateral ACA, titled the “Agreement Between the Government of the United States and the Government of Canada for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries,” which the Departments implemented by regulation in 2004.

Although various recent regulatory reforms have reduced the burdens associated with adjudicating asylum claims (and others hold out promise to do so should injunctions on their implementation be lifted), the U.S. asylum system remains overtaxed. Hundreds of thousands of migrants have reached the United States in recent years and have claimed a fear of persecution<sup>2</sup> or torture. They often do

<sup>1</sup> For ease of reference, this rule refers to an asylum claim in the third country as alternatively encompassing “equivalent temporary protection” consistent with INA section 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A).

<sup>2</sup> “Fear of persecution” as used in this document describes persecution “on account of race, religion, nationality, membership in a particular social

not ultimately establish legal qualification for such relief or even actually applying for protection after being released into the United States, which has contributed to a backlog of 987,198 cases before the Executive Office for Immigration Review (including 474,327 asylum cases), each taking an average of 816 days to complete. Asylum claims by aliens from El Salvador, Guatemala, and Honduras account for over half of the pending asylum cases.

To help alleviate those burdens and promote regional migration cooperation, the United States recently signed bilateral ACAs with El Salvador, Guatemala, and Honduras in an effort to share the distribution of asylum claims.<sup>3</sup> Pending the Department of State's publication of the ACAs in the United States Treaties and Other International Agreements series in accordance with 1 U.S.C. 112a, the agreements will be published in a document in the **Federal Register**. This rule will establish the authority of DHS asylum officers to make threshold determinations as to whether aliens are ineligible to apply for asylum under those three ACAs, and any future ones, in the course of ER proceedings under section 235(b)(1) of the Act, 8 U.S.C. 1225(b)(1), once the agreements enter into force. As a practical matter, this rule will also establish the authority of immigration judges ("IJs") to make such determinations in the context of removal proceedings under INA section 240, 8 U.S.C. 1229a. To the extent that an alien in ER proceedings is rendered ineligible to apply for asylum by more than one ACA, the immigration officer will assess which agreement is most appropriately applicable to the alien. Immigration officers may exercise discretion in making such determinations as authorized by the Secretary of Homeland Security ("Secretary") via field guidance. To the extent that an alien in section 240 proceedings is rendered ineligible to apply for asylum by more than one ACA, the immigration judge shall enter alternate orders of removal to each country that is a signatory to an applicable ACA. DHS immigration officers may exercise discretion when selecting from among the alternate orders, again, as authorized by the Secretary via field guidance. The rule will apply only prospectively to aliens who arrive at a U.S. port of entry, or enter or attempt to enter the United

States between ports of entry, on or after the effective date of the rule.

### III. Purpose of This Interim Final Rule

Asylum is a discretionary immigration benefit that generally can be sought by eligible aliens who are physically present or arriving in the United States. See INA 208(a)(1), 8 U.S.C. 1158(a)(1). Throughout the past decade, the United States has experienced a significant increase in the number of aliens encountered at or near its borders, particularly the southern land border with Mexico, as described by the Departments' recent joint rule requiring certain aliens seeking to apply for asylum to have first applied for equivalent protection in at least one country through which they transited en route to the United States, see Asylum Eligibility and Procedural Modifications, 84 FR 33829, 33830 (July 16, 2019). This increase has been accompanied by a sharp increase in the number and percentage of aliens requesting asylum or claiming a fear of persecution or torture when apprehended or encountered by DHS. As noted by the third-country-transit rule, for example, over the past decade the percentage of aliens referred for credible fear interviews within ER proceedings jumped from approximately 5 percent to above 40 percent. *Id.* at 33830–31. The number of asylum cases filed with DOJ also rose sharply, more than tripling between 2013 and 2018. *Id.* at 33831. During that same period, the filing of affirmative asylum applications rose from 44,453 in 2013 to 106,147 in 2018.

This increase reflects high rises in both defensive asylum claims (*i.e.*, asylum claims raised after removal proceedings have begun) and affirmative asylum claims (*i.e.*, asylum claims raised apart from or before removal proceedings have begun). In Fiscal Year ("FY") 2018, 110,136 individuals in ER proceedings raised claims of persecution or torture and were referred for credible fear interviews (99,035 individuals) or reasonable fear interviews (11,101 individuals). These individuals, combined with individuals who filed for asylum while in INA section 240 removal proceedings, resulted in 114,532 defensive asylum applications filed with DOJ in FY2018. Additionally, in FY2018, 48,922 affirmative asylum applications were also referred to DOJ. By contrast, in FY2013, 43,768 individuals in ER proceedings raised claims of persecution or torture and were referred for credible fear interviews (36,035 individuals) or reasonable fear interviews (7,733 individuals). These

individuals, combined with individuals who filed for asylum while in section 240 removal proceedings, resulted in 23,500 defensive asylum applications filed with DOJ in FY2013. Additionally, in FY2013, 19,963 affirmative asylum applications were also referred to DOJ.

This has led to a backlog that, as of October 11, 2019, included more than 476,000 asylum cases before DOJ's Executive Office for Immigration Review ("EOIR"). The backlog of affirmative asylum applications pending with USCIS sits at 340,810, as of the end of FY2019. Historically, only a small minority of the individuals claiming a fear of return on the basis of persecution or torture were ultimately granted asylum or had even applied for it. Indeed, over the years, many aliens who initially claimed a fear of return upon entry or arrival abandoned those claims altogether.

Immigration detention centers have often been pushed to capacity, making even temporary detention for arriving aliens difficult to sustain. Or aliens have been released into the interior of the country, after which they often fail to appear for their removal proceedings, or unlawfully abscond after receiving removal orders, becoming fugitives. To help ease some of the burden on the immigration detention system and to reduce the numbers of aliens illegally entering the country, the Administration has worked with Mexico to permit people attempting to enter the United States from Mexico on land to remain in Mexico while awaiting their removal proceedings, pursuant to section 235(b)(2)(C) of the INA, 8 U.S.C. 1225(b)(2)(C).

Arresting the significant number of aliens who illegally enter the United States or arrive at ports of entry without the necessary documents to enter the United States legally, and processing and adjudicating their fear of return claims for ER, and processing and adjudicating their asylum claims in removal proceedings under INA section 240, consumes a tremendous amount of resources within the Departments of Justice and Homeland Security. After surveilling and arresting aliens, DHS must devote significant resources towards detaining many aliens pending further proceedings, process (and in the context of ER) adjudicate their claims (which are subject to potentially multiple layers of review), and represent the United States during removal proceedings before EOIR.

The large number of aliens seeking relief in the United States also consumes substantial DOJ resources. Within DOJ, IJs adjudicate aliens' asylum claims in INA section 240

group, or political opinion." INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A).

<sup>3</sup> None of these agreements have yet entered into force.

proceedings, prosecutors and law enforcement officials must prosecute and maintain custody of aliens who violate Federal criminal law, and DOJ attorneys represent the United States in civil cases involving immigration and detention issues. Despite DOJ deploying 80% more immigration judges than in 2010, and completing nearly double the number of asylum cases in FY2018 as in FY2010, more than 476,000 asylum cases remain pending before the immigration courts. Further, immigration courts have an additional caseload that stems from cases that are not related to asylum. This significantly increased backlog is due in part to the sharp increase in the numbers of filed asylum applications. Between 2010 and 2018, there was a nearly nine-fold increase in defensive asylum cases and the number of affirmative asylum cases referred to EOIR more than doubled.

The large majority of fear of persecution or torture claims raised by those arrested at the southern border either have not led to actual claims for asylum or have been ultimately determined to be without legal merit. For example, in FY2018, 34,031 individuals who had received credible fear interviews before asylum officers were referred to DOJ for asylum hearings. Approximately 39%, or 13,369, of these individuals failed to file an asylum application, and thus abandoned their claims. Only 5,577 individuals were granted asylum, a number equal to 16.4% of all individuals referred to DOJ after credible fear interviews, or 27% of individuals who were referred to DOJ following a credible fear interview and filed an asylum application. The success rate declines when one looks at all asylum applications adjudicated by DOJ. In FY2018, 64,223 asylum applications were adjudicated by DOJ's immigration judges. Only 13,173, or 20.5%, were granted. The strain on the U.S. immigration system, and the wait times for aliens seeking to process legitimate claims through the U.S. asylum system, is extreme. This delay extends to the immigration court system, where cases involving related immigration and detention issues have caused significant docket backlogs.

In section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), Congress provided a mechanism to help ease this strain on the immigration system by authorizing the Executive Branch to enter into agreements with other countries to distribute the burdens associated with adjudicating claims for asylum or equivalent temporary protection. Specifically, section 208(a)(2)(A) authorizes the Executive Branch to bar

an alien from applying for asylum in the United States where, pursuant to a bilateral or multilateral agreement, the alien may be removed to a third country (*i.e.*, a country other than the alien's country of nationality or last habitual residence, *see* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A)), that affords the alien access to a full and fair procedure for determining claims for asylum or equivalent temporary protection. Consistent with the President's extensive foreign affairs authority, *see, e.g., Zivotofsky v. Kerry*, 135 S. Ct. 2076, 2084–94 (2015); *United States v. Curtiss-Wright Exp. Corp.*, 299 U.S. 304, 319 (1936) (emphasizing the President's extensive role representing U.S. interests in relations with foreign nations), section 208(a)(2)(A), by its terms, provides substantial flexibility to the Executive Branch in negotiating and implementing ACAs. *Accord* INA 208(d)(5)(B), 8 U.S.C. 1158(d)(5)(B) (authorizing the Attorney General and Secretary to “provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this chapter”); *see also Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635 (Jackson, J., concurring) (“When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.”); *id.* at 637 (observing that an exercise of federal affairs power “pursuant to an Act of Congress would be supported by the strongest of presumptions and the widest latitude of judicial interpretation”).

In contrast to statutory and regulatory bars providing that certain aliens are ineligible to *receive* asylum, *see, e.g.,* INA 208(b)(2)(A), (C), 8 U.S.C. 1158(b)(2)(A), (C), the ACA bar relates to whether an alien may even *apply* for asylum. Unlike the restrictions on asylum eligibility, application of the ACA bar does not involve an evaluation of whether an alien would ultimately receive asylum relief if able to apply, or even whether the alien has made a preliminary showing of a significant possibility that the alien would be eligible for asylum. Rather, section 208(a)(2)(A) bars an alien from applying for asylum in the United States when the following four requirements are satisfied: (i) The United States has entered into a requisite “bilateral or multilateral agreement”; (ii) at least one of the signatory countries to the agreement is a “third country” with respect to the alien; (iii) “the alien's life or freedom would not be threatened” in

that third country “on account of race, religion, nationality, membership in a particular social group, or political opinion”; and (iv) that third country provides aliens removed there pursuant to the agreement “access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.”<sup>4</sup> Even if all of these elements are satisfied, the Secretary nonetheless may determine in his discretion “that it is in the public interest for the alien to receive asylum in the United States.” INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A).

This interim rule will amend DHS and DOJ regulations implementing section 208(a)(2)(A) to effectuate ACAs other than the agreement already formed with Canada in 2002 and implemented by regulation in 2004. *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR 69480 (Nov. 29, 2004) (DHS) Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR 69490 (Nov. 29, 2004) (DOJ).

In particular, this rule will broaden the procedures (implemented in ER and INA section 240 proceedings) for determining whether an alien is subject to an ACA or within one of its exceptions to account for ACAs other than the U.S.-Canada Agreement. Additionally, this rule will establish a screening mechanism to evaluate whether an alien who would otherwise be removable to a third country under an ACA other than the U.S.-Canada Agreement can establish that it is more likely than not that he or she would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion, or would be tortured in that third country. This rule consequently will provide a general mechanism for implementation of all existing and future ACAs not previously implemented.<sup>5</sup> In sum, this

<sup>4</sup> Unaccompanied alien children, as defined by 6 U.S.C. 279(g), are categorically exempted from the ACA bar. *See* INA 208(a)(2)(E), 8 U.S.C. 1158(a)(2)(E).

<sup>5</sup> This interim rule leaves in place the regulatory structure specific to the U.S.-Canada Agreement so as to avoid disruption to long-standing processes and expectations concerning implementation of that agreement. This rule will allow for implementation of ACAs that have a broader scope of applicability than the U.S.-Canada Agreement and, consequently, provides for a more robust threshold screening mechanism for evaluating whether an alien is properly removed subject to an ACA other than the U.S.-Canada Agreement, which is narrowly directed to third country nationals seeking to enter the United States at a U.S.-Canada land border port of entry.

rule implements a screening mechanism to determine: (i) Whether an alien falls within the terms of a bilateral or multilateral ACA formed under section 208(a)(2)(A), other than the previously implemented U.S.-Canada Agreement, (ii) whether an alien within an ACA's plain terms nonetheless falls under one of the agreement's exceptions, and (iii) whether an alien within an ACA's scope but not subject to an exception nonetheless demonstrates that it is more likely than not that the alien's life or freedom would be threatened or the alien would be tortured in the third country.

ACAs entered pursuant to section 208(a)(2)(A) will be published in the **Federal Register**. Prior to implementation of an ACA, the Attorney General and the Secretary of Homeland Security ("Secretary") will evaluate and make a categorical determination whether a country to which aliens would be removed under such an agreement provides "access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection." INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). Section 208(a)(2)(A) of the INA also requires a determination that an alien's life and freedom would not be threatened on account of a protected ground in a third country with which the United States has entered into an ACA. This rule effectuates such a determination via individualized threshold screening that provides an opportunity for an alien to establish fear of persecution in the third country to which he would be removed pursuant to an ACA.

The INA's ACA provision provides authority to pursue significant policy interests by entering into bilateral or multilateral agreements allowing for burden-sharing between the United States and other countries with respect to refugee-protection claims.

Consistent with this compelling policy aim, this interim rule is intended to aid the United States in its negotiations with foreign nations on migration issues. Specifically, the rule will aid the United States as it seeks to develop a regional framework with other countries to more equitably distribute the burden of processing the protection claims of the hundreds of thousands of irregular migrants who now seek to enter the United States every year and claim a fear of return. Addressing the eligibility for asylum of aliens who enter or attempt to enter the United States will better position the United States as it engages in ongoing diplomatic negotiations with Mexico and the Northern Triangle countries (El

Salvador, Guatemala, and Honduras) regarding migration issues in general, and related measures employed to curtail the irregular flow of aliens into the United States.

#### IV. Background and Legal Basis for Regulatory Changes

##### *A. DOJ and DHS Authority To Promulgate This Rule*

The Attorney General and the Secretary publish this joint IFR pursuant to their respective authorities concerning asylum determinations. The Homeland Security Act of 2002 ("HSA"), Public Law 107-296, 116 Stat. 2135, as amended, created DHS and transferred to it many functions related to the execution of Federal immigration law. The Secretary was charged "with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens," INA 103(a)(1), 8 U.S.C. 1103(a)(1), and granted the power to take all actions "necessary for carrying out" his authority under the immigration laws, INA 103(a)(3), 8 U.S.C. 1103(a)(3).

The HSA thus transferred to DHS some authority to adjudicate asylum applications, including the authority to conduct "credible fear" interviews in the context of ER. INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B); *see also* HSA 451(b), 116 Stat. at 2196 (providing for the transfer of adjudication of asylum and refugee applications from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services). That authority has been delegated within DHS to USCIS. *See* 8 CFR 208.2(a), 208.30.

In addition, under the HSA, the Attorney General retained authority over individual immigration adjudications (including certain adjudications related to asylum applications) conducted within EOIR. *See* HSA 1101(a), 6 U.S.C. 521; INA 103(g), 8 U.S.C. 1103(g). IJs within DOJ continue to adjudicate all asylum applications made by aliens during the removal process, and they also review asylum applications referred by USCIS to the immigration court. *See* INA 101(b)(4), 240(a)(1), 8 U.S.C. 1101(b)(4), 1229a(a)(1); 8 CFR 1208.2(b), 1240.1(a). Additionally, the INA provides that "determination and ruling by the Attorney General with respect to all questions of law shall be controlling." INA 103(a)(1), 8 U.S.C. 1103(a)(1).

This rule specifically concerns implementation of section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), which generally provides that an alien

may not apply for asylum if the Attorney General and the Secretary determine that the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien's nationality or, in the case of an alien having no nationality, the country of the alien's last habitual residence) in which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Secretary finds that it is in the public interest for the alien to receive asylum in the United States.

By operation of the HSA, the reference to "Attorney General" is understood to also encompass the Secretary, depending on whether the alien is in immigration proceedings before DHS or DOJ. Thus, determinations as to whether an alien's asylum application is barred by INA section 208(a)(2)(A), in conjunction with an ACA, fall within the scope of both DHS and DOJ authority, as each department bears responsibility for adjudicating asylum applications. In addition, section 208(d)(5)(B) of the INA authorizes the Secretary and the Attorney General to "provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this chapter." 8 U.S.C.

1158(d)(5)(B); *see* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR 10620, 10622 (Mar. 8, 2004) (DHS) (proposed rule) (relying in part on INA 208(d)(5)(B) to establish threshold screening for applicability of INA 208(a)(2)(A) in relation to the U.S.-Canada Agreement). This broad division of functions and authorities informs the background of this interim rule.

##### *B. Adjudication of Asylum Applications and the Section 208(a)(2)(A) Bar*

Asylum is a form of discretionary relief under section 208 of the INA, 8 U.S.C. 1158. Under that provision, aliens applying for asylum must establish (i) that they meet the definition of a "refugee" set forth at INA 101(a)(42)(A), 8 U.S.C. 1101(a)(42)(A); (ii) that they are not subject to a bar to either applying for asylum or receiving asylum; and (iii) that they merit a favorable exercise of discretion. INA 208(a)-(b), 8 U.S.C. 1158(a)-(b).

## 1. Removal Under ER and INA Section 240 Proceedings

When aliens indicate an intention to apply for asylum, or express a fear of persecution or torture, or a fear of removal to their country in the context of ER proceedings, they are evaluated in ER proceedings by immigration officers through a credible fear interview designed to determine whether there is a significant possibility that the alien would be eligible for asylum, statutory withholding of removal, or protection under the regulations issued pursuant to legislation implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“CAT”), December 10, 1984, 1465 U.N.T.S. 84, S. Treaty Doc. No. 100–20 (1988). INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B), 8 CFR 208.30, 235.3(b)(4). Section 235(a)(3) of the INA provides that “[a]ll aliens . . . who are applicants for admission . . . shall be inspected by immigration officers.” 8 U.S.C. 1225(a)(3). As part of initial inspections, immigration officers must assess whether an alien is inadmissible. Aliens who cannot establish “clearly and beyond a doubt” that they are “entitled to be admitted” will be examined for removal, as a matter of discretion, under the jurisdictional framework of either ER (if they are eligible)<sup>6</sup> or section 240 removal proceedings (or, in certain circumstances, other removal proceedings). See INA 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A) (“Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section [240].”); INA 235(b)(2)(B), 8 U.S.C. 1225(b)(2)(B) (providing that crewmen, stowaways, and aliens subject to ER need not receive section 240 hearings).

In the ER process, if a DHS immigration officer determines that an alien is inadmissible on one of two specified grounds, and meets certain other criteria, the alien generally must be “removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under [section 208] or

a fear of persecution.” INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i). If, however, such an alien “indicates either an intention to apply for asylum . . . or a fear of persecution” (or, by regulation, a fear of torture), the alien must instead be referred “for an interview by an asylum officer.” INA 235(b)(1)(A)(ii), 8 U.S.C. 1225(b)(1)(A)(ii); see also 8 CFR 235.3(b)(4).

Generally, in that interview, the asylum officer determines whether the alien has “a credible fear of persecution or torture”—that is, whether there is a “significant possibility” that the alien could succeed on the merits of his or her claims for asylum, statutory withholding of removal, or protection under the CAT regulations. 8 CFR 208.30(d), (e)(2)–(3). If the officer makes a positive credible fear determination, the officer must refer the alien “for full consideration of [the alien’s claim(s) for relief or protection] in proceedings under section 240 of the Act.” *Id.* 208.30(f). If the asylum officer makes a negative determination, and a supervisory officer concurs, the asylum officer “shall order the alien removed,” subject to review by an IJ at the request of the alien of the negative credible fear determination. *Id.* 208.30(g)(1)(i)–(ii).

Similarly, in section 240 removal proceedings, an IJ first determines whether the alien is inadmissible or deportable. See INA 240(c)(2)–(3), 8 U.S.C. 1229a(c)(2)–(3); 8 CFR 1240.8(a)–(c). If the IJ determines that the alien is inadmissible or deportable, the alien then bears the burden to demonstrate that he or she should receive any form of relief or protection from removal—*e.g.*, asylum. See INA 240(c)(4), 8 U.S.C. 1229a(c)(4); 8 CFR 1240.8(d). If the alien does so, the IJ grants the alien’s application for relief or protection; if not, the IJ orders the alien removed, subject to potential review by the Board of Immigration Appeals (“BIA”) and a federal court of appeals. See INA 240(c)(1), (5), 8 U.S.C. 1229a(c)(1), (5); INA 242, 8 U.S.C. 1252; 8 CFR 1003.1(b)(3), 1240.1(a)(1).

## 2. Removals to Third Countries Consistent With the ACA Provision of INA Section 208(a)(2)(A)

Directly upon an initial inadmissibility or deportability determination within either an ER proceeding or a section 240 proceeding, see, *e.g.*, INA 235(b)(1)(A)(ii), 240(c)(2)–(3), 8 U.S.C. 1225(b)(1)(A)(ii), 1229a(c)(2)–(3), section 208(a)(2)(A) authorizes an asylum officer or IJ to conduct a threshold screening to determine whether an alien is barred from applying for asylum in the United

States pursuant to an ACA, 8 U.S.C. 1158(a)(2)(A). This rule will provide a mechanism for the operation of these threshold screenings. Under this rule, an asylum officer or IJ will determine whether an alien is subject to an ACA, and, if so, in those instances in which the alien affirmatively states a fear of removal to a country that is a signatory to the agreement, whether the alien can affirmatively establish it is more likely than not that the alien would be persecuted or tortured in that country. If the alien is subject to the ACA but fails to demonstrate it is more likely than not that he or she would be subject to persecution on account of a protected ground or to torture in that country, the ER or section 240 proceeding would be completed without an adjudication of any claims relating to a fear of persecution or torture in the alien’s home country.

Under this rule, however, an alien may voluntarily abandon his or her asylum claim prior to removal pursuant to an ACA, choosing instead to accept a removal order without pursuing any application for asylum. *Cf.* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 69482 (DHS) (noting that immigration officers can use their discretion to permit aliens subject to removal under ACAs to withdraw their applications for admission so that they do not face an admissibility bar to a subsequent admission to the United States). Further, application of an ACA remains within the discretion of the screening officer and DHS, which may conclude nonetheless that “it is in the public interest for the alien to receive asylum in the United States.”<sup>7</sup> INA 208(a)(2)(A), 1158(a)(2)(A); see Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR 10627, 10628 (DOJ) (proposed rule) (recognizing that “the United States Government may conclude, in its discretion, that it is in the public interest to allow an arriving alien to remain in the United States to pursue

<sup>6</sup> See INA 235(b)(1)(A), 8 U.S.C. 1225(b)(1)(A) (authorizing screening by immigration officers to determine whether aliens are eligible for ER because they are inadmissible for engaging in fraud or willful misrepresentation related to a visa, other documentation, or admission, or for falsely claiming U.S. citizenship, INA 212(a)(6)(C), 8 U.S.C. 1182(a)(6)(C), or for not possessing valid entry documents, INA 212(a)(7), 8 U.S.C. 1182(a)(7)).

<sup>7</sup> As in the case of the U.S.-Canada Agreement, if there are unique considerations that the individual would like DHS to consider with respect to the “public interest” exception to application of an ACA, the individual should timely bring them to the officer’s attention. *Cf.* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 69483 (DHS) (noting that the Agreement’s public interest exception is “best administered through operational guidance and on an individualized, case-by-case basis”).

protection” even if the alien is subject to an ACA and that this “discretionary determination is reserved to DHS”).

Section 208(a)(1) generally establishes that “[a]ny alien who is physically present in . . . or who arrives in the United States . . . may apply for asylum.” 8 U.S.C. 1158(a)(1). But section 208(a)(2) places limitations on those applications. Most of the section 208(a)(2) application limitations are procedural, such as the stipulation that asylum applications must generally be filed within one year of arrival in the United States. INA 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B). But section 208(a)(2)(A) provides a more substantive limitation—establishing that, in certain circumstances, an alien covered by an ACA is prohibited from applying for asylum in the United States.

Specifically, an alien’s asylum application is barred if the following four conditions are satisfied: (i) The United States has entered “a bilateral or multilateral agreement” under which certain aliens may be removed—that is, an ACA; (ii) the alien is subject to the ACA, and one of the signatory countries is a “third country” with respect to the alien; (iii) “the alien’s life or freedom would not be threatened” in that third country “on account of race, religion, nationality, membership in a particular social group, or political opinion”; and (iv) that third country will provide the alien with “access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection.” INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). The INA provides that “[n]o court shall have jurisdiction” to review any determination of the Attorney General or Secretary made under any of the provisions within section 208(a)(2). INA 208(a)(3), 8 U.S.C. 1158(a)(3).

### 3. Protection Screening With Respect to Removal to the Third Country

Where section 208(a)(2)(A) applies, it bars an alien from applying for asylum in the United States and authorizes the removal of the alien to a third country that will provide procedures for asylum or equivalent temporary protection in the place of the United States. This rule, however, provides that if an alien states a fear of persecution or torture in, or removal to, the third country, an asylum officer will determine whether “the alien’s life or freedom would . . . be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.” INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). The terms of section 208(a)(2)(A) do not specify the precise procedural mechanism by which the Attorney

General and Secretary must determine that an alien’s life or freedom will not be threatened on account of a protected ground in the third country. As the relevant text of section 208(a)(2)(A) (“the alien’s life or freedom would not be threatened [in the third country] on account of race, religion, nationality, membership in a particular social group, or political opinion”) mirrors the standard for protection contained in the INA’s withholding-of-removal provision, INA 241(b)(3)(A), 8 U.S.C. 1231(b)(3)(A), this regulation adopts the burden of proof that applies in the withholding-of-removal context. And the withholding-of-removal provision has long been construed to call for a determination as to whether the alien can show that it is “more likely than not” that he or she would be persecuted on account of a protected ground in the country of removal. *See INS v. Cardoza-Fonseca*, 480 U.S. 421, 423 (1987); *INS v. Stevic*, 467 U.S. 407, 429–30 (1984); *see also* 8 CFR 1208.16(b)(2). Accordingly, under the threshold screening implemented by this rule, an alien will not be removed to a third country under INA section 208(a)(2)(A) if the alien establishes that it is more likely than not that the alien would be persecuted on account of a protected ground in that country.

The United States has undertaken certain *non-refoulement* (non-return) obligations under the 1967 Protocol relating to the Status of Refugees (“1967 Protocol”), which incorporates Articles 2–34 of the 1951 Convention relating to the Status of Refugees (“1951 Convention”).<sup>8</sup> Article 33 of the 1951 Refugee Convention, as understood in U.S. law, generally precludes state parties from removing individuals to any country where their lives or freedom would be threatened on account of their race, religion,

nationality, political opinion, or membership in a particular social group. Consistent with these obligations, Congress has precluded removal of an alien to a third country under section 208(a)(2)(A) if “the alien’s life or freedom would . . . be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.” 8 U.S.C. 1158(a)(2)(A).

The United States has also undertaken certain *non-refoulement* obligations under CAT, which are effectuated by DHS and DOJ regulations that prohibit the removal of an alien to a country where he or she would more likely than not be tortured. *See* 8 CFR 208.16(c), 1208.16(c).<sup>9</sup> Removing an alien to a third country pursuant to an ACA for consideration of the alien’s protection claim in that country is consistent with U.S. obligations under CAT, in the absence of grounds for believing that the alien would be persecuted on account of a protected ground or tortured in the third country. *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 10624 (DHS) (proposed rule) (explaining the interaction between CAT obligations and the application of the U.S.-Canada Agreement).

Congress enacted section 208(a)(2)(A) as a mechanism for countries to burden-share the responsibility for providing protection to refugees. Such agreements allocate responsibility between the United States and the third country with which it has formed an ACA whereby one country or the other (but not both) will bear responsibility for processing the asylum and other protection claims of refugees subject to the terms of the ACA. *See id.* at 10620 (explaining the legal authority for applying cooperative agreements rather than permitting applications for asylum or other relief in the United States); *see also* Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR at 10628 (DOJ) (proposed rule) (providing that aliens subject to the U.S.-Canada Agreement are “not eligible to apply for asylum, withholding of removal, or protection under [CAT] in the United States”). The salient factor for the formulation and application of a section 208(a)(2)(A) agreement is whether the country sharing responsibility with the United States for refugee protection has laws and

<sup>8</sup> The United States is a party to the 1967 Protocol, but not the 1951 Convention. *Stevic*, 467 U.S. at 416 & n.9. The Protocol is not self-executing in the United States. *See Khan v. Holder*, 584 F.3d 773, 783 (9th Cir. 2009). But the United States has implemented Article 34 of the 1951 Convention—which provides that party states “shall as far as possible facilitate the assimilation and naturalization of refugees”—through the INA’s asylum provision, section 208. *See Cardoza-Fonseca*, 480 U.S. at 441 (internal quotation marks omitted). As the Supreme Court has recognized, Article 34 is “precatory” and “does not require [an] implementing authority actually to grant asylum to all” persons determined to be refugees. *Id.* Thus, Congress’s decision to bar certain classes of aliens from applying for asylum does not contravene Article 34. *See Garcia v. Sessions*, 856 F.3d 27, 42 (1st Cir. 2017) (Article 34 does not “preclude[] a contracting State from imposing a limitation on the eligibility of an alien to seek asylum”); *see also R-S-C- v. Sessions*, 869 F.3d 1176, 1188 (10th Cir. 2017) (similar); *Cazun v. U.S. Att’y Gen.*, 856 F.3d 249, 257 & n.16 (3d Cir. 2017) (similar).

<sup>9</sup> CAT is also not self-executing in the United States. *See Auguste v. Ridge*, 395 F.3d 123, 132 (3d Cir. 2005).

mechanisms in place that adhere to international treaty obligations to protect refugees. See *Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry*, 69 FR at 10620 (DHS) (proposed rule).

Accordingly, this interim rule provides that an alien who will potentially be subject to an ACA will be advised that he or she may be removed to a third country pursuant to a bilateral or multilateral agreement. If the alien affirmatively states a fear of removal to or persecution or torture in that third country, a DHS asylum officer will interview the alien to determine whether it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in the third country. See 8 CFR 208.30. DOJ immigration judges will apply a similar procedure to determine whether a removal pursuant to an ACA cannot proceed because the individual has established that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured in the third country. See *id.* 1240.11.

#### 4. Additional Consequences of the Applicability of Section 208(a)(2)(A) to an Alien's Asylum Application

If an asylum officer or IJ determines that an alien is barred from applying for asylum under section 208(a)(2)(A), then the alien is also barred from applying for withholding of removal under section 241(b)(3)(A) of the INA, 8 U.S.C. 1231(b)(3)(A), and protection under the regulations implementing CAT. The purpose of section 208(a)(2)(A)—and an agreement between the United States and another country formed thereunder—is to vest “one country or the other (but not both) [with the] responsibility for processing” an alien’s claims related to fear of persecution or torture in the alien’s home country. *Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry*, 69 FR at 10620 (DHS) (proposed rule). That purpose would be defeated if, even when section 208(a)(2)(A) and an ACA made another country responsible for adjudicating an alien’s asylum claim, the United States remained responsible for adjudicating his or her claims for withholding of removal and CAT protection. Moreover, even if the United States granted an alien’s claims to withholding of removal or CAT protection, thereby eliminating

the possibility of removal to the alien’s home country, “[n]othing . . . [would] prevent the [United States] from removing [the] alien to a third country”—including a country that is a signatory to an applicable ACA. 8 CFR 208.16(f), 1208.16(f). Because the alien could be removed to a third country pursuant to an ACA regardless of the eventual outcome of his or her withholding-of-removal or CAT protection claims, Congress cannot have intended to require DHS and DOJ to adjudicate those claims before effectuating such a removal. See *Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry*, 69 FR at 69492–93 (DOJ) (for similar reasons, concluding that, if the U.S.-Canada Agreement bars an alien from applying for asylum in the United States, the alien is also barred from applying for withholding of removal and CAT protection).

#### C. Consistency With International Practice

The INA’s ACA provision embodies the policy aim of entering into bilateral or multilateral agreements to promote burden-sharing between the United States and other countries with respect to refugee protection. The U.S. efforts to formulate ACAs with foreign countries is in keeping with the efforts of other liberal democracies to formulate cooperative arrangements in which multiple countries agree to share the review of refugee claims for protection.

For example, in 1990, European countries adopted the Dublin Regulation in response to an asylum crisis as refugees and economic migrants fled communism at the end of the Cold War; it came into force in 1997. See *Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities*, 1997 O.J. (C 254). The United Nations High Commissioner for Refugees (“UNHCR”) praised the Dublin Regulation’s “commendable efforts to share and allocate the burden of review of refugee and asylum claims.” UNHCR *Position on Conventions Recently Concluded in Europe (Dublin and Schengen Conventions)*, 3 Eur. Series 2, 385 (1991). Now in its third iteration, the Dublin III Regulation sets asylum criteria and protocol for the European Union (“EU”). It instructs that asylum claims “shall be examined by a single Member State.” Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013, *Establishing the Criteria and Mechanisms for Determining the Member State Responsible for*

*Examining an Application for International Protection Lodged in One of the Member States by a Third-Country National or a Stateless Person (Recast)*, 2013 O.J. (L 180) 31, 37.

UNHCR likewise generally has accepted the safe third country concept as consonant with international refugee law principles. UNHCR, *Legal Considerations Regarding Access to Protection and a Connection Between the Refugee and the Third Country in the Context of Return or Transfer to Safe Third Countries* (Apr. 2018), available at <http://www.refworld.org/pdfid/5acb33ad4.pdf>. According to UNHCR, “refugees do not have an unfettered right to choose their ‘asylum country.’” *Id.* at 1 & n.1 (citing UNHCR, *Guidance Note on bilateral and/or multilateral transfer arrangements of asylum-seekers*, May 2013, para. 3(i), <http://www.refworld.org/docid/51af82794.html>; UNHCR, *Summary Conclusions on the Concept of “Effective Protection” in the Context of Secondary Movements of Refugees and Asylum-Seekers (Lisbon Expert Roundtable, 9–10 December 2002)*, Feb. 2003, para. 11, <http://www.refworld.org/docid/3fe9981e4.html>). Instead, “[r]efugees may be returned or transferred to a state where they had found, could have found or, pursuant to a formal agreement, can find international protection. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol do not prohibit such return or transfer.”<sup>10</sup> *Id.* at 1.

#### D. The U.S.-Canada Agreement and Its Implementing Regulations

Section 208(a)(2)(A) itself does not mandate a particular set of procedures for determining whether the section’s requirements are satisfied—and thus whether an alien is barred from applying for asylum. The ample regulatory flexibility that section 208(a)(2)(A) affords the Departments has been utilized in the regulations implementing the U.S.-Canada Agreement.

In those regulations, the Attorney General and Secretary made an across-the-board determination that all aliens removed to Canada pursuant to the U.S.-Canada Agreement would have “access to a full and fair procedure” for adjudicating their asylum claims within the meaning of INA section 208(a)(2)(A). In reaching that across-the-board finding, the Departments clarified that

<sup>10</sup> Formal advisory opinions of UNHCR are not binding on the United States, but they have been recognized as useful aids in interpreting the 1951 Convention and 1967 Protocol. See, e.g., *INS v. Aguirre-Aguirre*, 526 U.S. 415, 427–28 (1999).

“harmonization of asylum laws and procedures is not a prerequisite to entering into responsibility-sharing arrangements” under INA section 208(a)(2)(A). Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 10620 (DHS) (proposed rule). Rather, “[t]he salient factor is whether the countries sharing responsibility for refugee protection have laws and mechanisms in place that adhere to their international obligations to protect refugees.” *Id.*

In contrast to the categorical finding on the full-and-fair-procedure requirement in the 2004 rule, the implementing regulations for the U.S.-Canada Agreement call for individualized determinations as to whether an alien falls within the terms of the Agreement, and, if so, whether the alien qualifies for one of the Agreement’s exceptions. Specifically, with respect to ER, the regulations provide that, when an alien seeks to apply for asylum, the asylum officer must first determine whether the alien falls within one of the classes generally subject to the Agreement—that is, “whether [the] alien arriv[ed] in the United States at a U.S.-Canada land border port-of-entry or in transit through the U.S. during removal by Canada.” Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 69489 (DHS) (codified at 8 CFR 208.30(e)(6)). If so, the asylum officer must then determine whether “the alien [can] establish[] by a preponderance of the evidence that he or she qualifies for an exception under the terms of the Agreement”—including the exception applicable where certain DHS officials have determined that it is in the public interest for the alien to have his asylum claim heard in the United States. *Id.* (codified at 8 CFR 208.30(e)(6)(ii), (iii)(F)).

If the asylum officer determines that the alien is not subject to the Agreement, or meets an exception, the asylum officer proceeds to conduct a credible fear interview. *Id.* (codified at 8 CFR 208.30(e)(6)(ii)). But if the asylum officer determines that the alien is subject to the Agreement, and does not meet an exception, the asylum officer submits his or her findings to a “supervisory asylum officer.” *Id.* (codified at 8 CFR 208.30(e)(6)(i)). If that supervisory officer concurs, the alien is barred from applying for asylum in the

United States. And if the alien is so barred, he or she can be removed to Canada without any further administrative review by an IJ or the BIA. Asylum Claims Made by Aliens Arriving From Canada at Land Border Ports-of-Entry, 69 FR at 69496 (DOJ) (codified at 8 CFR 1003.42(h)).

The regulations governing INA section 240 proceedings are similar. They require an IJ—after determining that an alien is inadmissible or deportable, but before assessing the merits of the alien’s claims for asylum, withholding of removal, or protection under the regulations implementing CAT—to determine whether the U.S.-Canada Agreement “appl[ies] to the alien” and whether “[t]he alien qualifies for an exception to the Agreement.” *Id.* at 69497 (codified at 8 CFR 1240.11(g)(2)(i)–(ii)). If the Agreement does not apply, or the alien meets an exception, the IJ assesses the alien’s claims for relief as usual. *Id.* (codified at 8 CFR 1240.11(g)(1)). But if the Agreement applies, and the alien does not meet an exception, the IJ does not assess the merits of any potential statutory withholding-of-removal or CAT claim and instead may order the alien removed, with the proviso that the alien may apply for any other relief from removal for which the alien may be eligible. *Id.* (codified at 8 CFR 1240.11(g)(4)).

## V. Detailed Discussion of Regulatory Changes

### A. Summary of the New and Amended Regulatory Provisions and Their Import

Despite the existence of regulations effectuating the U.S.-Canada Agreement within the ER and INA section 240 frameworks, this rule is necessary because several of the current implementing regulations are specific to the U.S.-Canada Agreement, *see* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 10620 (DHS) (proposed rule); *id.* at 69480 (DHS), and Canada is specially situated in a number of ways including its shared border with the United States. In addition, this rule provides for individualized screening of claims by aliens that they will face persecution or torture in the third country to which they would be removed pursuant to an ACA other than the U.S.-Canada Agreement.

The scope of the U.S.-Canada Agreement, and, consequently, the U.S.-Canada Agreement regulations, is limited to aliens arriving at ports of

entry along the U.S. border with Canada. In contrast, this generalized rule for the implementation of all ACAs (with countries other than Canada) will cover ACAs to the full extent permitted by section 208(a)(2)(A), which contains no limitation to only those aliens who have transited through the relevant third country or who arrive at ports of entry. To accommodate for the expanded applicability of the ACAs implemented under this current rule beyond the narrower class of aliens subject to the U.S.-Canada Agreement after traveling through Canada, this rule expands the threshold screening of aliens potentially subject to ACAs other than the U.S.-Canada Agreement. The rule gives aliens subject to an ACA an opportunity, during threshold screening, to establish that it would be “more likely than not” that the alien’s life or freedom would be threatened in the third country on account of a protected ground or that the alien would be tortured in the third country. If DHS officers or IJs determine that an alien establishes such a fear by a preponderance of the evidence, the alien will not be removed to the third country pursuant to the ACA formed with that particular country. *Cf.* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A) (eliminating the opportunity to apply for asylum in the United States “if the Attorney General [or Secretary] determines that the alien may be removed, pursuant to a bilateral or multilateral agreement, to a country (other than the country of the alien’s nationality or, in the case of an alien having no nationality, the country of the alien’s last habitual residence) in which the alien’s life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion,” among other required determinations described elsewhere in this rule).

In contrast to many of the countries listed as potential countries of removal in section 241(b) of the INA, the third country to which an alien would be removed under an ACA is a country to which an alien does not necessarily have preexisting ties or any preexisting reason to fear persecution or torture. *Compare* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A), with INA 241(b)(1)–(2), 8 U.S.C. 1231(b)(1)–(2). Moreover, unlike the countries to which aliens typically would be removed under section 241(b) of the INA, these third countries of removal would have pre-committed, per binding agreements with the United States, to provide access to a “full and fair procedure” for the alien to acquire “asylum or equivalent temporary

protection,” INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). Aliens subject to an ACA thus would have an avenue for protection in the third country of removal not necessarily available in an INA section 241(b) country of removal—a country that may not have entered a binding agreement to provide the alien procedures for requesting safe haven and that may have originally prompted the alien’s flight and application for asylum.

This rule retains the existing regulations implementing the U.S.-Canada Agreement, while also crafting a new regulatory framework under which other ACAs will be implemented. Even though the regulatory framework for implementation of the new ACAs will differ in some significant respects from the earlier 2004 regulations, in part for the reasons described above, this rule also replicates several key aspects of implementation of the U.S.-Canada Agreement. First, as with the regulatory scheme for the U.S.-Canada Agreement, prior to implementation of an ACA subject to this rule, the Departments will make a generalized determination as to whether the third country grants asylum seekers “access to a full and fair procedure” within the meaning of INA 208(a)(2)(A). This finding is required by the text of section 208(a)(2)(A), and the Departments will make the “full and fair” third country determination separate and apart from the regulatory provisions provided for here, to address this threshold statutory element that must be satisfied before any section 208(a)(2)(A) bilateral or multilateral agreement is effectuated. Second, under this rule, there will be an individualized screening process within the preexisting ER and INA section 240 frameworks to evaluate whether an alien falls within the terms of an agreement and, if so, whether the alien nonetheless meets one of its exceptions. The statute also provides an exception to the terms of an ACA in the event that the Secretary determines in the Secretary’s discretion that “it is in the public interest for the alien to receive asylum in the United States.” INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). As under the U.S.-Canada Agreement, the public interest exception is to be applied on a case-by-case basis, as a matter of discretion, to permit certain individuals to pursue applications for asylum or withholding of removal in the United States, where the Secretary or his immigration officers “find[] that it is in the public interest for the alien to receive asylum in the United States.” See INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A); cf. 8 CFR 208.30(e)(6)(iii)(F). Application of the

exception is “solely within the discretion of DHS.” Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR at 10628, 10630 (DOJ) (proposed rule); see also INA 208(a)(3), 8 U.S.C. 1158(a)(3) (“No court shall have jurisdiction to review any determination of the Attorney General [or Secretary] under paragraph (2).”).

As with the regulations implementing the U.S.-Canada Agreement, this rule will implement the statutory requirements into its threshold screening mechanism for evaluating which aliens are barred from applying for asylum under an ACA. The applicability of any additional limitations on the categories of aliens subject to the terms of a particular ACA will also be assessed during the initial screening. If an ACA is determined to be applicable to an alien applying for asylum, and the alien does not demonstrate that his life or freedom will more likely than not be threatened in the third country, the immigration officer may proceed to order removal without consideration of asylum, withholding-of-removal, or CAT claims, analogous to the U.S.-Canada Agreement removal arrangements. See Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 69481 (DHS) (“[A] careful reading of the Act makes clear that credible fear interviews are not required for aliens subject to [ACAs].”).

The U.S.-Canada Agreement applies only to aliens who had arrived in the United States to seek asylum after traveling through Canada. However, the terms of section 208(a)(2)(A) do not limit the applicability of ACAs to aliens who have traveled through the third country in transit to the United States. Consequently, in contrast to the U.S.-Canada provisions, this rule provides that the screening procedures for ACAs with countries other than Canada (which, with one possible exception, would not be contiguous to the United States) will afford aliens an opportunity to establish that it is more likely than not that they would be persecuted or tortured if removed to the applicable third country. It provides an additional screening component enabling asylum officers and IJs to assess whether an alien who affirmatively states a fear of removal to the signatory country under an applicable ACA would more likely than not be persecuted or tortured in such country.

#### B. New 8 CFR 208.30(e)(7)

The regulations at 8 CFR 208.30 govern interviews, conducted by DHS asylum officers, of stowaways and aliens subject to ER. See 8 CFR 208.30(a). New paragraph (e)(7) requires an asylum officer, in an appropriate case, to make several threshold screening determinations before assessing the merits of an alien’s claims for asylum, withholding of removal, or CAT protection. First, the asylum officer must determine whether the alien is subject to one or more ACAs. Second, if so, the officer must determine whether the alien meets any exception to the applicable agreement(s)—including the public-interest exception, which, under section 208(a)(2)(A), all ACAs must contain. If the alien is not subject to any ACA, or the alien meets an exception to each applicable agreement, the asylum officer will assess the merits of the alien’s claims for relief as usual—that is, assess whether the alien has a credible fear of persecution or torture under existing paragraphs (e)(2) and (3). But if the alien is subject to an ACA, and does not meet any exception, the asylum officer will inform the alien that he or she is potentially subject to removal to the third country signatory to the relevant ACA, and that the third country, rather than the United States, will provide access to a full and fair procedure for adjudication of the alien’s claims.

After identifying the third country or countries to which the alien may be removed, if the alien does not affirmatively state a fear of persecution or torture in, or removal to, the country or countries, the asylum officer will refer the determination—*i.e.*, that the alien is barred from applying for asylum, withholding of removal, and CAT protection in the United States, and subject to removal to the third country or countries—to a supervisory officer for review. If the supervisory asylum officer disagrees, that officer will remand the case to the asylum officer for a credible fear interview.

If, on the other hand, the alien affirmatively states a fear of persecution or torture in, or removal to, the third country or countries, the asylum officer will then determine whether the alien can establish, by a preponderance of the evidence, that, if the alien were removed to the third country or countries, it is more likely than not that he or she would be persecuted on account of a protected ground or tortured. If the officer determines the alien has met that burden, given that the alien has already been placed into ER proceedings, the officer will assess the

merits of the alien's claims for relief and protection as usual—*i.e.*, conduct a normal credible fear interview. But if the officer determines the alien has not met that burden, the officer will refer the determination to a supervisory asylum officer for review.

The threshold screening determinations under the U.S.-Canada Agreement regulatory procedures similarly incorporate a preponderance-of-the-evidence standard. *See* 8 CFR 208.30(e)(6)(ii). As under the U.S.-Canada screening procedures, in making the threshold determinations discussed above, asylum officers “will use all available evidence, including the individual's testimony, affidavits and other documentation, as well as available records and databases.” Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 10623 (DHS) (proposed rule); *see also id.* at 69482 (DHS) (“The Department has clarified, in the final rule, that the same safeguards accorded to aliens who are eligible for a credible fear determination will be accorded to aliens who receive threshold screening interviews.”). In the asylum officer's discretion, “[c]redible testimony alone may be sufficient” to meet the alien's burden “if there is a satisfactory explanation of why corroborative documentation is not reasonably available.” Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 10623 (DHS) (proposed rule). Asylum officers have received “extensive training in evaluating credibility of testimony when there is little or no documentation in support of that testimony,” *id.*, and will apply that training to the threshold determination of whether an alien falls within the terms of an ACA or an exception and whether the alien has established a clear probability of persecution or torture in the third country.

In contrast to the final rule implementing the U.S.-Canada Agreement that provided an alien with a minimal consultation period prior to the threshold screening interview to determine the applicability of the Agreement, this rule does not mandate such a period. *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at

69482 (DHS) (providing a minimal consultation period but emphasizing that the consultation period would not permit the postponement of the threshold screening interview process so as not to “compromise the principle underlying the Agreement that aliens be returned promptly to the country of last presence”). Rather, this rule expands the threshold screening process itself to allow for an alien to demonstrate that he or she is “more likely than not” to be subject to persecution on account of a protected ground or torture in the receiving country under the ACA.

The bilateral ACAs that the United States has signed as of the effective date of this rule include agreements with El Salvador, Guatemala, and Honduras and incorporate fewer and less complex exceptions than the U.S.-Canada Agreement, eliminating the need for a consultation period analogous to the consultation period permitted by the U.S.-Canada Agreement.<sup>11</sup> Further, this rule's expansion of the underlying threshold screening procedures to provide an opportunity for aliens to establish “more likely than not” persecution or torture in the receiving country provides additional process beyond that which is available under the regulations implementing the U.S.-Canada Agreement.

Although section 208(a)(2)(A) is silent with respect to which party bears the burden of showing the applicability (or inapplicability) of the bar and the appropriate standard of proof for such a showing, section 208(b)(1) indicates that the ultimate burden of proof in establishing asylum eligibility is on the applicant. *See* INA 208(b)(1)(A)–(B), 8 U.S.C. 1158(b)(1)(A)–(B) (authorizing a grant of asylum to an alien who meets the burden of establishing that he or she is a refugee). Moreover, the section 208(a)(2)(A) language regarding protection against harm from the third country of removal is parallel to the section 241(b)(3) language establishing withholding-of-removal protection with respect to the typical potential countries of removal specified by INA sections 241(b)(1) and (2). When evaluating

<sup>11</sup> Applicability of the exceptions at issue in the non-Canada ACAs generally can be evaluated through records checks and by asking straightforward biographic questions. Conversely, the exceptions to the U.S.-Canada Agreement required more detailed information from the alien, such as whether certain family members of the applicant are present in the United States, the immigration status of those family members, and whether the family members have pending asylum applications. *See* 8 CFR 208.30(e)(6)(iii)(A)–(F). Should the U.S. enter into additional ACAs in the future having exceptions that mirror the complexity of those contained in the U.S.-Canada Agreement, DHS could choose to establish consultation periods as needed.

whether an alien is entitled to withholding of removal under INA 241(b)(3) or evaluating a claim for protection under the regulations implementing CAT, an IJ addresses whether an alien has established the relevant fear by a preponderance of the evidence. *See* 8 CFR 1208.16(b)–(c). It is therefore reasonable to require an alien to show, by a preponderance of the evidence, that he or she meets an exception to an otherwise applicable ACA, and that he or she would face harm in the third country. *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports-of-Entry, 69 FR at 69483 (DHS) (reasoning that, because “applicants for asylum, withholding of removal, and protection under [CAT] bear the burden of proof,” it is reasonable for aliens to bear “the burden of proof for purposes of establishing that an exception to the [U.S.-Canada] Agreement applies”).

*C. Amended 8 CFR 1003.42(h)(1)–(2) and New 8 CFR 1003.42(h)(3)–(4)*

This rule will amend 8 CFR 1003.42(h) to reflect the implementation of ACAs other than the U.S.-Canada Agreement. In particular, the rule will make technical amendments to 8 CFR 1003.42(h)(1) and (2) to clarify that those paragraphs apply to only the preexisting U.S.-Canada Agreement. The rule creates new 8 CFR 1003.42(h)(3) and (4) to reflect the distinction that the threshold officer screening in the non-Canada ACAs includes an opportunity for the alien to establish that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured. Under the new paragraph (h)(3), an IJ is prohibited from reviewing an officer's determination that section 208(a)(2)(A) bars an alien from applying for asylum. But an IJ acquires jurisdiction to review a negative credible fear finding in any case where an alien either establishes that he or she qualifies for an ACA exception, or establishes more-likely-than-not harm in the relevant third country, thus prohibiting the application of the ACA to that alien. (In such a case, the asylum officer would apply typical credible fear screening to the alien, giving an IJ jurisdiction to review a negative finding by that officer.) The new (h)(4) clarifies that an alien subject to removal under an ACA is ineligible to apply for withholding-of-removal and CAT relief in the United States, along with asylum, as explained in the detailed legal background section of the rule.

This IFR preserves the general review framework currently underlying 8 CFR 1003.42(h)(1), which provides that an IJ lacks jurisdiction to review an asylum officer's determination that the U.S.-Canada Agreement bars an alien from applying for asylum in the United States and makes them removable to Canada for adjudication of his or her claim for asylum or equivalent protection. In proposing a framework for implementing the U.S.-Canada Agreement, DOJ noted that, in a given case, the asylum officer would be making an individualized determination only as to whether the Agreement (or any of its exceptions) applied to the alien. Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR at 10630 (DOJ) (proposed rule). Given the "narrowness of the factual issues" underlying such a determination, DOJ determined that review by an IJ was unnecessary. *Id.*

DOJ suggested the analysis might be different if an asylum officer were evaluating "the merits of an . . . alien's asylum claims." *Id.* And under this IFR, an asylum officer does need to determine whether the alien would more likely than not be persecuted or tortured in the third country to which he or she would be removed under an ACA. But when evaluating an asylum claim on the merits, an asylum officer or IJ is often forced to make a complex assessment as to whether wrongs done to the asylum seeker (or those similarly situated) in the asylum seeker's home country were motivated by animus against a protected group or some other factor. In contrast, evaluating whether an asylum seeker would face persecution or torture in a country to which he has no substantial connections is more straightforward. The third country with which the United States has formed an ACA is, by definition, not an alien's country of nationality or last habitual residence. *See* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A) (authorizing ACA removal only to countries other than that of the alien's nationality or last habitual residence, if the alien has no nationality). And, thus, the country of removal under an ACA is not the country originally prompting the asylum seeker's claim, unlike the potential countries of removal under section 241(b)(1)–(2) to which section 241(b)(3) withholding of removal claims are directed, *see* 8 U.S.C. 1231(b)(1)–(2) (providing, *e.g.*, for an alien to be removed to the country in which he or she boarded a vessel or aircraft to reach the United States or the country in which he or she is a citizen or was born or has a residence). Because the ACA

country of removal did not prompt the alien's claim, the process for determining simply whether to send the alien to a third country for that consideration is reasonably more minimalistic than the requisite procedures for deciding asylum and withholding of removal claims on the merits.

Finally, Congress chose not to mandate IJ review of decisions as to whether an alien is subject to an ACA. Yet, in the same legislation creating section 208(a)(2)(A), Congress created the ER process. *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, sec. 302 and 604, 110 Stat. 3009–546, –579, –690. And in that process, Congress expressly mandated IJ review (at the request of the alien) of a negative credible fear determination by an asylum officer. *Compare* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A) with INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III). That difference strongly suggests that Congress did not intend to require IJ review of decisions by asylum officers as to whether aliens are barred from applying for asylum under section 208(a)(2)(A).

Therefore, it is unnecessary—and indeed would be inconsistent with the INA removal statutory scheme—to mandate IJ review of a determination that section 208(a)(2)(A) bars an alien from applying for asylum. In section 208(a)(2)(A), Congress authorized the Executive Branch to operate within the President's foreign affairs authority to enter international agreements more evenly distributing the load of providing access to potential asylum for international refugees and asylees. By its terms, section 208(a)(2)(A) preserves flexibility for the Executive Branch in entering such agreements. The provision imposes two clear requirements, limiting such international agreements only to countries that provide access to full and fair protection procedures and are places in which an alien's life or freedom would not be harmed on account of a protected ground. Beyond those specifications, the Executive Branch's utilization of its statutory authority under section 208(a)(2)(A) is subject to no express procedural stipulations.

In any event, this rule preserves unchanged the existing credible fear process itself, including the statutorily required availability of review by an IJ. So, if an asylum officer determines that an alien subject to the terms of an ACA bar would more likely than not be persecuted or tortured in the third country or, for any reason, that the ACA does not prohibit the alien's U.S.

asylum application, the officer will then proceed immediately to a credible fear determination. If necessary, as required by statute and preexisting regulations, an IJ will conduct a review of this determination.

#### *D. Amended 8 CFR 1240.11(g) and New 8 CFR 1240.11(h)*

This rule will amend 8 CFR 1240.11(g) to reflect that the section will now apply only to the U.S.-Canada Agreement. The rule will also create a new 8 CFR 1240.11(h) to provide for the implementation of all other existing and future ACAs within the context of section 240 proceedings. Similar to the threshold determinations that asylum officers must make in ER proceedings, as described above, this new regulatory section will require IJs to determine whether an alien falls within an exception to an otherwise applicable ACA, and will authorize IJs to provide an alien subject to the terms of an ACA an opportunity to establish that it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in the applicable third country.

## **VI. Regulatory Requirements**

### *A. Administrative Procedure Act*

The Departments' decision to promulgate the regulations implementing the U.S.-Canada Agreement through formal notice-and-comment rulemaking does not obligate the Departments to do so here. *See, e.g., Hootor v. U.S. Dep't of Agric.*, 82 F.3d 165, 171–72 (7th Cir. 1996) (observing that courts should "attach no weight" to an agency's varied approaches to the use of notice-and-comment rulemaking involving similar rules and that "there is nothing in the [Administrative Procedure Act ("APA")] to forbid an agency to use the notice and comment procedure in cases in which it is not required to do so"); *Indep. Living Res. v. Or. Arena Corp.*, 982 F. Supp. 698, 744 n.62 (D. Or. 1997) ("There are many reasons why an agency may voluntarily elect to utilize notice and comment rulemaking . . ."). For the reasons that follow, the Departments are issuing this rule as an interim final rule pursuant to the APA's exemption from notice-and-comment requirements for rules involving "foreign affairs function[s]" and the "good cause" exception for rules with respect to which "notice and public procedure" is "impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. 553(a)(1), (b)(B).

### 1. Foreign Affairs Exemption

The Departments may forgo notice-and-comment procedures and a delay in the effective date of this rule because the rule involves a “foreign affairs function of the United States,” and thus is exempt from the procedural requirements of 5 U.S.C. 553. *See id.* 553(a)(1). This rule puts into effect ACAs already negotiated with El Salvador, Guatemala, and Honduras, and will remove obstacles to successfully negotiating ACAs with other countries. This rule is thus similar to others that courts have determined are within the scope of the foreign affairs exemption and is likewise exempt from notice-and-comment rulemaking requirements and the required delay in the effective date. *See, e.g., Int’l Bhd. of Teamsters v. Peña*, 17 F.3d 1478, 1486 (D.C. Cir. 1994) (holding that a Federal Highway Administration rule “implement[ing] an agreement between the United States and Mexico” was necessary for the United States to avoid “reneging on [its] international obligations” and thus was appropriately promulgated under the foreign affairs exemption of the APA); *City of New York v. Permanent Mission of India to United Nations*, 618 F.3d 172, 201 (2d Cir. 2010) (quoting the description of the purpose of the foreign affairs exemption in H.R. Rep. No. 79–1980, at 23 (1946)).

This rule will facilitate ongoing diplomatic negotiations with foreign countries regarding migration issues, including measures to control the flow of aliens into the United States. *See City of New York*, 618 F.3d at 201 (finding that rules related to diplomacy with a potential impact on U.S. relations with specific other countries fall within the scope of the foreign affairs exemption). Those ongoing discussions relate to proposals for increased efforts by third countries to help reduce the flow of illegal aliens north to the United States and to join the United States in shouldering the load of providing asylum procedures, and possible relief or protection, to the migrants from around the world flocking to U.S. borders. *See Yassini v. Crosland*, 618 F.2d 1356, 1361 (9th Cir. 1980) (per curiam) (because an immigration directive “was implementing the President’s foreign policy,” the action “fell within the foreign affairs function and good cause exceptions to the notice and comment requirements of the APA”).

In the latter half of 2019, U.S. officials entered into agreements with El Salvador, Guatemala, and Honduras pursuant to INA 208(a)(2)(A). U.S.

officials remain in negotiations with other nations to enter into additional ACAs. Delaying the implementation of the rule due to notice-and-comment rulemaking could impact the ability of the United States to negotiate by creating uncertainty about the regulatory framework that the United States will have in place to carry out such agreements. *See East Bay I*, 909 F.3d at 1252–53 (suggesting that reliance on the exemption is justified where the Government “explain[s] how immediate publication of the Rule, instead of *announcement* of a proposed rule followed by a thirty-day period of notice and comment” is necessary in light of the Government’s foreign affairs efforts). Potential signatories to such agreements may be more hesitant to negotiate with the United States and to rely on a commitment by the United States to meet the terms of negotiated agreements if the regulatory framework to carry out such agreements is uncertain and not yet in place.

The terms of some of the current ACAs have been contingent on the signing countries exchanging diplomatic notes certifying that each country has put in place the legal framework necessary to effectuate and operationalize the agreement. The United States will have a stronger negotiating position in entering additional agreements if a domestic regulatory framework is already in effect during the negotiations. The circumstances of the U.S.-Canada Agreement underscore this reality, as a period of nearly two years passed between the formation of the agreement and its effectuation through the promulgation of final rules. That delay was not as problematic in the context of U.S.-Canada relations, as comparatively few aliens are subject to the U.S.-Canada Agreement. In contrast, a far greater number of aliens arriving at the southern border will be affected by the non-Canada ACAs currently under development. To bring the numbers of U.S. asylum applicants to a more manageable level, and to have a strong negotiating position with other potential third countries, the United States needs the flexibility to effectuate the current ACAs much more rapidly than the two-year time period that transpired between the signing and execution of the U.S.-Canada Agreement. Further, countries that sign ACAs with the United States may be deterred from sustaining their commitments to the agreements if the United States materially delays its operationalization after representing to those countries that their entry into these agreements is an

urgent U.S. priority. *Cf. E. Bay Sanctuary Covenant v. Trump*, 932 F.3d 742, 776 (9th Cir. 2018) (“*East Bay I*”) (“Hindering the President’s ability to implement a new policy in response to a current foreign affairs crisis is the type of ‘definitely undesirable international consequence’ that warrants invocation of the foreign affairs exemption.”).

Similarly, a delayed effective date for the rule may weaken the facility of the United States to pursue the negotiating strategy it deems to be most appropriate as it engages its foreign partners. *See, e.g., Am. Ass’n of Exps. & Imps.-Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985) (the foreign affairs exemption facilitates “more cautious and sensitive consideration of those matters which so affect relations with other Governments that . . . public rule-making provisions would provoke definitely undesirable international consequences” (internal quotation marks omitted)). In addition, addressing this crisis will be more effective and less disruptive to long-term U.S. relations with Mexico<sup>12</sup> and the Northern Triangle countries the sooner that this interim final rule is in place, as it will help address the enormous flow of aliens through these countries to the southern border, where aliens seeking ultimately meritless asylum claims continue to strain resources and contribute to a national security and humanitarian crisis. *Cf. id.* (“The timing of an announcement of new consultations or quotas may be linked intimately with the Government’s overall political agenda concerning relations with another country.”). Further, the efficient implementation of this interim rule will improve the ability of the United States to negotiate successfully with these and potentially other countries. *See Rajah v. Mukasey*, 544 F.3d 427, 438 (2d Cir. 2008) (finding that the notice-and-comment process can be “slow and cumbersome,” which can negatively affect efforts to secure U.S. national interests, thereby justifying application of the foreign affairs exemption).

This rule supports the President’s foreign policy with respect to Mexico, the Northern Triangle countries, and other potential partner countries in this area and thus is exempt from the notice-and-comment and delayed-effective-

<sup>12</sup> The United States and Mexico have been engaged in ongoing discussions regarding both regional and bilateral approaches to asylum. *See, e.g., Secretary Nielsen Meets with Mexican Officials on Border Emergency, Travels to Honduras to Meet with Northern Triangle Governments to Address Crisis at Source* (Mar. 26, 2019), available at <http://www.dhs.gov/news/2019/03/26/secretary-nielsen-meets-mexican-officials-border-emergency-travels-honduras-meet>.

date requirements in 5 U.S.C. 553. *See Am. Ass'n of Exps. & Imps.-Textile & Apparel Grp.*, 751 F.2d at 1249; *Yassini*, 618 F.2d at 1361.

Invoking the APA's foreign affairs exemption is also consistent with past rulemakings. In 2016, for example, in response to diplomatic developments between the United States and Cuba, DHS changed its regulations concerning flights to and from the island via an immediately effective interim final rule. *Flights to and From Cuba*, 81 FR 14948, 14952 (Mar. 21, 2016). In a similar vein, DHS, in consultation with the Department of State, recently provided notice that it was eliminating an exception to expedited removal for certain Cuban nationals. The document explained that the change in policy was consistent with the foreign affairs exemption for rules subject to notice-and-comment requirements because the change was central to ongoing negotiations between the two countries. *Eliminating Exception To Expedited Removal Authority for Cuban Nationals Encountered in the United States or Arriving by Sea*, 82 FR 4902, 4904–05 (Jan. 17, 2017).

Some courts have layered onto the foreign affairs exemption a requirement that the agency show not merely that the rule implicates foreign affairs, but also that the use of notice-and-comment procedures would “provoke definitely undesirable international consequences.” *See, e.g., East Bay I*, 932 F.3d at 775–76 (internal quotation marks omitted). As explained above, even this constraint on application of the APA foreign affairs exemption is satisfied here, as a delayed effective date for this rule could have far-reaching consequences for the strength of the negotiating position of the United States in relation to potential signatories of future ACAs.

## 2. Good Cause Exception

Alternatively, the Departments may forgo notice-and-comment rulemaking and a delayed effective date while this rulemaking is published in the **Federal Register** for public comment, because the APA provides an exception from those requirements when an agency “for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(B); *see* 5 U.S.C. 553(d)(3). This exception relieves agencies of notice-and-comment requirements in urgent situations, or in circumstances where “the delay created by the notice and comment requirements would result in serious damage to important interests.” *Woods Psychiatric Inst. v. United States*,

20 Cl. Ct. 324, 333 (1990), *aff'd*, 925 F.2d 1454 (Fed. Cir. 1991); *see also Nat'l Fed'n of Fed. Emps. v. Devine*, 671 F.2d 607, 611–12 (D.C. Cir. 1982); *United States v. Dean*, 604 F.3d 1275, 1279 (11th Cir. 2010). On multiple occasions, agencies have relied on this exception to promulgate immigration-related interim rules.<sup>13</sup>

The Departments have concluded that the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3) apply to this rule. Delaying implementation of this rule until the conclusion of notice-and-comment procedures and the 30-day delayed effective date would be impracticable and contrary to the public interest. In rejecting challenges to the prior use of interim rules, courts have cited evidence that pre-publication of a significant change in asylum procedures will cause migrants to rush to U.S. borders. *See East Bay I*, 354 F. Supp. 3d 1094, 1115 (N.D. Cal. 2018) (concluding that the Government was “likely to prevail on its claim regarding the good cause exception” in the context of a November 2018 interim rule barring asylum eligibility for aliens who, in violation of a Presidential proclamation, enter between ports of entry); *cf. Barr v. East Bay Sanctuary Covenant*, (“*East Bay II*”), No. 19A230, 588 U.S. \_\_\_\_ (Sept. 11, 2019) (granting, without explanation, a stay on appeal from a circuit court order that had concluded, in part, that the Government had inadequately justified reliance on the good cause and foreign affairs APA exemptions in promulgating an IFR). Would-be asylum applicants have a strong incentive to intensify their efforts to rapidly reach the U.S. border when the United States announces a regulatory change that will impact asylum applications. *See, e.g., Mobil Oil Corp. v. Dep't of Energy*, 728 F.2d 1477, 1492 (Temp. Emer. Ct. App. 1983) (concluding that good cause exists when “the very announcement” of a rule could “be expected to precipitate

activity by affected parties that would harm the public welfare”); *see also id.* (collecting cases).

Here, the announcement that the United States has arranged for other countries to consider certain protection applications, in lieu of any ability to apply for protection within the United States itself, would create a perceived urgency for aliens to enter the United States illegally or apply for admission without proper documentation before the ACAs take effect. The implementation of ACAs would require significant numbers of aliens to file applications for protection in third countries rather than the United States. Recent events have shown that knowledge of this kind of impending change is highly likely to cause a dramatic increase in the numbers of aliens who enter or attempt to enter the United States to file asylum applications before the effective date of the change. For example, over a one-year period from 2018 to 2019, southwestern-border family-unit apprehensions rose 469 percent. *See Application for a Stay Pending Appeal at 24, Barr v. East Bay Sanctuary Covenant*, No. 19A230 (U.S. Aug. 26, 2019) (“Stay Application, *East Bay II*”) (citing Administrative Record at 233, *East Bay Sanctuary Covenant v. Barr*, No. 19–cv–04073–JST (N.D. Cal. 2019) (“A.R., *East Bay II*”). And numerous news articles connect such recent surges to changes in immigration policy. *See Stay Application, East Bay II*, at 25 (citing A.R., *East Bay II*, at 438–39 (describing how smugglers persuaded migrants to cross the border after family separation was halted by telling the migrants to “hurry up before they might start doing so again”); *id.* at 452–54 (indicating that migrants refused offers to stay in Mexico because their goal is to enter the United States); *id.* at 663–665, 683 (indicating that Mexico faced a migrant surge when it changed its policies)).

Further, as courts have recognized, smugglers encourage migrants to enter the United States based on changes in U.S. immigration policy, and, in fact, “the number of asylum seekers entering as families has risen” in a way that “suggests a link to knowledge of those policies.” *East Bay*, 354 F. Supp. 3d at 1115. If this rule were published for notice and comment before becoming effective, “smugglers might similarly communicate th[is] Rule’s potentially relevant change in U.S. immigration policy,” *id.*, and the risk of a surge in migrants hoping to enter the country before the rule becomes effective supports a finding of good cause under 5 U.S.C. 553.

<sup>13</sup> *See, e.g.,* Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended, 81 FR 5906, 5907 (Feb. 4, 2016) (interim rule citing good cause to immediately require a passport and visa from certain H2–A Caribbean agricultural workers to avoid “an increase in applications for admission in bad faith by persons who would otherwise have been denied visas and are seeking to avoid the visa requirement and consular screening process during the period between the publication of a proposed and a final rule”); Suspending the 30-Day and Annual Interview Requirements From the Special Registration Process for Certain Nonimmigrants, 68 FR 67578, 67581 (Dec. 2, 2003) (interim rule claiming the good cause exception for suspending certain automatic registration requirements for nonimmigrants because “without [the] regulation approximately 82,532 aliens would be subject to 30-day or annual re-registration interviews” over a six-month period).

Past experience shows that individuals inside and outside of the United States change their behavior in anticipation of changes to U.S. immigration laws. For example, Central American officials reported that after President Donald Trump's victory in the November 2016 election, Central Americans began "crossing illegally into the U.S. at the fastest rate in years, many of them hoping to sneak in before Donald Trump's presidential inauguration and the heightened border-security measures he has promised." Robbie Whelan, *Central Americans Surge at Border Before Trump Takes Over*, Wall Street Journal (Dec. 23, 2016), <http://www.wsj.com/articles/central-americans-surge-at-border-before-trump-takes-over-1482489047>. Honduras's deputy foreign minister attested, "We're worried because we're seeing a rise in the flow of migrants leaving the country, who have been urged to leave by coyotes telling them that they have to reach the United States before Trump takes office." Gustavo Palencia & Sofia Menchu, *Central Americans Surge North, Hoping To Reach U.S. Before Trump Inauguration*, Reuters (Nov. 24, 2016), <http://www.reuters.com/article/us-usa-trump-immigration-centralamerica/central-americans-surge-north-hoping-to-reach-u-s-before-trump-inauguration-idUSKBN13J2A7> (internal quotation marks omitted). Guatemala's foreign minister similarly stated that people were "leaving Guatemala en masse before Trump becomes president." *Id.*

The enactment of the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"), Public Law 104–208, div. C, 110 Stat. 3009–546 (1996), similarly prompted immigrants to change their behavior and seek to take advantage of the pre-IIRIRA rules. IIRIRA made several changes to asylum law. For example, it added three categorical bars to asylum: (1) Aliens who can be removed to a safe third country pursuant to bilateral or multilateral agreement; (2) aliens who failed to apply for asylum within one year of arriving in the United States; and (3) aliens who have previously applied for asylum and had the application denied. INA 208(a)(2)(A)–(C), 8 U.S.C. 1158(a)(2)(A)–(C). IIRIRA also provided that aggravated felonies, defined in INA 101(a)(43), 8 U.S.C. 1101(a)(43), would be considered "particularly serious crime[s]" that render an alien ineligible for asylum. INA 208(b)(2)(B)(i), 8 U.S.C. 1158(b)(2)(B)(i). IIRIRA was signed into law on September 30, 1996, see President William Jefferson Clinton, Statement on Signing H.R. 3610, the

Omnibus Appropriations Act, 1997 (Sept. 30, 1996), but did not take effect until April 1, 1997. Data shows a large spike in asylum applications filed just before IIRIRA went into effect and a large dip the week it went into effect. See Initial Asylum Receipts by Week, April 1, 1994, to March 31, 1997, PASD #19–227, Planning, Analysis, and Statistics Division, EOIR (recording 52 successive weeks with fewer than 3,000 total "[i]nitial [a]sylum [r]eceipts," spiking to an intake of 4,448 new asylum cases the week of Monday, March 24, 1997, and then dipping back down to just 1,099 new cases the week of March 31, 1997). This suggests that some asylum seekers that would have otherwise applied in April may have instead applied in March to avoid IIRIRA's new rules on asylum.

In addition to the factual basis for reliance on the good cause exception here, in light of these numerous examples in which announcements of U.S. immigration policy changes immediately impacted migrant behavior, application of the exception here comports with repeated agency practice. For example, in January 2017, DHS concluded that it was imperative to give immediate effect to a rule designating Cuban nationals arriving by air as eligible for expedited removal because "[p]re-promulgation notice and comment would . . . endanger[] human life and hav[e] a potential destabilizing effect in the region." Eliminating Exception to Expedited Removal Authority for Cuban Nationals Arriving by Air, 82 FR 4769, 4770 (Jan. 17, 2017). DHS cited the prospect that "publication of the rule as a proposed rule, which would signal a significant change in policy while permitting continuation of the exception for Cuban nationals, could lead to a surge in migration of Cuban nationals seeking to travel to and enter the United States during the period between the publication of a proposed and a final rule." *Id.* DHS found that "[s]uch a surge would threaten national security and public safety by diverting valuable Government resources from counterterrorism and homeland security responsibilities. A surge could also have a destabilizing effect on the region, thus weakening the security of the United States and threatening its international relations." *Id.* DHS concluded that "a surge could result in significant loss of human life." *Id.*

Reliance on the good cause exception in effecting immediate changes in immigration policy is not a new practice. In 2004, for example, DHS relied on the exception to immediately expand ER to further national security

and deter dangerous migrant travel. See, e.g., Designating Aliens For Expedited Removal, 69 FR 48877 (Aug. 11, 2004); see also, e.g., Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended, 81 FR at 5907 (finding the good cause exception applicable because of similar concerns).

DOJ and DHS raised similar concerns and drew similar conclusions in the July 2019 joint interim final rule that limited asylum eligibility for aliens who had transited to the United States through a third country without applying for available asylum relief. Asylum Eligibility and Procedural Modifications, 84 FR 33829, 33840–41 (July 16, 2019); see also, e.g., Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 FR 55934, 55950–51 (Nov. 9, 2018) (also relying on the good cause exception). As noted above, the Supreme Court granted (without explanation) a stay of a lower court decision that had ruled against use of an IFR to promulgate the third-country-transit requirement.

These same concerns apply to this rule to an even greater extent. Pre-promulgation notice and comment, or a delay in the effective date, would jeopardize the lives and welfare of aliens who could surge to the border to enter the United States before the rule limiting asylum applications took effect. See *East Bay I*, 354 F. Supp. 3d at 1115 (citing a newspaper article suggesting that such a rush to the border occurred due to knowledge of a pending regulatory change in immigration law). Furthermore, an additional surge of aliens seeking to enter via the southern border prior to the effective date of this rule would be destabilizing to the region, as well as to the U.S. immigration system. In recent years, there has been a massive increase in the number of aliens who assert a fear of persecution. This massive increase is overwhelming the U.S. immigration system as a result of a variety of factors, including the extraordinary proportion of aliens who are initially found to have a credible fear and therefore are referred to full removal proceedings in immigration court; a lack of detention space; and the resulting high rate of release into the interior of the United States of aliens with a positive credible fear determination, many of whom then abscond without pursuing their asylum claims to a final conclusion and become difficult to locate and remove. Recent initiatives to track family-unit cases in 10 cities and from Sept. 24, 2018, through October 25, 2019, revealed that 79 percent of removal orders were

issued in absentia—*i.e.*, were issued to an alien who had absconded. A large additional influx of aliens who intend to enter illegally or to apply for admission without proper documentation would exacerbate this crisis. This concern is particularly acute in the current climate in which illegal immigration flows fluctuate significantly in response to news events. Therefore, this interim final rule is a practical and necessary means to address the time-sensitive influx of aliens and avoid creating an even larger short-term influx.

**B. Regulatory Flexibility Act**

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required when a rule is exempt from notice-and-comment rulemaking.

**C. Unfunded Mandates Reform Act of 1995**

This interim final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

**D. Congressional Review Act**

This interim final rule is not a major rule as defined by section 804 of the Congressional Review Act. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

**E. Executive Order 12866, Executive Order 13563, and Executive Order 13771 (Regulatory Planning and Review)**

This rule is not subject to Executive Order 12866 as it implicates a foreign affairs function of the United States relating to ongoing discussions with implications for a set of specified international relationships. As this is not a regulatory action under Executive

Order 12866, it is not subject to Executive Order 13771.

**F. Executive Order 13132 (Federalism)**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**G. Executive Order 12988 (Civil Justice Reform)**

This rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988.

**H. Paperwork Reduction Act**

This rule does not propose new, or revisions to existing, “collection[s] of information” as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320.

**List of Subjects**

**8 CFR Part 208**

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

**8 CFR Part 1003**

Administrative practice and procedure, Aliens, Immigration, Legal Services, Organization and functions (Government agencies).

**8 CFR Part 1208**

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

**8 CFR Part 1240**

Administrative practice and procure, Aliens.

**Regulatory Amendments**

**DEPARTMENT OF HOMELAND SECURITY**

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security amends 8 CFR part 208 as follows:

**PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL**

■ 1. The authority citation for part 208 continues to read as follows

**Authority:** 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title of Public Law 110–229, 8 CFR part 2.

■ 2. Section 208.4 is amended by revising paragraph (a)(6) to read as follows:

**§ 208.4 Filing the application.**

\* \* \* \* \*

(a) \* \* \*

(6) Asylum Cooperative Agreements. Immigration officers have authority to apply section 208(a)(2)(A) of the Act, relating to the determination that the alien may be removed to a third country pursuant to a bilateral or multilateral agreement, as provided in § 208.30(e). For provisions relating to the authority of immigration judges with respect to section 208(a)(2)(A), see 8 CFR 1240.11(g) and (h).

\* \* \* \* \*

■ 3. Section 208.30 is amended by revising paragraph (e)(7) and adding paragraph (e)(8) to read as follows:

**§ 208.30 Credible fear determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act, whose entry is limited or suspended under section 212(f) or 215(a)(1) of the Act, or who failed to apply for protection from persecution in a third country where potential relief is available while en route to the United States.**

\* \* \* \* \*

(e) \* \* \*

(7) When an immigration officer has made an initial determination that an alien, other than an alien described in paragraph (e)(6) of this section and regardless of whether the alien is arriving at a port of entry, appears to be subject to the terms of an agreement authorized by section 208(a)(2)(A) of the Act, and seeks the alien’s removal consistent with this provision, prior to any determination concerning whether the alien has a credible fear of persecution or torture, the asylum officer shall conduct a threshold screening interview to determine whether the alien is ineligible to apply for asylum in the United States and is subject to removal to a country (“receiving country”) that is a signatory to the applicable agreement authorized by section 208(a)(2)(A) of the Act, other than the U.S.-Canada Agreement effectuated in 2004. In conducting this threshold screening interview, the asylum officer shall apply all relevant

interview procedures outlined in paragraph (d) of this section, except that paragraphs (d)(2) and (4) of this section shall not apply to aliens described in this paragraph (e)(7). The asylum officer shall advise the alien of the applicable agreement's exceptions and question the alien as to applicability of any of these exceptions to the alien's case. The alien shall be provided written notice that if he or she fears removal to the prospective receiving country because of the likelihood of persecution on account of a protected ground or torture in that country and wants the officer to determine whether it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in that country, the alien should affirmatively state to the officer such a fear of removal. If the alien affirmatively states such a fear, the asylum officer will determine whether the individual has demonstrated that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured in that country.

(i)(A) If the asylum officer, with concurrence from a supervisory asylum officer, determines during the threshold screening interview that an alien does not qualify for an exception under the applicable agreement, and, if applicable, that the alien has not demonstrated that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured in the receiving country, the alien is ineligible to apply for asylum in the United States. Subject to paragraph (e)(7)(i)(B) of this section, after the asylum officer's documented finding is reviewed by a supervisory asylum officer, the alien shall be advised that he or she will be removed to the receiving country, as appropriate under the applicable agreement, in order to pursue his or her claims relating to a fear of persecution or torture under the law of the receiving country. Prior to removal to a receiving country under an agreement authorized by section 208(a)(2)(A), the alien shall be informed that, in the receiving country, the alien will have an opportunity to pursue the alien's claim for asylum or equivalent temporary protection.

(B) Aliens found ineligible to apply for asylum under this paragraph (e)(7) shall be removed to the receiving country, depending on the applicable agreement, unless the alien voluntarily withdraws his or her request for asylum.

(ii) If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of the applicable agreement, or would more likely than not be

persecuted on account of a protected ground delineated in section 208(a)(2)(A) of the Act or tortured in the receiving country, the asylum officer shall make a written notation to that effect, and may then proceed to determine whether any other agreement is applicable to the alien under the procedures set forth in this paragraph (e)(7). If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of each of the applicable agreements, or would more likely than not be persecuted on account of a protected ground or tortured in each of the prospective receiving countries, the asylum officer shall make a written notation to that effect, and then proceed immediately to a determination concerning whether the alien has a credible fear of persecution or torture under paragraph (d) of this section.

(iii) An exception to an applicable agreement is defined under the terms of the agreement itself. Each agreement, including any exceptions, will be announced in a **Federal Register** document. If the asylum officer determines that an alien is within one of the classes covered by a section 208(a)(2)(A) agreement, the officer shall next determine whether the alien meets any of the applicable agreement's exceptions. Regardless of whether the text of the applicable agreement provides for the following exceptions, all such agreements, by operation of section 208(a)(2)(A) of the Act, and as applicable to the United States, are deemed to contain the following provisions:

(A) No alien may be removed, pursuant to an agreement authorized by section 208(a)(2)(A), to the alien's country of nationality, or, if the alien has no nationality, to the alien's country of last habitual residence; and

(B) No alien may be removed, pursuant to an agreement authorized by section 208(a)(2)(A), where the Director of USCIS, or the Director's designee, determines, in the exercise of unreviewable discretion, that it is in the public interest for the alien to receive asylum in the United States, and that the alien therefore may apply for asylum, withholding of removal, or protection under the Convention Against Torture, in the United States.

(iv) If the asylum officer determines the alien meets an exception under the applicable agreement, or would more likely than not be persecuted on account of a protected ground or tortured in the prospective receiving country, the officer may consider whether the alien is subject to another agreement and its exceptions or would more likely than

not be persecuted on account of a protected ground or tortured in another receiving country. If another section 208(a)(2)(A) agreement may not be applied to the alien, the officer should immediately proceed to a credible fear interview.

(8) An asylum officer's determination shall not become final until reviewed by a supervisory asylum officer.

\* \* \* \* \*

#### Department of Justice

Accordingly, for the reasons set forth in the preamble, the Attorney General amends 8 CFR parts 1003, 1208, and 1240 as follows:

#### PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 4. The authority citation for part 1003 continues to read as follows:

**Authority:** 5 U.S.C. 301; 6 U.S.C 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 5. Section 1003.42 is amended by revising paragraph (h) to read as follows:

#### § 1003.42 Review of credible fear determination.

\* \* \* \* \*

(h) *Asylum cooperative agreement*—  
(1) *Arriving alien.* An asylum judge has no jurisdiction to review a determination by an immigration officer that an arriving alien is not eligible to apply for asylum pursuant to the 2002 U.S.-Canada Agreement formed under section 208(a)(2)(A) of the Act and should be returned to Canada to pursue his or her claims for asylum or other protection under the laws of Canada. See 8 CFR 208.30(e)(6). However, in any case where an asylum officer has found that an arriving alien qualifies for an exception to that Agreement, an immigration judge does have jurisdiction to review a negative credible fear finding made thereafter by the asylum officer as provided in this section.

(2) *Aliens in transit.* An immigration judge has no jurisdiction to review any determination by DHS that an alien being removed from Canada in transit through the United States should be returned to Canada to pursue asylum claims under Canadian law, under the terms of the 2002 U.S.-Canada Agreement.

(3) *Applicants for admission.* An immigration judge has no jurisdiction to review a determination by an asylum officer that an alien is not eligible to apply for asylum pursuant to a bilateral or multilateral agreement with a third country under section 208(a)(2)(A) of the Act and should be removed to the third country to pursue his or her claims for asylum or other protection under the laws of that country. See 8 CFR 208.30(e)(7). However, if the asylum officer has determined that the alien may not or should not be removed to a third country under section 208(a)(2)(A) of the Act and subsequently makes a negative credible fear determination, an immigration judge has jurisdiction to review the negative credible fear finding as provided in this section.

(4) *Aliens in transit through the United States from countries other than Canada.* An immigration judge has no jurisdiction to review any determination by DHS that an alien being removed from a receiving country in transit through the United States should be returned to pursue asylum claims under the receiving country's law, under the terms of the applicable cooperative agreement. See 8 CFR 208.30(e)(7).

**PART 1208—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

■ 6. The authority citation for part 1208 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title of Public Law 110–229, 8 CFR part 2.

■ 7. Section 1208.4 is amended by revising paragraph (a)(6) to read as follows:

**§ 1208.4 Filing the application.**

\* \* \* \* \*

(a) \* \* \*

(6) *Asylum cooperative agreements.* Immigration judges have authority to consider issues under section 208(a)(2)(A) of the Act, relating to the determination of whether an alien is ineligible to apply for asylum and should be removed to a third country pursuant to a bilateral or multilateral agreement, only with respect to aliens whom DHS has chosen to place in removal proceedings under section 240 of the Act, as provided in 8 CFR 1240.11(g) and (h). For DHS regulations relating to determinations by immigration officers on this subject, see 8 CFR 208.30(e)(6) and (7).

\* \* \* \* \*

**PART 1240—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

■ 8. The authority citation for part 1240 continues to read as follows:

**Authority:** 8 U.S.C. 1103, 1158, 1182, 1186a, 1186b, 1225, 1226, 1227, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681).

■ 9. Section 1240.11 is amended by revising the paragraph (g) subject heading and paragraphs (g)(1) and (4) and adding paragraph (h) to read as follows:

**§ 1240.11 Ancillary matters, applications.**

\* \* \* \* \*

(g) *U.S.-Canada safe third country agreement.* (1) The immigration judge has authority to apply section 208(a)(2)(A) of the Act, relating to a determination that an alien may be removed to Canada pursuant to the 2002 Agreement Between the Government of the United States of America and the Government of Canada For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (“Agreement”), in the case of an alien who is subject to the terms of the Agreement and is placed in proceedings pursuant to section 240 of the Act. In an appropriate case, the immigration judge shall determine whether under that Agreement the alien should be returned to Canada, or whether the alien should be permitted to pursue asylum or other protection claims in the United States.

\* \* \* \* \*

(4) An alien who is found to be ineligible to apply for asylum under section 208(a)(2)(A) of the Act is ineligible to apply for withholding of removal pursuant to section 241(b)(3) of the Act and the Convention against Torture. However, the alien may apply for any other relief from removal for which the alien may be eligible. If an alien who is subject to the Agreement and section 208(a)(2)(A) of the Act is ordered removed, the alien shall be ordered removed to Canada, in which the alien will be able to pursue his or her claims for asylum or protection against persecution or torture under the laws of Canada.

(h) *Other asylum cooperative agreements.* (1) The immigration judge has authority to apply section 208(a)(2)(A) of the Act, relating to a determination that an alien may be removed to a third country pursuant to a bilateral or multilateral agreement—other than the 2002 U.S.-Canada Agreement—in the case of an alien who is subject to the terms of the relevant

agreement and is placed in proceedings pursuant to section 240 of the Act. In an appropriate case, the immigration judge shall determine whether under the relevant agreement the alien should be removed to the third country, or whether the alien should be permitted to pursue asylum or other protection claims in the United States. If more than one agreement applies to the alien and the alien is ordered removed, the immigration judge shall enter alternate orders of removal to each relevant country.

(2) An alien described in paragraph (h)(1) of this section is ineligible to apply for asylum pursuant to section 208(a)(2)(A) of the Act, or for withholding of removal or CAT protection in the United States, unless the immigration judge determines, by a preponderance of the evidence, that:

(i) The relevant agreement does not apply to the alien or does not preclude the alien from applying for asylum in the United States;

(ii) The alien qualifies for an exception to the relevant agreement as set forth in paragraph (h)(3) of this section and the **Federal Register** document specifying the exceptions particular to the relevant agreement; or

(iii) The alien has demonstrated that it is more likely than not that he or she would be persecuted on account of a protected ground or tortured in the third country.

(3) The immigration judge shall apply the applicable regulations in deciding whether an alien described in paragraph (h)(1) of this section qualifies for an exception under the relevant agreement that would permit the United States to exercise authority over the alien's asylum claim. The exceptions for agreements with countries other than Canada are further explained by the applicable published **Federal Register** document setting out each Agreement and its exceptions. The immigration judge shall not review, consider, or decide any issues pertaining to any discretionary determination on whether an alien described in paragraph (h)(1) of this section should be allowed to pursue an application for asylum in the United States notwithstanding the general terms of an agreement, as section 208(a)(2)(A) of the Act reserves to the Secretary or his delegates the determination whether it is in the public interest for the alien to receive asylum in the United States. However, an alien in removal proceedings who is otherwise ineligible to apply for asylum under an agreement may apply for asylum if DHS files a written notice in the proceedings before the immigration judge that DHS has decided in the

public interest that the alien may pursue an application for asylum or withholding of removal in the United States.

(4) If the immigration judge determines that an alien described in paragraph (h)(1) of this section is subject to the terms of agreements formed pursuant to section 208(a)(2)(A) of the Act, and that the alien has failed to demonstrate that it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in those third countries, then

the alien is ineligible to apply for withholding of removal pursuant to section 241(b)(3) of the Act and the Convention Against Torture notwithstanding any other provision in this chapter. However, the alien may apply for any other relief from removal for which the alien may be eligible. If an alien who is subject to section 208(a)(2)(A) of the Act is ordered removed, the alien shall be ordered removed to the relevant third country in which the alien will be able to pursue his or her claims for asylum or

protection against persecution or torture under the laws of that country.

Approved:

Dated: November 14, 2019.

**Chad F. Wolf,**

*Acting Secretary of Homeland Security.*

Approved:

Dated: November 14, 2019.

**William P. Barr,**

*Attorney General.*

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